

COUNCIL OF MINISTERS SOCIALIST REPUBLIC OF VIETNAM  
No. 17-HDBT Independence--Freedom--Happiness

Hanoi, January 17th 1992

DECREE OF THE COUNCIL OF MINISTERS

For the enforcement of forest resources protection and development act.

THE COUNCIL OF MINISTERS

- Based upon the Law being enforced since July 4th, 1981 and regulating the Organisation of the Council;
- Based upon the Forest Resources Protection and Development Act being enforced since August 19th 1991; and
- On recommendations of the Minister of Forestry.

DECREES

CHAPTER I

General Provisions

Article 1.

The forest Resources Protection and Development Act is regulating the basic legal relationships of direct effect on forests which comprise natural and man-made forests developed on forest land. Natural forests comprise all timberlands and bamboo groves of all ages, not excluding young regrowth under rehabilitation. Man-made forests comprise those established through funding by the Government or non-Governmental entities such as social organisations and voluntary individuals on forest lands.

Rows of trees, forest trees planted in groups or as dispersed trees on other lands, through any funding, shall not be regulated by the above-mentioned Forest Resources Protection and Development Act.

On forest lands, however, the Forest Resources Protection and Development Act is dealing only with legal relationships having direct effect on forests.

For the processing, distribution and consumption of forest products the Forest Resources Protection and Development Act is only effective when determining the origin of the resources having direct effect on the management, protection of the forests and the development and utilisation of their resources.

Activities for research on, exploration and exploitation of other natural resources on forest lands shall be done in accordance with the Forest Resources Protection and Development Act.

Article 2.

The overall management of forest and forest plantation lands by the State shall be regulated by laws, policies, planning documents, operations plans and other relevant rules.

It shall be executed through decentralisation and division of power from the Central Government down to the lowest level of administration as stipulated by laws.

The State shall allocate forest and forest plantation lands to organisations and individuals of all sectors of the economy. for the protection, development and utilisation of the resources on a long-term and sustainable basis.

Article 3.

Natural forests and State-funded plantations now being allocated or remaining to be allocated to organisations and individuals for management and utilisation are property of the State.

Village and hamlet forests, the lands of which being used by the communities, shall be regulated by the laws now being in force. When the villages and hamlets move to other places for settlement the lands shall be retrieved by the State with equitable compensations being paid to the people involved.

For forest plantations established through the funding of any organisations and individuals, the plant end-products thereof shall be the property of the entity that financed the plantation. When forest users are disbanded organisation or deceased individuals leaving no one for continued use of the land, the forest and forest plantation lands will be the property of the State

Article 4.

The State is trying to extend its international relations and cooperation for forestry development, it encourages foreign organisations and entrepreneurs to make investments in forest plantation, forest product processing and trading, in forest infrastructure development, and in the extension of Social Forestry for better environmental and ecological conservation. The State also encourages and shall create favourable conditions for expatriate nationals to make investments in Vietnam for further forestry development.

The Ministry of Forestry shall formulate relevant policies to be submitted to the Council of Ministers for approval and enforcement.

CHAPTER II

State management and administration of forest and forest plantation lands.

Article 5.

The Ministry of Forestry by authority of the Council of Ministers shall be responsible for the overall State

management of forest and forest plantation lands, which embraces the following activities:

- 1) Organise and carry out forest surveys, resources reassessment; determine forest categories; delineate boundaries of forest and forest plantation lands on maps scaled at 1/10,000 and in the field down to the commune level; monitor changes in forest resources over the whole country and in specific zones.
- 2) Shape out strategies for forestry development; prepare management plans in all forest zones for the establishment of protection forests, special-use forests, production forests and set stands (over the whole country); submit long, medium and short term plans to the Council of Ministers for approval; and organise the execution of same;
- 3) Implement the division of responsibilities in State administration of forest and forest plantation lands from the Central Government down to the lowest administrative units.
- 4) Show out technological advances, trends and direct all units involved to develop them; promote the issuance and enforcement of technical procedures for better management, protection, development and utilisation of forest and forest plantation lands.
- 5) Formulate policies, regulations, normative rules for forest and forest plantation lands management, protection, development and utilisation; to submit these to the Council of Ministers and promote their enforcement.
- 6) Coordinate with the Land Management General Department to establish and enforce regulations on forest and forest plantation lands allocation, and on retrieval of same.
- 7) Determine the functions and responsibilities of all agencies involved in forest administration and management and submit these to the Council of Ministers for final decision.
- 8) Carry out inspection and auditing activities within and without the forestry sector to secure the enforcement of laws, policies, regulations, normative rules related to forest and forest plantation lands management, protection and development; reward or make proposals for forwarding all organisations and individuals who have made outstanding contributions to the protection and development of forest resources; punish or make proposals for punishing all entities who break the provisions of forest legislation and thus cause damage to forest resources.

#### Article 6.

People's Committees at various levels shall carry out the forest and forest plantation lands State administration which embraces the following activities:

- 1) Direct the preparation and execution of management plans, operation plans for better management, protection,

development and utilisation of forest and forest plantation lands; take responsibilities in forest resources conservation in their respective areas.

2) Organise and direct all activities for the enforcement of laws, policies, regulations, normative rules set out by competent State agencies for the management, protection, development and utilisation of forest and forest plantation lands; carry out inspection and auditing activities to secure legislation enforcement in all organisations and private enterprises, including those under the jurisdiction of central agencies operating in the localities.

3) Direct and implement policies on forest and forest plantation lands allocation to entities in various sectors carrying business in their respective areas.

4) Settle conflicts regarding the use of forest and forest plantation lands as stipulated by laws.

#### Article 7.

All ministries and central agencies, to which forest and forest plantation lands are allocated for farming, shall abide the provisions set out in the Forest Resources Protection and Development Act and the orders issued by the Ministry of Forestry and shall do the business under the latter control.

#### Article 8.

The principles for and the competency in forest and forest plantation lands allocation are laid down below:

1) The Chairman of the Council of Ministers shall decree for:

a) The establishment of protection forests of over 20,000 hectares extending over the territories of several provinces; that of National Parks and important Protected Areas, the management of which shall be entrusted to agencies under the jurisdiction of the Ministry of Forestry

b) The establishment of national cultural, historical, scenic and 'touristic' heritage sites, the actual establishment and management of which can be entrusted to the provincial People's Committees.

c) The establishment of important production forests of over 20,000 hectares, that of forests of over 5,000 hectares giving special non-wood products, that of seed stands of national importance, the actual management and farming of which shall be entrusted to state-owned forest enterprises.

d) The foundation of national private companies and firms dealing with forestry business, forest plantations over 1,000 hectares.

e) Licences for individual foreigners and expatriate nationals to use forest plantation lands for farming and forestry development.

2) The Chairman of Provincial People's Committees shall make decisions on:

a) The establishment of protection forests of less than 20,000 hectares, that of local cultural, historical, scenic, 'touristic' heritage sites when approval for it has been given by the Ministry of Forestry or other competent agencies, the actual establishment and management of all of which shall be entrusted to the Provincial Forest Service or other relevant provincial authorities.

b) The establishment of production forest stands and forest plantation areas of 1,000 - 20,000 hectares, that of forests giving special non-wood products of less than 5,000 hectares, the actual management and farming of all of which can be entrusted to State-owned forest enterprises, state firms, schools, army and security units, cooperatives, production teams.

c) Licences for national individuals to carry forestry farming forest plantations over areas of areas of 100 - 1,000 hectares.

3) The Chairmen of District People's Committees shall deal with:

a) Allocation of forest and forest plantation lands to individual households for them to establish home gardens, agroforestry systems.

b) The establishment of forest stands, forest plantation areas of less than 1,000 hectares, the management of which can be entrusted to Commune People's Committees, which in turn can entrust the management of these to interested cooperatives, production teams or other collective organisations operating in the communes for further forestry development therein.

c) Licences for national entrepreneurs to carry forestry farming, forest plantations for profits over areas of less than 100 hectares.

Article 9.

Any organisations, individuals being already beneficiaries of allocated forest and forest plantation lands, any villages and hamlets having used village and hamlet forests on a traditional basis before the date of promulgation of the Forest Resources Protection and Development Act, and in case of their rights being in compliance with the provisions of the Act, shall be allowed to be the legal users of the forest and forest plantation lands after regular consideration of the cases. In case of their rights being not in compliance with the provisions of the Forest Resources Protection and Development Act and those of the Land Act, the formerly allocated forest and forest plantation lands or parts of these shall be retrieved through decisions of the competent People's Committees as stipulated in Article 14 and Article 15 of the Forest Resources Protection and Development Act.

## Article 10.

The transfer of forest and forest plantation lands to other land uses than forestry shall be made according to the following conditions:

- For natural forests and forest and forest plantation lands meant for protection, special-use forests, national seed stands, the transfer shall be decided upon by the Council of Ministers on recommendations of the Minister of Forestry, the Chairman of Municipal and Provincial People's Committees under the direct jurisdiction of the Central Government, and of the Heads of the Central Agencies involved.

- For forest and forest plantation lands meant for production, that transfer shall be made in compliance with the provisions of paragraph 2, item b and paragraph 3 of Article 13 of the Land Act.

The beneficiaries of forest and forest plantation lands, the use of which is not for forestry development, shall pay to the State or the outgoing land users compensation for the fruits of the labour and of investments made therein based on current market values and the status of forest and forest plantation lands.

Forest clearing operations shall be made in steps as set out in the approved projects for new land use and measures should be taken for economical uses of the products.

## CHAPTER III

Development and utilisation of forest and forest plantation lands.

A) Protection forests.

## Article 11.

In collaboration with other central agencies and provincial authorities, the Ministry of Forestry shall take the responsibilities of planning and establishing a national network of protection forests, of submitting the documents thereof to the Council of Ministers for approval, of promoting the actual establishment and management by competent authorities within the forestry sector as stipulated in Article 8 of this Decree.

The Management Board involved is held responsible for the preparation of the economic and technical feasibility report or the planning document for effective establishment, management and running of relevant activities, and for submitting same to competent authorities for approval.

## Article 12.

The establishment and management of protection forests shall be made following the below mentioned prescriptions:

1) On watershed areas or otherwise vulnerable sites, plans

and strict measures should be taken to protect and maintain the existing forests, to quickly reafforest the denuded areas, and to create forest cover having many storeys on continuous tracts of land.

During the process of forest establishment, protection and maintenance, it is allowed to do business with non-wood forest products, wildlife, agroforestry; it is thus allowed to gather non-wood forest products, to thin over-dense stands, to remove over-mature and diseased trees. Wood extraction operations therein shall be done in compliance with the procedures as approved by the Council of Ministers.

2) For protection forests established for farm crops protection against strong winds, for sand dune fixation, gully control, etc, measures for protection and development of the resources therein shall be adopted so to create full and dense forest cover extending over continuous tracts of land.

When the forests under management can function effectively for protection, it is allowed to carry out thinning or wood extraction operations as set out in the approved designing documents. After wood removal, natural regeneration and plantation operation shall be effected as required.

3) For other protection forests meant for living habitat preservation or located in less vulnerable areas, a rational and varied mix of plant crops, in which there should be a fixed percentage of perennial trees not allowed to be cut, shall be chosen for protection.

#### Article 13.

Organisations and individuals which have received forest lands for the establishment and maintenance of protection forests are entitled to make full use of minor forest products, non-wood forest products of common uses, and to benefit from the products of their activities.

Organisations and individuals to whom denuded and open lands are allocated to establish protection forests through their own funds are entitled to have ownership on the plant resources and to benefit from wildlife resources of common uses therein. However, the extraction of forest products and the hunting and capture of wildlife shall be made in compliance with the rules set out for protection forest preservation and for wildlife hunting. When there are no requirements on and no possibility of further utilisation the forest users can transfer the forests to the State and receive compensation for the fruits of their labour, and of investments made therein based on current market values and the status of forests.

#### B) Special-use forests

#### Article 14.

In collaboration with other Central agencies and the provincial authorities concerned, the Ministry of Forestry shall take the responsibilities of planning and establishing

a national network of special-use forests, which include: national parks, protected areas, and historical, cultural, scenic, 'touristic' heritage sites ..., of submitting the documents thereof, the Council of Ministers for approval, then based upon this of promoting the actual establishment and management by competent authorities as the case may be, in compliance with the provisions of Article 8 of this Decree.

The Management Boards in charge of special-use forest management are held responsible for the preparation of economical and technical feasibility documents, for submitting these to competent state authorities for approval and further for executing all the tasks involved.

Article 15.

The management and utilisation of the resources in special-use forests shall be done in compliance with the provisions set out for that purpose and with those prescribed in the approved economical and technical feasibility document.

C) Production Forests

Article 16.

In collaboration with other Central agencies and provincial authorities concerned, the Ministry of Forestry shall take responsibilities in planning and establishing a national network of production forests, and following this in promoting the actual establishment and management of these forests by organisations and authorities of all sectors of the economy as stipulated in Article 8 of this Decree for forest land farming following State management and operations plans.

The State encourages all organisations and individuals to use their own resources in labour force, technology and capital or to borrow money from national banks for making forestry development investments and for producing raw material supplies to industries through intensive management methods and agroforestry practice.

Following this line, and based upon the objectives of land farming and the ecological conditions of specific zones, and the characteristics of the plant species used, the State shall issue preferential policies related to 'priority' investments, accord preferential credits or tax exemptions as well as the case may be to interested entrepreneurs and organisations. In collaboration with other Central agencies concerned, the Ministry of Forestry shall prepare the relevant policies, then submit these to the Council of Ministers for decision.

Article 17.

The State maintains an overall management on the quality of tree seeds, planting materials, and wildlife breeds, and the forestry sector is assigned to take charge in the introduction of exotic tree species. The Ministry of

Forestry shall take responsibilities in planning and establishing a national network of seed stands, in doing research, selecting and propagating promising tree seed sources, and carrying out tree breeding.

Article 18.

Forest land use for production in forestry shall be done following the below mentioned prescriptions:

1) For natural forests, forest users shall take responsibilities in maintaining in its integrity the land area under forest management, in preparing rational operations plans for resources removal and utilisation and for further improvements of forest land productivity.

The removal of forest products shall be made in compliance with the operations plans as approved by competent authorities, followed by economical uses of all tops and branches, broken and fallen trees in the logging areas, by slash disposal and by protection of the stands after harvesting.

2) On forest plantation lands, forest plantations shall be carried out following the forest management plans adopted for each specific zone.

The plantation operations planning, on the other hand, shall include activities for intensive management, agroforestry practice, and other activities for soil conservation, soil erosion control, land capability improvement.

The harvesting of forest products shall be made in compliance with the approved system set out in the economic and technical feasibility document; and measures for promoting natural regeneration or for man-made forest establishment should be adopted.

#### CHAPTER IV

##### Executive Provisions

Article 19.

Campaigns for publicity of, and education in the forest Resources Protection and Development met at all levels, and all sectors of the economy, shall be organised to promote changes among officials and people in their awareness on the urgent and important problems of forest protection and forestry development.

- All organisations in charge of information dissemination, press activities, cultural and ideological education at the Central and local levels shall prepare and implement plans for publicity and dissemination of and explanations on the said Act to all officials and people.

- The Education and Training Ministry shall prepare plans to introduce the contents of the Act into various education and training programmes and curriculum at all grade schools, universities and colleges.

- All ministries and industries, social and popular organisations at the central level shall take the responsibilities in directing and organising the publicity and dissemination of, and the explanations of the Act within their own sectors, industries and organisations.

Article 20.

In collaboration With other ministries, Central agencies and the provincial and municipal authorities involved, the Ministry of Forestry shall without delay determine the area and boundaries of forest lands over the whole country and in specific zones for effective division of responsibilities in the forest and forest land management, so to facilitate the allocation of forest and forest plantation lands to organisations and individuals for improved lands resources farming and management following state management and operations plans.

Article 21.

The Ministry of Forestry and other ministries and industries concerned shall issue orders and instructions for the execution of this Decree. People's Committees at all levels shall take responsibilities in enforcing the Act and related legal documents in their respective areas.

Article 22.

The Ministers, Chairmen of State Committees, Heads of other committees under the jurisdiction of the Council of Ministers, the Chairmen of Provincial and Municipal People's Committees under the jurisdiction of Central Government, shall abide by this Decree.

By authority of the Council of Ministers  
Chairman,  
Vice-Chairman,  
Signed: Phan Van Khai

Ministry of Forestry  
No.: 156/VP

Certified to be conformed to Original  
Hanoi, January 29th 1992  
B/O of the Minister,  
Head of Staff,  
Signed: Do Van Nhuan