

TTg OF SEPTEMBER 16, 1999 ON THE RENEWAL OF THE ORGANIZATION AND MANAGERIAL MECHANISM AT THE STATE FORESTRY FARMS

The Prime Minister issued Decision No. 187/1999/QD-TTg on September 16, 1999 on the renewal of the organization and managerial mechanism at the State forestry farms, the Ministry of Agriculture and Rural Development and the Ministry of Finance hereby jointly guide the implementation of some principal contents as follows:

I. OBJECTS OF APPLICATION OF DECISION No. 187/QD-TTg

Decision No. 187/1999/QD-TTg shall apply to:

1. State forestry farms
2. State enterprises (companies, factories...) allocated by the competent State bodies forests and forestry land for forestry production and business; companies with their member units being dependent cost-accounting State forestry farms.

II. REORGANIZATION OF STATE FORESTRY FARMS

Pursuant to their present conditions, the existing forestry farms shall be reorganized into 3 groups as provided for in Article 3 of Decision No. 187/QD-TTg. Concretely as follows:

1. The following State forestry farms shall be maintained and strengthened to operate according to the mechanism applicable to business enterprises:

a/ State forestry farms currently managing natural forests and planted forests planned as production and protection forests of little strategic importance.

b/ State forestry farms planting industrial material forests (paper materials, man-made boards, pit-props, specialty products, bamboo...).

The major tasks of the State forestry farms shall be: To manage, protect, plant and foster forests, exploit and process wood and other forest products, supply raw materials for industrial processing establishments and other consumption demands of the national economy. *Apart from these major tasks, the forestry farms may conduct other business lines such as agriculture, industry, fishery, services..., in order to effectively use and bring into full play all potentials in labor, technology, land and forest funds allocated to them.*

For the forestry farms mentioned above, if they are currently assigned to manage protection forests

THE MINISTRIES

INTER-MINISTERIAL

THE MINISTRY OF AGRICULTURE AND RURAL DEVELOPMENT - THE MINISTRY OF FINANCE

JOINT CIRCULAR No. 109/2000/TTLT/BNN-BTC OF OCTOBER 20, 2000 GUIDING THE IMPLEMENTATION OF THE PRIME MINISTER'S DECISION No. 187/1999/QD-

of very strategic importance and strategic importance, which are interlocated with production and protection forests of little strategic importance and cover less than 5,000 hectares, an area not enough for separation into protection forests with separate managing boards, they shall be still allocated such protection forest areas for management according to the protection forest regulations. The protection and planting of protection forests in the areas of very strategic and strategic importance shall be regarded as the forestry farms' public-utility task to be performed with the State budget funding.

2. The following State forestry farms shall be transformed into managing boards of protection forests:

a/ State forestry farms with 5,000 hectares or more of forest land planned as protection areas of very strategic importance or strategic importance (established under decisions of the Prime Minister or the presidents of the provincial People's Committees), which represent 70% or more of the forest land areas allocated to them.

b/ For State forestry farms with 5,000 hectares or more of forest land planned as protection areas of very strategic importance or strategic importance, which represent less than 70% of the total forest land areas allocated to them: The areas planned for protection forests shall be either separated for establishment of protection forests with their own management boards or handed over to the management boards of the adjoining protection forests (if any); the concerned forestry farms shall manage only the remaining areas planned for production and protection forests of little strategic importance. Where the conditions do not permit the setting up of a separate management boards of the protection forests, such protection forest areas shall be still allocated to the forestry farms for management according to the protection forest regulations as their public-utility task.

When a forestry farm is transformed into a protection forest management board, the area planned for production and protection forests of little strategic importance lying interspersed with the protection forests shall be also allocated to such protection forest managing board for management, protection, afforestation, exploitation and use according to the production forest regulations.

3. The following forestry farms shall be transformed into other forms of business

The forestry farms currently allocated for management forestry land areas of less than 1,000 hectares, which are interspersed with agricultural land areas and/or close to residential quarters, and the forestry farms meeting with difficulties in their

production and/or business, shall be transformed into other business forms such as agro-forestry service enterprises, agro-forest products collection and purchase stations, plant nurseries... so as to provide services for the agricultural and forestry production in the localities.

When transformed, the forestry farms shall formulate plans and submit them to the provincial People's Committees (for provincially-run forestry farms), or the branch-managing ministries (for centrally-run forestry farms) for approval. Such plans must clearly state the new organizations' demand for land to be used for their business and service activities and also identify measures to settle regimes and policies for their officials, employees and workers who find themselves redundant after the restructure of forestry farms. The forestry covers and forestry land shall be handed over to the local administrations for allocation or leasing to organizations, households and individuals according to current law provisions.

III. REVISION OF THE FOREST AND FORESTRY LAND AREAS; ALLOCATION OF LAND AND FORESTS TO STATE FORESTRY FARMS

The provincial People's Committees shall direct their concerned branches and localities to conduct the revision of the forest areas and forestry land areas of the forestry farms in order to restructure such forestry farms and fill in the procedures for granting land use right certificates and allocating forests to such forestry farms.

1. The revision contents:

a/ Regarding land: To clearly determine the areas and boundaries on the map and on the field of all categories of land under the forestry farms' management:

- The land areas planned for production forests and protection forests of little strategic importance, including natural forests, planted forests and land without forests.

- The land areas planned for protection forests of very strategic importance and strategic importance, including natural forests, planted forests and land without forests.

- The areas of agricultural land and other land such as residential land, fixed rice fields, ponds and lakes, forest gardens... owned by individual households.

- The forestry land areas that the forestry farms are unable to use.

b/ Regarding forests: To clearly determine the conditions, area and quality of forests under the forestry farms' management. For production forests and

protection forests of little strategic importance, which are natural forests, the forestry farms shall consider and readjust the forest arrangement plans and work out production and business plan for each five-year period, then submit them to the provincial People's Committees for approval before their materialization. Once every five years, such plan shall be reviewed and the plans for the subsequent period shall be worked out. The content and method thereof shall comply with Directive No. 15-LS/CNR of July 19, 1989 of the Ministry of Forestry, now the Ministry of Agriculture and Rural Development, on the work of formulating simple forest arrangement plans for forestry farms.

2. The revision method:

Basing themselves on the results of the forest inventory conducted under the Prime Minister's Directive No. 286/TTg of May 2, 1997 and Directive No. 24/CT-TTg of August 18, 1999 on the national land inventory in 2000, the provincial/municipal Agriculture and Rural Development Services and the Land Administration Services shall advise the provincial/municipal People's Committees, together with the district People's Committees and the forestry farm-managing bodies (if any) on directing the concerned commune People's Committees together with the forestry farms' directors to revise and clarify the above-said contents.

3. The allocation of land and the granting of land use right certificates associated with the allocation of forests to the State forestry farms

On the basis of the revision results, to separate the areas of residential land, agricultural land and forest gardens of households and the areas of forests and forestry land that the forestry farms are unable to use from the land areas of the forestry farms; to hand over them to the local administration for allocation or lease to organizations, households and individuals under the Government's Decree No. 64/CP of September 27, 1993 issuing the Regulation on the allocation of agricultural land to households and individuals for stable and long-term use for agricultural production purposes; Decree No. 85/1999/ND-CP of August 28, 1999 amending and supplementing a number of articles of the Regulation on the allocation of agricultural land to households and individuals for stable and long-term use for agricultural production purposes and the additional allocation of salt-production land for households and individuals for stable and long-term use and Decree No. 163/1999/ND-CP of November 16, 1999 on the allocation and lease of forestry land to organizations, households and individuals for stable and long-term use for forestry purposes.

For the remaining forest and land areas, the provincial People's Committees shall fill in the procedures for allocating land and granting land use right certificates in close association with assigning forests to the forestry farms for stable and long-term use for forestry, agricultural and fishery purposes.

The order and procedures for allocation of land and forest and granting of land use right certificates shall comply with the guidance of Joint Circular No. 62/2000/TTLT/BNN-TCDC of June 6, 2000 of the Ministry of Agriculture and Rural Development and the General Land Administration guiding the allocation and lease of land and the granting of forestry land use right certificates.

4. Funding for implementation

The funding source for the revision and granting of land use right certificates to the forestry farms shall come from the local budgets according to the estimates approved by the competent authorities.

IV. RESPONSIBILITIES AND POWERS OF THE STATE FORESTRY FARMS IN THE MANAGEMENT AND USE OF THEIR ALLOCATED FORESTS

1. The State forestry farms shall be responsible to the State for the preservation and development of the allocated forests. They may exploit and use forests according to the provisions in Clauses 3, 4, 5 and 6 of Article 4 of Decision No. 187/1999/QĐ-TTg.

2. The forestry farms' directors shall assume the main responsibility in organizing the management and protection of forests and forestry land allocated by the State; coordinate with the ranger offices to arrange rangers to exclusively supervise the farms, assist the farms' directors in directing their specialized forest protection forces to patrol and protect the forests, and handle cases of infringing upon the forest resources, including compelling the involved parties to pay damages and recovering property for the forest owners according to law provisions.

3. On the basis of the allocated forests and forestry land areas, the forestation arrangement plans already approved, other resources and the local socio-economic situation, the forestry farms' directors shall proceed with formulating the plans on production and business organization then submit them to the provincial People's Committees (for the locally-run forestry farms); the ministries or branches (for the forestry farms attached to the ministries or branches); corporations (for the forestry farms attached to the corporations), for approval before implementing them.

V. POLICIES TOWARDS LABORERS

1. Allocation of residential land to households of officials, employees and workers of the forestry farms

The forestry farms' directors shall have to revise the residential land of households of their officials, employees and workers (including those who have retired on pension or due to loss of their working capacity) who are residing on the areas under the forestry farms' management and propose to the local administrations to allocate land and grant residential land use right certificates to households that have no residential land or are living in houses built on the forestry farms' land, according to current provisions of law.

a/ For households without residential land, the forestry farms' directors shall coordinate with the concerned commune People's Committees in considering and carrying out the procedures to propose the district People's Committees to allocate land and grant land use right certificates to them like local residents.

b/ For households living in houses built on the forestry farms' land, basing themselves on the general planning already approved by the competent bodies, the forestry farms, together with the concerned People's Committees shall propose to the district People's Committees to consider and settle by legalizing such land and grant land use right certificates to these households.

2. Allocation of forestry land and agricultural land to households of the employees and workers of the forestry farms

On the basis of the planning already approved by the competent authorities, the forestry farms' directors shall have to coordinate with the concerned commune People's Committees in considering and proposing to the district People's Committees to allocate land and grant agricultural or forestry land use right certificates to the forestry farms' officials, employees and workers who have lost their jobs due to the production reorganization and the payroll streamlining and received merely a lump-sum allowance or an allowance for a number of years as well as to unemployed working-age children of the forestry farms' officials, employees and workers who are permanently living in the areas under the forestry farms' management as provided for in Clauses 3 and 4, Article 7 of the Government's Decree No. 64/CP of September 27, 1993, Decree No. 85/1998/ND-CP of August 28, 1998 and Decree No. 163/1998/ND-CP of November 11, 1999, with the to be-allocated land area limit being equal to the average limit allocated to peasants' households in the localities.

3. Settlement of the regimes of social insurance and permanent residence registration for the forestry farms' redundant officials, employees and workers

a/ During the process of the production rearrangement and reorganizations, any redundant officials, employees and workers, who cannot be employed for any job nor retrained to change their occupations, shall be relieved from work according to the current severance regime. For those forestry farms meeting with financial difficulties in complying with such regimes and if the job losers agree, the severance allowances may be paid in the value of the production forests planted by the forestry farms.

When paying allowances in the value of the planted forests, the forestry farms shall have to set up councils to determine the planted forests' value at the time of payment, account it as a decrease in the value of assets under their management and complete the procedures for handing over such forests to the job losers. After exploiting such forests, the persons who are paid severance allowances in the planted forests' value must return the land to the forestry farms which may continue to contract such land to them (if they so demand).

b/ If the job losers wish to reside in the forestry farms' areas, the local administrations shall have to register their permanent residence and allocate agricultural land and/or forestry land to them as provided for in Paragraph 2 of Section V above.

4. The land fund for allocation of residential land, agricultural and forestial production land to the households of the forestry farms' officials, employees and workers.

The land fund for allocation of residential land, agricultural and forestial production land to the households of the forestry farms' officials, employees and workers mentioned in Paragraphs 1 and 2 above, shall come from the existing land funds of the localities. Where a locality has no more land fund, the forestry farms shall propose to the local administration to allocate part of their land for this purpose, which must comply with the general planning and not scatter the forestry farms' remaining land, then propose to the provincial People's Committee to separate such land area from the forest area and the forestry land allocated to the forestry farms.

VI. FISCAL POLICY

1. For State forestry farms applying business cost-accounting and other State enterprises using forestry land and doing business in forests

Being State enterprises, the State forestry farms

shall practice the financial management according to the Government's Decree No. 59/CP of October 3, 1996 and Decree No. 27/1999/ND-CP of April 20, 1999 amending and supplementing the Regulation on the financial management and business cost-accounting at State enterprises, issued together with the Government's Decree No. 59/CP of October 3, 1996, and Decree No. 56/CP of October 2, 1996 on public-utility enterprises and the Finance Ministry's circulars guiding these Decrees, as well as the following regulations:

a/ Management of capital and assets of the State forestry farms:

- A State forestry farm's assets include: fixed assets, current assets formed from the sources of long-term and short-term investment capital, including forests planted with the State's capital and other capital sources.

As the natural forests allocated to the State forestry farms for management are the nation's natural resources, the State forestry farms shall have to manage them in accordance with the Law on Forest Protection and Development and current regulations on the management of forests of different categories.

All assets that a State forestry farm hires, borrows, keeps under custody, processes under processing contract, sells under agency or consignment contract, shall not be its assets.

- The legal capital of a State forestry farm is the minimum capital amount required by law for its establishment.

- The charter capital of a State forestry farm is the State-owned capital inscribed in its charter.

The State forestry farms must publicize their charter capital and any changes therein.

- The State-owned capital at a State forestry farm is the total value of the assets being managed and used by the State forestry farm minus (-) the debts payable at the reporting time.

- Allocation of capital to the State forestry farms: The State forestry farms shall be allocated by the State the State-owned capital being available at the forestry farms after such capital is verified and evaluated according to the State's current regulations. It shall include the following amounts:

+ Capital amounts for afforestation, invested from the budget or originated from the State budget (both previously and presently), allocated to the State forestry farms for management and use.

+ Enterprise income tax amounts, which are re-allocated by the State to the State forestry farms for forest development (excluding the enterprise income tax amount used for public-utility activities) and belong

to the source of capital allocated by the State to the State forestry farms.

b/ Management of turnover, expenditures and costs of products and services at the State forestry farms:

- Turnover management:

A State forestry farm's turnover shall include turnover from forestry business activities and incomes from other activities.

Various incomes from the sale of forest products and other incomes from the protection forests of very strategic importance and strategic importance shall belong to turnover of a State forestry farm.

The State forestry farms must separately account the turnovers from forestry business activities, forestry-related business activities and other business activities so as to determine the business result of each business activity.

Forestry-related business activities shall include combined agricultural, forestrial and fishery production, forestry tourism and services.

- Management of expenditures and costs

The expenditures on business activities shall include expenses related to a State forestry farm's business activity process, such as expense for plant varieties, raw materials, fuel, materials; depreciation of fixed assets; expense for forest management and protection; salaries and expenses of salary nature; deductions prescribed by the State like medical insurance and trade union's expenses; charges for services purchased from outside; other cash expenses...

The expenses for forest planting and tending, management and protection, zoning off for regeneration of protection forests of very strategic importance and strategic importance, and other public-utility activities assigned by the State and the expenses covered by other funding sources must be separately accounted, not into the forestry farm's production and business expenses..

c/ Management of financial allocation and use of the capital source from the enterprise income tax:

The amount of enterprise income tax (including forestry business and other business and service activities) re-allocated by the State to the State forestry farms for investment in forest regeneration and the funding for performance of their public-utility tasks shall comply with the cost estimates approved by the provincial People's Committees, the ministries or central branches.

The enterprise income tax amount re-allocated to a forestry farm shall be the tax amount already remitted into the State budget (on a quarterly or yearly basis). Such enterprise income tax amount shall be reallocated to the forestry farm from the budget of a level into

which it was remitted. This funding, if not used up in the year, shall be carried forward to the subsequent year.

The capital allocation order shall comply with the provisions in Circular No. 25/2000/TT-BTC of March 30, 2000 of the Ministry of Finance guiding the returning of amounts already remitted into the State budget.

A dossier of capital allocation shall comprise:

- The competent authority's decision approving the cost estimates.

- The document allocating the capital and volume plan, issued by the provincial People's Committee (for locally-run forestry farms), by the ministry or branch (for centrally-run forestry farms).

- The record on the pre-acceptance test of the completed volume, made by the forestry farm and the household or contractor (if any).

- The written certification of the enterprise income tax amount payable to the tax office and of the tax amount actually remitted into the State Treasury's budget.

Basing itself on the above-said dossier the finance office shall effect the allocation as follows:

- + For the enterprise income tax amount already remitted by the forestry farm into the budget and channeled to the central budget, the Ministry of Finance shall evaluate and effect the allocation.

- + For the enterprise income tax amount already remitted by the forestry farm into the budget and channeled into the local budget, the provincial/municipal Finance-Pricing Service shall evaluate and effect the allocation.

Particularly for the centrally-run forestry farms' enterprise income tax amounts already remitted and channeled into the local budget the provincial/municipal Finance-Pricing Services shall complete the allocation procedures and report such to the Ministry of Finance.

d/ The regime of distribution of after-tax profits and the management of various funds at the State forestry farms.

The whole year's profit is the business result of a State forestry farm, composed of the profit from business activities and the profit from other activities.

The profit from business activities is the difference between total turnover and the total cost of goods and service products sold in the fiscal year by the State forestry farm.

The profit from other activities is the profit from financial activities, that is the surplus between the revenue from and the expenditure on financial activities including asset leasing, securities trading,

collected interests on deposits and loans, share dividends and profit from the capital contributed to joint-ventures and business cooperation, and the reimbursed balance of the reserve for decrease in the securities investment value...

The State forestry farms must account separately the profit from forestry business activities and the profit from other service provision activities.

The profits earned by the State forestry farms after paying tax according to the Enterprise Income Tax Law shall be distributed into the enterprise funds and the use of such funds shall comply with Circular No. 64/1999/TT-BTC of June 7, 1999 of the Ministry of Finance guiding the regime of distribution of after-tax profits and management of various funds in State enterprises.

e/ The funding wholly allocated from the State budget according to the cost estimates approved by the provincial People's Committees, ministries and central branches to the forestry farms to build their essential infrastructures in service of production and perform their public-utility tasks, including:

- Planting, fostering and protecting protection forests of very strategic importance and strategic importance.

- Building essential infrastructures in service of production in areas planned for concentrated material forests (road networks, stations, yards, etc...).

- Performing tasks in support of the socio-economic development, ensuring defense and security in high, remote and deep-lying areas.

f/ When carrying out projects for natural forest protection, zoning off for regeneration and enrichment, the State forestry farms shall enjoy the State's investment support policy like for the projects on planting concentrated material forests according to the provisions in the Government's Decree No. 43/1999/ND-CP on the State's development investment credits.

2. For the protection forest-management boards:

The protection forest-management boards shall operate according to the mechanism applicable to economic public-service units with income, practice the financial management according to current regulations and may deduct part of the revenue surplus according to regulations to cover expenses for forest planting and protection.

Funding shall be allocated from the State budget for the performance of the tasks of planting, tending, managing, protecting and fostering protection forests of very strategic importance and of strategic importance according to the plans already approved by the competent authorities.

The management of the capital for capital

construction investment, planting, fostering and protection of forests by the State forestry farms and the protection forest management boards shall comply with Joint Circular No. 28/1999/TT-LB of February 3, 1999 of the Ministry of Agriculture and Rural Development, the Ministry of Planning and Investment and the Ministry of Finance and Decision No. 251/QD-TTg of the Prime Minister supplementing and amending the capital payment procedures for the implementation of the project on planting 5 million hectares of new forests, as well as current legal documents.

VII. RENEWING THE ORGANIZATION AND MANAGEMENT WITHIN THE STATE FORESTRY FARMS

1. Regarding production organization:

a/ Forests and forestry land allocated by the State to the forestry farms must be largely allocated under contracts in a stable manner to organizations, households and individuals according to the Regulation on the contractual assignment of land to be used for agricultural, forestrial production and aquaculture purposes in State enterprises, issued together with the Government's Decree No. 01/CP of January 2, 1995. Besides, the forestry farms may apply other contractual forms suited to their concrete conditions and situation. Workers' and peasants' households living in the forestry farms' areas shall be encouraged to receive such allocated land or enter into joint venture or cooperation with the forestry farms to conduct business according to the farm model.

When deploying the contractual assignment of forests and forestry land, the forestry farms must together with the contractual assignees make and sign assignment contracts which must clearly define the interests and obligations of the assignor and the assignee, ensuring that the assignee shall feel at ease when investing capital and labor in the tending, protection and development of forests and enjoy a proper proportion of exploited forest products.

b/ Apart from the contractual assignment to households, the forestry farms may organize specialized labor teams, groups or units to directly perform production and business tasks (managing, protecting, zoning off for regeneration, planting forests...) in forest areas meeting with such difficulties that it would be ineffective to assign such forests to other households or organization or individuals, and provide services in plant and animal production, supplies, technical and daily-life services; exploit, process and consume agricultural and forest products...

c/ The State forestry farms may use forestry land without forests and make use of their advantages (in terms of capital, techniques, market, etc.) to enter into joint venture and cooperation with their officials and employees' households, peasants households and organizations and individuals inside and outside the country for afforestation in combination with agro-forestrial production, forest-product processing and consumption and, at the same time, provide services for different economic sectors in the areas to plant, protect and develop forests.

2. Regarding organizational apparatus:

In order to conform to the new production *organization and management mechanism*, the management and organization apparatus of a forestry farm must be downsized to be more effective, concretely:

- At a forestry farm: such apparatus shall be composed of the director, deputy director, chief accountant and a number of assisting technical experts.

- At a production team: such apparatus shall be composed of a leader and an assisting technician.

For the forestry farms conducting different business lines, their directors may seek permission from their immediate managing bodies to set up different professional sections to assist them in administering the forestry farms' production and business activities like other State enterprises.

VIII. ORGANIZATION OF IMPLEMENTATION

Basing themselves on the above guidance, the directors of the provincial/municipal Agriculture and Rural Development Services and the general directors of corporations with State forestry farms shall assume the prime responsibility together with the provincial/municipal Finance and Pricing Services and the concerned departments and branches of the provinces and centrally-run cities to elaborate plans on arranging and renewing the organization and the managerial mechanism at the State forestry farms and submit them to the provincial People's Committees (for locally-run forestry farms) or the branch-managing ministries (for centrally-run forestry farms) for approval. Such plans must be completed in 2000.

For the Minister of Finance
Vice Minister
TRAN VAN TA

For the Minister of Agriculture and Rural Development
Vice Minister
NGUYEN VAN DANG