

DECISION No. 178/2001/QĐ-TTg OF NOVEMBER 12, 2001 ON THE BENEFITS AND OBLIGATIONS OF HOUSEHOLDS AND INDIVIDUALS ASSIGNED, LEASED OR CONTRACTED FORESTS AND FORESTRY LAND

THE PRIME MINISTER

Pursuant to the Law on Organization of the Government of September 30, 1992;

Pursuant to the Law on Forest Protection and Development of August 19, 1991;

Pursuant to the July 14, 1993 Land Law; the December 2, 1998 Law Amending and Supplementing a Number of Articles of the Land Law; and the June 29, 2001 Law Amending and Supplementing a Number of Articles of the Land Law;

Pursuant to the Government's Decree No.163/1999/ND-CP of November 16, 1999 on the assignment and lease of forestry land to organizations, households and individuals for stable and long-term use for forestry purposes;

Pursuant to the Government's Decree No.01/CP of January 4, 1995 on the contractual assignment of land for agriculture, forestry and aquaculture purposes in State enterprises;

At the proposal of the Minister of Agriculture and Rural Development,

DECIDES:

Chapter I

GENERAL PROVISIONS

Article 1.- This Decision prescribes the benefits and obligations of households and individuals assigned, leased or contracted forests and forestry land by the State for forest protection, regeneration zoning off and planting, with a view to creating an economic motive force for encouraging people to actively participate in forest protection and development; making their incomes from forests one of considerable income sources, thus contributing to ensuring the life of foresters; and at the same time, clarifying responsibilities of people assigned, leased or contracted forests for forest protection and development.

Article 2.- This Decision shall apply to households and individuals falling in one of the following cases:

1. Being assigned forests and forestry land by the State under the Government's Decree No.02/CP of January 15, 1994; being assigned or leased forestry land under the Government's Decree No.163/1999/ND-CP of November 16, 1999 on the assignment and lease of forestry land to organizations, households and individuals for stable and long-term use for forestry purposes.

2. Being contracted by State organizations to protect, zone off for regeneration and plant forests under the Government's Decree No.01/CP of January 4, 1995 on the contractual assignment of land for agriculture, forestry and aquaculture purposes in State enterprises.

Article 3.- The principles for determination of benefits and obligations of households and individuals assigned, leased or contracted forests and forestry land by the State

1. Ensuring the harmony between interests of the State and those of people directly involved in forest protection, regeneration zoning off and planting; between the forests' economic benefits and the benefits of ecological environment protection and nature preservation; between the immediate interests and the long-term ones.

2. The benefits brought about by forestry land include: timber, forest products other than timber, inter-planted products, and wages corresponding to money amounts and labor already invested in forests by households and individuals.

3. The benefits and obligations shall be effected only during the forest- and forestry land- assignment, -lease or -contracting term.

## Chapter II

### BENEFITS AND OBLIGATIONS OF HOUSEHOLDS AND INDIVIDUALS ASSIGNED OR LEASED FORESTRY LAND BY THE STATE

Article 4.- Households and individuals assigned special-use forests by the State for management, protection and building up:

1. To be provided with funding for performance of the task of managing, protecting, zoning off for regeneration and planting forests according to the investment projects already ratified by the competent levels.

2. To conduct scientific research, cultural, social and eco-tourist activities under the provisions of law.

Article 5.- Households and individuals assigned protection forests for management, protection and regeneration zoning off:

1. To be provided with funding by the State for performance of the task of managing, protecting and zoning off forests for regeneration according to current regulations.

2. To harvest secondary forest products, flowers, fruits, oil, resin... in the course of protecting and zoning off forests for regeneration according to current regulations.

3. To exploit dry necron-timber trees, fallen and broken trees as well as diseased trees according to the exploitation designs approved by the provincial/municipal Agriculture and Rural Development Services and the permits granted by the latter. The above-mentioned forest products may be freely circulated upon the completion of all the procedures prescribed therefore.

4. To exploit bamboo with the maximum exploitation intensity of 30% when the forest coverage reaches 80% of the assigned land area according to the current regulation on exploitation of forest products; to enjoy the entire value of forest products after paying taxes.

5. To exploit timber by the mode of selective cutting with the exploitation intensity of not more than 20% when the protection forests are allowed for exploitation (except for animals and plants on the lists of precious and rare forest plants and animals promulgated by the Government, and lists of animals and plants provided for in the appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES) according to designs approved by the provincial/municipal Agriculture and Rural Development Services and exploitation permits granted by the latter. The exploitation must comply with the current regulation on exploitation of forest products. Households and individuals shall enjoy 85-90% of the exploited products after paying taxes, the rest shall be remitted into the State budget.

Article 6.- Households and individuals assigned forestry land without forests but falling under the protection forest planning:

1. To be provided with funding by the State for forest planting and tending according to current regulations.
2. To use perennial agricultural plants as major trees for planting in the protection forests or inter-planting with perennial native forest trees according to afforestation designs approved by the provincial/municipal Agriculture and Rural Development Services.
3. To enjoy 100% of products exploited from supporting trees, inter-planted trees and forest thinning's products according to designs approved by the provincial/municipal Agriculture and Rural Development Services, and to ensure the forest coverage degree of over 0.6 after thinning.
4. To use no more than 20% of the forestry land area without forests for agricultural production and aquaculture.
5. To exploit timber by the mode of selective cutting with the exploitation intensity of not more than 20% when the protection forests are allowed for exploitation according to designs approved by the provincial/municipal Agriculture and Rural Development Services and exploitation permits granted by the latter.

The after -tax value of exploited products shall be divided according to the following proportions: households and individuals shall enjoy 90-95%, the remainder shall be remitted to the State budget.

6. In cases where households and individuals invest capital by themselves in forest planting, they shall enjoy 100% of products when forests reach exploitation ages but can annually exploit no more than 10% of the area already afforested by forest owners according to current technical processes and regulations.

Article 7.- Households and individuals assigned by the State natural forests subject to production forest planning:

1. To inter-plant agricultural and pharmaceutical plants, graze cattle and exploit other forest resources according to the regulation on management of production forests.
2. To make the fullest use of products in the course of applying silvicultural measures according to current processes and regulations.
3. To exploit forest products to meet the family needs (except for the animals and plants on the lists of precious and rare forest animals and plants prescribed by the Government and lists of animals and plants provided for in the appendix to the Convention on International Trade in Endangered Species of Wild Fauna and Flora - CITES). If wishing to build new houses for household separation or replacement or overhaul of their dwelling houses in communes where exist forests, the concerned households or individuals shall have to file applications with the commune People's Committees for certification and further submission to the district People's Committees for consideration, approval and granting of permits for exploitation of not more than 10 m<sup>3</sup> of log for each household. The exploitation must be subject to the commune administrations' guidance and supervision. All acts of taking advantage of exploitation of housing timber for trading are strictly prohibited.
4. When forests are exploitable, households and/or individuals shall file applications for exploitation with the commune People's Committees for consideration and submission to the provincial/municipal Agriculture and Rural Development Services for approval and granting of exploitation permits. The exploitation must comply with current regulations on forest product exploitation.

Depending on the present conditions of forests when they are assigned to households or individuals, the after-tax value of major forest products shall be divided according to the following proportions:

a/ For timber forests:

- Depleted secondary forests: Households and individuals shall enjoy 100%.
- Forests restored after milpa farming or exploitation of timber trees with the common diameter of under 20 cm: Households and individuals shall enjoy 70-80%, the rest shall be remitted into the State budget.
- Forests with average or rich reserves of more than 100 m<sup>3</sup>/ha: From the time of assignment to the time of exploitation thereof, each year households and individuals shall enjoy 2%, the rest shall be remitted into the State budget.

b/ For bamboo forests: They are allowed for exploitation according to current technical processes and regulations. After paying taxes, households and individuals shall enjoy 95% of the forest products? value, the remaining 5% shall be remitted into the State budget.

Article 8.- Households and individuals assigned production forests being planted forests financed by the State budget:

1. To enjoy the benefits provided for in Clauses 1, 2 and 3, Article 7 of this Decision.
2. To exploit forests when they reach the exploitation standards and enjoy 75-85% of the forest products? value after paying taxes, depending on the age-gradations of forests when they are assigned, the rest shall be remitted into the State budget.

Article 9.- Households and individuals assigned forestry land without forests but falling under the production forest planning, for afforestation:

1. To be supported by the State with capital for afforestation according to current regulations.
2. If receiving support capital from projects for afforestation, to enjoy the benefits provided for in the regulations of such projects.
3. If investing their own capital in afforestation, to have the right to decide by themselves on afforestation purposes and modes (zoning off for regeneration or planting new forests), select trees for planting and planting techniques; and have the right to decide on their own exploitation and use of forest products.
4. All products exploited from forests shall be freely circulated.
5. To use part of forestry land without forests for agricultural production or aquaculture, which, however, must not exceed 20% of the assigned land area.

Article 10.- Households and individuals leased forestry land without forests but falling under the production forest planning, for afforestation:

1. To have the right to decide by themselves on afforestation purposes and modes (zoning off for regeneration or planting new forests), select trees for planting and planting techniques; and have the right to decide by themselves on the exploitation and use of forest products.

2. If households and individuals receive support capital from projects for afforestation, they shall enjoy the benefits provided for in the regulations of such projects.

3. All products exploited from forests shall be freely circulated.

4. To use part of forestry land without forests for agricultural production or aquaculture, which, however, must not exceed 20% of the leased land area without forests.

Article 11.- Households and individuals leased special-use forest land or protection forest land by the State for dealing in scenic places, tourism, or rest and recreation under the forest canopy:

1. To use the forest habitat for eco-tourist business or rest and recreation; to build tourist service or rest and recreation establishments under forest canopy according to projects ratified by competent State agencies.

2. To strictly abide by the law provisions on management and protection of special-use forests and protection forests; all acts of causing pollution and harms to the normal growth and development of forest animals and plants are strictly prohibited.

Article 12.- Households and individuals assigned or leased forestry land by the State shall have the following obligations:

1. To manage, protect and use the assigned or leased forests and forestry land for the right purposes, within the boundaries already inscribed in the forestry land -assignment or -lease decisions issued by competent State agencies.

2. To preserve and develop the assigned or leased forests. To apply measures for forest improvement within 1 year after exploitation.

3. To fulfil all financial obligations as prescribed by law.

### Chapter III

#### BENEFITS AND OBLIGATIONS OF HOUSEHOLDS AND INDIVIDUALS CONTRACTED BY THE STATE TO PROTECT, REGENERATION ZONE OFF AND PLANT FORESTS

Article 13.- Households and individuals contracted to plant, protect and regeneration- zone off special-use forests:

1. To receive contractual remuneration for forest planting, protection and regeneration zoning off under contracts.

2. To be given conditions by the special-use forest management boards for participation in service and tourist activities.

Article 14.- Households and individuals contracted to protect and regeneration-zone off natural forests in the headwater protection areas:

1. To receive contractual remuneration for forest protection and regeneration zoning off under contracts.

2. To harvest secondary forest products, flowers, fruits, oil, resin... in the course of protecting and zoning off forests for regeneration under the guidance of the contracting party.

3. To exploit dry necron-timber trees, fallen and broken trees, diseased trees and forest thinning's products according to the contracting party's design approved by the provincial/municipal Agriculture and Rural Development Service and exploitation permit granted by the latter. The above-mentioned forest products shall be freely circulated.

4. To exploit bamboo with the maximum intensity of 30% when forests cover over 80% of the contracted area, under the guidance and supervision of the contracting party. Households shall enjoy 80-90% of the after-tax value of forest products, and the remainder shall be paid to the contracting party.

5. To exploit timber by the mode of selective cutting with the exploitation intensity of not more than 20% when protection forests are allowed for exploitation according to the design elaborated by the contracting party and appraised by the provincial/municipal Agriculture and Rural Development Service for submission to the provincial/municipal People's Committee for approval and granting of exploitation permit. Depending on the present conditions of forests when they are contracted to households or individuals, the after-tax value of exploited timber shall be distributed as follows:

- For depleted secondary forests: Households and individuals shall enjoy 95%, the remainder shall be paid to the contracting party.

- For forests restored after milpa farming or after exploitation of timber trees with the common diameter of under 20 cm: Households and individuals shall enjoy 75-85%, the remainder shall be paid to the contracting party.

- For forests with average or rich reserves of over 100m<sup>3</sup>/ha: From the time of being contracted to the time of exploitation, each year households and individuals shall enjoy 2%, the remainder shall be paid to the contracting party.

In cases where the contracted households invest their own capital in zoning off forests for regeneration, they shall enjoy 100% of the after-tax value of exploited timber.

Households and individuals shall have to make self-investment in forest improvement within 1 year after exploitation.

Article 15.- Households and individuals contracted to plant, tend and protect headwater protection forests:

1. To be provided by the State with funding for forest planting, tending and protection according to current regulations.

2. To use perennial agricultural trees as major trees to for planting in the protection forests or inter-planting with perennial native forest trees according to the forest-planting design elaborated by the contracting party and approved by the provincial/municipal Agriculture and Rural Development Service.

3. To enjoy 100% of products exploited from supporting trees, inter-planted trees and forest thinning's products, but must ensure the forest coverage degree of over 0.6 after thinning.

4. To harvest secondary forest products, flowers, fruits, oil, resin... under the contracting party's guidance.

5. To use no more than 20% of the forestry land area without forests for agricultural production and aquaculture under the contracting party's guidance.

6. To selectively exploit major forest trees when they are allowed for exploitation with an intensity of not more than 20% according to the design elaborated by the contracting party and appraised by the provincial/municipal Agriculture and Rural Development Service for submission to the provincial People's Committee for approval and granting of exploitation permits.

The after-tax value of exploited products shall be divided according to the following proportions:

a/ If households and individuals receive the State's support capital for forest planting, tending and protection, they shall enjoy 80-90%, the remainder shall be paid to the contracting party.

b/ If the contracted households and individuals invest their own capital in planting, tending and protecting forests, they shall enjoy 100% of the products' value after paying taxes.

c/ The contracted households and individuals shall have to make self-investment in forest improvement within 1 year after exploitation.

Article 16.- Households and individuals contracted to plant and protect wind- or sand-shielding protection forests; sea wave-shielding and sea-encroachment protection forests, and protect the ecological environment:

1. To be provided by the State with funding for forest planting, tending and protection according to current regulations.

2. To inter-plant agricultural trees with forest trees and enjoy all products of the inter-planted trees.

3. To harvest secondary forest products, flowers, fruits, oil, resin... under the contracting party's guidance.

4. To make the fullest use of forest products in the course of applying silvicultural measures according to current processes and regulations.

5. To exploit forests when they are allowed for exploitation according to the design elaborated by the contracting party and appraised by the provincial/municipal Agriculture and Rural Development Service for submission to the provincial People's Committee for approval and granting of exploitation permits. Each year of exploitation, the contracted households and individuals may exploit no more than 10% of the area already planted with forests.

The after-tax value of exploited products shall be divided as follows:

a/ If receiving the State's support capital for forest planting and tending, households and individuals shall enjoy 60-70%, the remainder shall be paid to the contracting party.

b/ If investing their own capital in forest planting, tending and protection, households and individuals shall enjoy 100% of the value of products after paying taxes.

Households and individuals shall have to make self-investment in forest improvement within 1 year after exploitation.

Article 17.- Households and individuals contracted to plant, tend and protect protection forests in submerged forest areas:

1. To be provided by the State with funding for forest planting and tending according to current regulations.

2. To catch aquatic and marine products on the contracted forest land under the guidance of the contracting party; to make the fullest use of forest products in the course of applying silvicultural measures according to current technical processes and regulations.

3. To use no more than 30% of the contracted land area for aquaculture but must not cause adverse impacts on the forest trees and comply with plannings of branches and localities as well the contracting party's guidance.

4. To selectively exploit forests when they are allowed for exploitation with the maximum intensity of 20% according to the design elaborated by the contracting party and appraised by the provincial/municipal Agriculture and Rural Development Service for submission to the provincial People's Committee for approval and granting of exploitation permits.

The after-tax value of forest products shall be divided as follows:

a/ If receiving the State's support capital for forest planting and tending, households and individuals shall enjoy 80-90%, the remainder shall be paid to the contracting party.

b/ If investing their own capital in forest planting, tending and protection, households and individuals shall enjoy 100% of the value of products after paying taxes.

Households and individuals shall have to make self-investment in forest improvement within 1 year after exploitation.

Article 18.- Households and individuals contracted production forests being natural forests:

1. To extract to the utmost forest products in the course of applying silvicultural measures according to current technical processes and regulations; to exploit secondary forest products.

2. To inter-plant forest specialty trees, agricultural trees and graze cattle under the forest canopy, in the forest glades but must not adversely affect the forest growth.

3. When forests reach the exploitation standards, the contracting party shall agree with contracted households and individuals on exploitation according to the design approved by the provincial People's Committee which shall grant the exploitation permit.

The after-tax value of forest products shall be divided as follows: The contracted households and individuals shall enjoy 1.5-2% for each contractual year of protecting forests, the remainder shall be paid to the contracting party.

Article 19.- Households and individuals contracted to restore natural forests being production forests by applying the method of zoning off forests for regeneration combined with additional planting:

1. To be provided by the contracting party with funding for zoning off forests for regeneration according to current regulations.

2. To combine agricultural production with forestry under the forest canopy according to the contracting party's guidance.

3. To make the fullest use of forest products in the course of applying silvicultural measures according to current technical processes and regulations.

4. To exploit forests when they reach the exploitation standards according to the design elaborated by the contracting party, and approved by the provincial People's Committee which shall grant the exploitation permit.

The after-tax value of forest products shall be divided as follows: The contracted households and individuals shall enjoy 1.5-2% for each contractual year of zoning off forests for regeneration, the remainder shall be paid to the contracting party; if the contracted households and individuals make self-investment in zoning off forests for regeneration, they shall enjoy 2.5-3% for each contractual year of zoning off forests for regeneration.

Article 20.- Households and individuals contracted to plant, tend and protect production forests:

1. To be provided by the contracting party with funding for forest planting, tending and protection according to current regulations.
2. To inter-plant agricultural trees with forest trees in those forests without crown contacts; to combine agricultural production with forestry under the forest canopy but must not cause adverse impacts on the growth of forest trees; to enjoy all products of inter-planted trees.
3. To make the fullest use of forest products in the course of applying silvicultural measures according to current technical processes and regulations.
4. When forests reach exploitation standards, the contracted households and individuals shall reach agreement with the contracting party on the time and mode of exploitation.

The after-tax value of forest products shall be divided as follows: The contracted households and individuals shall enjoy 2-2.5% for each contractual year of protecting forests, the remainder shall be paid to the contracting party.

If the contracted households and individuals invest their own capital in forest planting, tending and protection, they shall enjoy 95% of the value of exploited products after paying taxes, the rest shall be paid to the contracting party.

If the contracted households and individuals make joint investment with the contracting party, the said value shall be divided according to their corresponding capital contributions and the number of workdays converted into money.

Article 21.- Households and individuals contracted to protect, regeneration zone off and plant forests (except for special-use forests) are allowed to use part of the contracted land area not exceeding 200m<sup>2</sup> to build houses in order to look after the contracted forests but must reach a written agreement with the contracting party and register it with the commune People's Committee.

Article 22.- Households and individuals contracted to protect, regeneration zone off and plant forests shall have the following obligations:

1. To use the contracted forests and forestry land for the right purposes, according to the right plan already stated in the contract.
2. To sell products turned out on the contracted land according to the contract.
3. If breaching the contract, thereby causing damage to the contracting party, to pay compensation therefore as prescribed by law.

## Chapter IV

### IMPLEMENTATION PROVISIONS

Article 23.- The proportion of forest products' value to be remitted into the State budget according to the provisions of this Decision shall be left for communes and used mainly for management, protection and development of forests. The proportion of forest products' value to be paid to the contracting party shall be used as follows:

1. For special-use forest management boards, protection forest- management boards and other State organizations: It shall constitute a revenue source and be used mainly for forest management, protection and development.
2. For State enterprises: It shall constitute a revenue source from forestry business activities in direct service of forest management, protection and development.

Article 24.- Organization of implementation

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility and coordinate with the Ministry of Finance and the relevant ministries and branches in guiding the implementation of this Decision.
2. The ministers, the heads of the ministerial-level agencies, the heads of the relevant agencies and the presidents of the People's Committees of the provinces and centrally-run cities shall have to implement this Decision.

Article 25.- This Decision takes effect 15 days after its signing, the earlier provisions contrary to this Decision are hereby annulled.

For the Prime Minister  
Deputy Prime Minister  
NGUYEN CONG TAN