

COUNCIL OF MINISTERS SOCIALIST REPUBLIC OF VIETNAM
Independence-Freedom-Happiness

Hanoi, 18 August 1991

ORDER NO. 58-LCT/HDNN8 DATED 19-8-1991

OF PRESIDENT OF STATE COUNCIL SOCIALIST REPUBLIC VIETNAM
PROMULGATING THE LAWS ON FOREST PROTECTION AND DEVELOPMENT.

ORDER

THE STATE COUNCIL SOCIALIST REPUBLIC VIETNAM

Based on the Article 100 of the Constitution of Vietnam and Article 34 of the Law on Institution of National Assembly and State Council;

PROMULGATION

Laws on Forest protection and development has been enacted by the National Assembly of Socialist Republic of Vietnam on 12 August 1991.

Hanoi, 18 August 1991

On behalf of STATE COUNCIL
SOCIALIST REPUBLIC OF VIETNAM
PRESIDENT VO CHI CONG

NATIONAL ASSEMBLY SOCIALIST REPUBLIC OF VIETNAM
Independence-Freedom-Happiness

Hanoi, 18 August 1991

LAW ON FOREST PROTECTION AND DEVELOPMENT

Forest is precious resources of the country, it is of possibility to regenerate, it is the important component of ecological environment, it has the large value in national economy, allies closely to people's life and the existence of the people.

In order to strengthen the state management to forest, prevent the forest destroy, emphasis the responsibility and encourage the institutions, individuals to protect and develop the forest, to increase the forest benefit to serve in country defending and developing;

Based on the Article 83 of Constitution of Socialist Republic of Vietnam;

This laws stipulate the forest management, protection, development and utilization.

CHAPTER I

GENERAL CONDITIONS

ARTICLE 1

The forest referred in this laws contains the natural forest and plantation on forestry land, including forest vegetation, animal and the natural features relating to the forest.

Forestry land includes:

1. Land of forest cover
2. Land of no forest cover is planned for afforestation, hereinafter called afforestation land.

ARTICLE 2

The government conduct integrated administration of forest and afforestation land.

The government allocate the forest and afforestation land to institutions and individuals - hereinafter refer to as forest tenure - to protect, develop and use it in sustainable way under the planning and plan of the government.

The institutions, individuals are using forest legally, afforestation land will be allow to continue usage under stipulation of this laws.

ARTICLE 3

Natural forest, forest planted by state investment are of state possessions.

The forest has been planted on the government allocated land, by non government investment, the vegetation forest products will belong to invested institutions or individuals.

For forest animals, except the rare and precious species which are required by government to protect and ban hunting, forest tenure is allowed to exploit and develop popular forest animal source, but should follow the legal stipulations; in the case protection, development of rare and precious species are conducted, the forest tenure is enjoyed a favor policy.

The government advocate the legal right of forest tenure.

ARTICLE 4

The government encourage the institutions, individuals invest 3, materials, capital, application of scientific and technical advantage in afforestation, forest protection, forest products exploiting and processing followed the direction of agro-forestry, aquaculture combined with processing industry.

ARTICLE 5

The state institutions, social and economic units, people's arm force units and all citizen have mandate to protect forest, ecological environment.

ARTICLE 6

Strictly prohibit to destroy forest resource.

ARTICLE 7

Based on the major purpose of utilization, the forest is classified into following categories:

1. Protection forest
2. Special used forest
3. Production forest

The definition of forest categories, transfer purpose of utilization from this category to the other, only the government is entitled to decide.

CHAPTER II

STATE ADMINISTRATION OF FOREST AND AFFORESTATION LAND

ARTICLE 8

The content of state administration of forest and afforestation land includes:

1. Investigate and define the forest categories, plan the boundary of forest, afforestation land on map and on field down to commune administrative authority; sum up and monitor the forest development, afforestation land;
2. Prepare the planning, plan to protect, develop the forest and use of forest and afforestation land in nation wide and in every location.
3. Stipulate and organize to implement the regulations, legislature concerning the management, protection, and development of the forest and forest, afforestation land utilization;

Allocate forest, afforestation land and withdraw it.

5. Register, set up and keep the geological administration log, issue the forest and afforestation land tenure certificate.
6. Inspect and audit the implementation of regulations, legislature concerning the management, protection and development of the forest and afforestation land and treat the violation to those regulations and legislature;
7. Resolve the dispute of forest and afforestation land.

ARTICLE 9

The Council of Ministers conduct the integrated administration of forest and afforestation land in whole country.

The people's committees of all level carry out the function of state administration of forest and afforestation land in their own location under the planning, plan, regulations and rules of the government.

The ministry of forestry and the state institutions controlling the forestry in the location will assist the Council of ministers and people's committees at all level to organize implementing the state administration in forest and afforestation in nation wide and in every location, under their function, task, and authority.

ARTICLE 10

The decision to allocate forest and afforestation land should base on:

1. Planning, plan of protection, development and utilization of forest, afforestation land approved by proper authority;
2. Fund of forest and afforestation land;
3. Requirement and possibility of institutions, individuals in the management and utilization of forest and afforestation land.

ARTICLE 11

The authorization to define forest area and the allocation of forest and afforestation land is stipulated as follows:

1. The prime minister decides to define and allocate:

- a) The protection forest, special used forest areas of national significance to the management board of ministry of forestry or other institutions belong to Council of ministers;
- b) The important production forest areas to state forestry units in necessary case.

2. The president of provincial people's committee decides to define and allocate:

- a) The protection forest, special used forest areas of national significance under the authorization of council of ministers, the protection forest, special used forest areas of provincial significance to the management board belong to the provincial people's committee;
- b) The production forest in the province to economic, social, people's arm force units and private entrepreneurs under the state planning.

3. The president of district people's committee decides to allocate the production forest to cooperatives, production groups and individuals under the provincial planning.

Ministry of forestry and the state institutions controlling forestry in the location collaborate with land controlling institution of equal level to assist the prime minister and president of people's committee of all level in allocating forest and afforestation land according to the planning.

ARTICLE 12

The forest, afforestation areas which have not been allocated to institutions, individuals, then the ministry of forestry and the state authority controlling forestry in the location will assist the council of ministers and people's committee of all level to organize controlling and prepare plan to gradually put in use.

ARTICLE 13

The forest, afforestation land allocation for other purpose should observe the stipulations at the paragraph 2 point b, and paragraph 3 of Article 13 of the Laws on land use and management.

The institutions, individuals are allocated forest, afforestation land for using in other purpose should compensate the value of forest, afforestation land, organize achievement, investment result based on market price and the actual status of forest, afforestation land under the legal stipulations.

ARTICLE 14

The government withdraw total or partial forest, afforestation land has been allocated in following cases:

1. The institution has been dissolved or individual who is forest tenure has dead and he/she has no heir for continued using under the laws;
2. The forest tenure give back forest and afforestation land at volunteer;
3. In consecutive 12 months, the forest tenure doesn't carry out the protection activity, take care, afforest according to the plan approved by proper authority without correct reason;
4. The forest tenure use the forest, afforestation land by incorrect purpose or seriously violate the legal stipulations of protection, development, utilization of forest and afforestation land.

5. Should use forest, afforestation land for important demand of state, society or urgent demand of war or preventing natural calamity.

ARTICLE 15

The authority to withdraw forest, afforestation land is stipulated as follows:

1. The state institution has the authority to allocate which forest, afforestation land will be authorized to withdraw that forest, afforestation land; in case, it is required to withdraw forest and land for important demand of state, society as stipulated in paragraph 5, Article 14 of this Laws, the withdraw decision should be approved by direct higher authority.

2. The president of people's committee at district level and up will have the right to withdraw forest, afforestation land for urgent demand stipulated in paragraph 5, Article 14 of this Laws and should report immediately to direct higher authority.

ARTICLE 16

The authority to solve dispute of right using forest covered land, afforestation land will be followed the Article 21 of Laws on land use and management.

ARTICLE 17

The dispute of forest vegetation, animal, architecture works, other property and compensation of damage, achievement, investment result on forest covered land, afforestation land will be solved by people's court.

While solving the dispute mentioned in this Article, if it is relating to the right using the forest covered and afforestation land, then the people's court will solve that right together.

CHAPTER III

FOREST PROTECTION

ARTICLE 18

The People's committee of all level, according to their function, task and right, and combine with forest tenure will organize to manage and protect the present forest stock; prevent all manner which harm to forest; conduct all method to protect, promote, develop the forest vegetation, animal; preserve water source, land, prevent erosion.

ARTICLE 19

The exploitation of forest vegetation, hunting the forest animal should observe the state regulations for protecting forest vegetation and animal.

The rare and precious species of forest vegetation and animal should be protected, managed by special measures. The list and policy to this species will be stipulated by council of ministers.

ARTICLE 20

Strictly prohibit all activity like burning forest, encroachment to forest, afforestation land; exploiting, trading, transporting forest products, hunting forest animal, animal farming in the forest illegally.

ARTICLE 21

In the forest and mountainous region, based on the forestry planning, the district people's committee will create the boundary and instruct the people to conduct fix, intensive and enrolling cultivation, husbandry grazing, agro-forestry aquaculture.

ARTICLE 22

The forest tenure should apply all measures to prevent and protect forest fire and will be responsible for making forest fire.

The state institution controlling forestry in all level has responsibility to set up and instruct the plan preventing fire, stop forest fire; carry out the fire forecast; organise force and equip the measures, necessary technology of fire preventing, and fire stop. The state organizations of relating sectors has responsibility to collaborate with state forestry organization in fire preventing and stopping.

Every institution, individual operating in the forest and at adjacent area should observe all regulation of forest fire prevention and stop issued by state forestry organization.

When the fire occurs, the people's committee at all level has the right to mobilize all force, necessary equipment to stop the fire in time.

ARTICLE 23

The forest tenure should apply all measures to prevent and kill insect and disease which harm the forest.

The state forestry organization at all level has responsibility to collaborate with other relating organizations to carry out the forecast about insect, disease harmful to forest; instruct measures to prevent and kill insect, disease harmful to forest; organize to kill when there is insect and disease epidemic.

The government encourage to apply silvicultural, biological measures in preventing insect and disease harmful to forest.

ARTICLE 24

Every organization, individual, when is necessary to carry out activity in the forest, then should observe all regulation of forest protection; if long term activity and harm to the forest, afforestation land,-should be accepted by forest tenure or permitted by proper state forestry organization.

Every organization, individual carry out the activities in the forest adjacent which affect to the forest protection, development, then should follow the regulation of forest and environment protection.

In the event if the organization, individual mentioned in paragraph 1, paragraph 2, this Article harms to forest, afforestation, then they should compensate.

ARTICLE 25

The exportation of forest vegetation, animal should be permitted by ministry of forestry.

The importation of forest vegetation, animal strains should follow the biological rule and the national regulation of quarantine, it should not harm to ecosystem and permitted by ministry of forestry.

CHAPTER IV

FOREST, AFFORESTATION LAND DEVELOPMENT AND UTILIZATION

SECTION 1 PROTECTION FOREST

ARTICLE 26

The protection forest is mainly used to protect the water source, land, prevent erosion, restrict natural calamity, harmonize climate, contribute in protecting ecological environment.

The protection forest is classified into categories ie. watershed forest; wind and sand movement protection forest; wave protection forest and aim at sea encroachment; ecological environment protection forest.

ARTICLE 27

The government has the policy to balance, mobilize, attract the fund from organization, individual in the country and overseas to invest in set up sustainable protection forest.

ARTICLE 28

In every protection forest, it is required to establish the management board.

The management board should prepare and submit to proper authority for approval of plan for management and utilization of forest, afforestation land and implement the approved plan.

ARTICLE 29

The management, utilization of protection forest should follow the regulations:

1. Have plan, measures to protect, promote existing forest, afforest on bare land and hill, trade forest special products, animal and combine with agricultural cultivation and aquaculture;

The watershed protection forest should establish to concentrated, joint-locality, multilayer forest;

The wind, sand movement, wave protection forest and encroach sea, protect ecological environment should be established to be the "forest belt" according to natural features of each region.

2. During the process of protection, promotion, afforestation of protection forest, the utilization of forest products and combination of trading and producing should not harm to protection function of the forest, all case of forest products collecting, should follow exactly to approved plan of management and utilization of protection forest and observe the regulation, forestry process:

3. Organization, individual who is allocated or assigned to protect, promote and take care of protection forest will be enjoyed their products.

ARTICLE 30

The state authority are in approving the management, utilization plan of protection forest which is relating to other managing sector, it should consult from the equal level authority of that sector.

SECTION 2

SPECIAL FOREST

ARTICLE 31

The special forest is mainly used to conserve nature, standard model of national park ecosystem, the genetic source of vegetation and animal; the scientific research; protection of historical and cultural relics, beautiful landscape; tourist and recreation service.

The special used forest is classified into: national park; nature reserve: social, cultural and researching forest.

The boundary of special used forest is defined by signs, stable landmarks.

ARTICLE 32

The government has the policy to balance, mobilize, attract the funds from organization, individual in the country and overseas to invest for establishing sustainable special used forest.

ARTICLE 33

In every special used forest, it is required to establish a management board.

The management board of special used forest should prepare and submit to state authority to approve the plan of management, utilization and implement the approved plan.

ARTICLE 34

The management, utilization of special used forest should observe the regulation of special used forest. The management board of special used forest is allowed to carry out service activity for scientific research, cultural, social and tourist activities but should under legal stipulations.

The organization, individual carry out activities in the special used forest should be permitted by the management board and follow the regulation of that forest.

ARTICLE 35

The core zone of national park, nature reserve should be strictly managed, protected; severely prohibit all manner harm to the forest.

The activity like visiting, scientific research : should be permitted by management board and observe the following regulations:

1. Do not change the natural forest landscape;
2. Do not bring the poison, toxic, explosive factor, flammable factor into forest and do not make fire in the forest.
3. Do not pollute the ecological environment;
4. In even if the vegetation, mine specimen is required for scientific research, it should be permitted by the state forestry authority.

SECTION 3

PRODUCTION FOREST

ARTICLE 36

The production forest is mainly used for producing, trading timber, other forest products, special forest products t forest animal and combine with protection and preservation of ecological environment.

The production forest is assigned to organization, individual belong to the economic part with justification mentioned in the point 3 Article of this laws for producing, trading in the direction of intensive and agro-forestryaquaculture.

The government encourage and assist the organization, individual receive land for afforestation in the bare land and hill; it is available the policy to support people in the locations where have difficulties in afforestation, organization to produce, process and market products, integrated establishment the infrastructure.

The ministry of forestry and state forestry authority in the location has responsibility to plan and set up the system of national genus forest and the region to select, crossbred, replicate and import the necessary strains, ensure to supply the good strains in nation wide.

ARTICLE 37

The forest tenure is allocated natural forest, when conduct producing, trading, should observe the following regulation:

1. Prepare and submit to state authority to approve production, trade plan and be responsible to the government for assigned forest: organize to protect, promote, properly exploit, maintain and develop that forest source;
2. The area of poor forest, it is required to plan for protection, promotion to enrich forest or replant.
3. Forest exploitation should have the exploiting plan which is approved by state forestry authority and observe the regulation, process of forestry technique: after exploiting, the forest should be closed and organize to protect, promote until the next exploitation process.

ARTICLE 38

The forest tenure is allocated afforestation land, when carry out production, trading, should observe the following regulations:

1. Have the plan for afforestation, promotion, protection according to forestry planning of every region;
2. Exploit forest of permitted age:
3. After exploiting, the forest should be replanted in the next period or conduct the regeneration method during the process of exploitation.

ARTICLE 39

The exploitation of special forest products in production forest as well as other forest types should follow state regulation of special products management, protection, development and utilization.

CHAPTER V

THE RIGHT AND OBLIGATION OF FOREST TENURE

ARTICLE 40

The forest tenure has the following rights:

1. Be used forest, afforestation land in sustainable, long term way, following the state planning, plan; allowed to activate in production, trade, management, utilization of forest as legal stipulations;
2. Be enjoyed the organize achievement, invest result on allocated forest area, afforestation land; to use for heir, relocate, sell the achievement, invest result to other under the legal stipulations;
3. Be compensated, given back the achievement, invest result on allocated forest covered land, afforestation land by-prevailing market price and actual situation of forest, afforestation land at the time the land be withdrew stipulated in the point 1, 2, and 5 Article 14 of this Laws, under law;
4. Be instructed in technique, financial support under government policy and enjoyed benefit earning from public works for forest, afforestation land protection, rehabilitation;
5. Be secured by the government the right and legal benefit on the allocated forest area, afforestation land.

ARTICLE 41

The forest tenure has following obligations:

1. Use forest, afforestation land with right purpose, boundary stipulated in the forest allocation log, and follow the managing, using regulation for each forest type.
2. Observe the legal stipulation of forest management, protection, development and utilization of forest, afforestation land.
3. Compensation, give back based on the prevailing market price and actual forest status which is withdrew so as relocate to that organization, individual under the laws;
4. Pay tax as legal stipulation.

CHAPTER VI

RELATION AND INTERNATIONAL COOPERATION IN FOREST, AFFORESTATION LAND PROTECTION, DEVELOPMENT AND UTILIZATION.

ARTICLE 42

The government of Socialist Republic of Vietnam expands the international relation and cooperation with foreign countries, international organization, organization and individual overseas in basic inventory, scientific research, technology transfer, technical and vocational training, forest protection, afforestation and process forest products.

ARTICLE 43

The government of Socialist Republic of Vietnam has the policy to encourage foreign organization, individual to invest in forest protection, afforestation and process forest products according to stipulation of this laws and the laws on foreign investment in Vietnam.

The forest and afforestation land allocation to foreign organization, individual using will be decided by the council of ministers.

The council of ministers promulgate the stipulations aim at facilitate the Vietnamese overseas to invest in the country for forestry development.

ARTICLE 44

The international relation, the agreement on international cooperation, the contract relating to utilization of forest, afforestation land in Vietnam should be conformity with stipulation of this laws and Vietnamese law, unless the international convention which is involved by Vietnam has different stipulations.

CHAPTER VII

FOREST PROTECTION ORGANIZATION

ARTICLE 45

The forest protection department is a specialized force with its function is forest management and protection, it is organized into system, laid under the integrated control of minister of forestry and the instructing, monitoring of local authority.

ARTICLE 46

1. Forest protection organization has task:

- a) Inspecting, auditing the implementation of forest law; encounter to prevent the manner violating to forest law;
- b) Implement the forest management and protection;
- c) Spread awareness, mobilize the people protecting and constructing forest resources.

2. While implementing task, forest protection has the right:

- a) Require relating organization, individual supply necessary documents for inspecting, auditing; carry out field examination;
- b) Temporarily cease or cease the manners which has the sign violating law or activities may damage the forest resources; suggest to state authority to treat;
- c) Effect fine of administrative violation; prosecute, investigate the criminal affairs to the manners violating forest law, under legal stipulations.

3. State organization, economic units, social units, people's arm force units and every citizen has responsibility to help, protect, monitor forest guard during effecting his task.

ARTICLE 47

The forest guard is provided uniform, insignia, tag and necessary equipment for their operation.

ARTICLE 48

The council of minister decide the organizational structure, task, right of forest protection force; criteria and qualification and pension to forest guard.

CHAPTER VIII

REWARD AND TREAT TO VIOLATION

ARTICLE 49

Organization, individual who has excellent achievement in protection and development of forest resources, prevent manners harm to forest, afforestation land will be rewarded: the people who involved in forest protection, encounter to prevent manners violating forest law then suffer damage in their property or body, will be compensated, favored, under state integrated policy.

ARTICLE 50

The people who destroy, burn forest, damage forest resources; hunt forest animal illegally; purchase, sell, trade, transport forest products or violate other stipulation of forest law, according to the extent will be suffered administrative fine or investigated for criminal responsibility as per the stipulation of the law.

ARTICLE 51

The people abuse the position, right, or beyond the right to allocate forest, afforestation land, withdraw the forest, afforestation land; permit to transfer the purpose of forest utilization or permit to use forest and forest product opposite the stipulation of the law; lack of responsibility or abuse position, right in implementing forest law; to cover for the people violating the forest law or violate other stipulation of this law, then according to degree, will be treated discipline or investigated criminal responsibility under the laws.

ARTICLE 52

The people who has the manners violating forest law which gives damage to government, organization, individual, beside the treatment mentioned in Article 50 and Article 51 of this law will have to pay the compensation for damage as per the law.

CHAPTER IX

FINAL CONDITION

ARTICLE 53

The Council of ministers stipulates the details to implement this law and promulgate the system for management, protection, development and utilization of forestry tree planted concentrated or scatter on non-forest land.

ARTICLE 54

The previous stipulations opposite this law will be cancelled.