

DECREE No.1-CP ON THE 4TH OF JANUARY, 1995 OF THE GOVERNMENT PROMULGATING THE REGULATION ON THE ALLOTMENT OF LAND BY STATE-OWNED BUSINESSES FOR AGRICULTURAL PRODUCTION, FORESTRY AND AQUACULTURE

THE GOVERNMENT

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

Pursuant to Item 1, Article 5 of the Ordinance on the Rights and Obligations of the Domestic Organizations with State-Assigned or Leased Land on the 14th of October, 1994;

At the proposal of the Minister of Agriculture and Food Industry, the Minister of Forestry, the Minister of Aquatic Resources, and the General Director of the General Administration of Land,

DECREES :

Article 1.- To promulgate together with this Decree the Regulation on the allotment of land by State-owned businesses for agricultural production, forestry and aquaculture.

Article 2.- The Ministers, the Heads of the ministerial-level agencies, the Heads of the agencies attached to the Government, and the Presidents of the People's Committees of the provinces and cities directly under the Central Government shall have to implement this Decree.

Article 3.- This Decree takes effect as from the 1st of January 1995. All stipulations made earlier which are contrary to this Decree are now annulled.

On behalf of the Government

The Prime Minister

VO VAN KIET

REGULATION ON THE ALLOTMENT OF LAND BY STATE-OWNED BUSINESSES FOR AGRICULTURAL PRODUCTION, FORESTRY AND AQUACULTURE

(issued together with Decree No.1-CP on the 4th of January, 1995 of the Government)

Article 1.-

1. The State-owned businesses to carry out the allotment of land stipulated by this Regulation are State-owned farms, State-owned forestry stations, companies, enterprises, centers, stations and farms engaged directly in agricultural production, forestry and aquaculture.

2. The managing boards of protection forests and forests of special use, and the armed forces units to which the State allots land for forestry, are also allowed to allot land.

The organizations mentioned at Item 1 and Item 2 of this Article are referred to as the land-allotting side.

Article 2.- The types of land allotted include :

1. Farm land for planting perennial trees;
2. Farm land for planting seasonal crops;
3. Forest land (protection forests, forests of special use, productive forests, and waste land planned for afforestation);
4. Water surface for aquaculture.

Article 3.- The land-receiving side mentioned in this Regulation include the following in the order of priority :

1. Those households and individuals who are public employees working for the land-allotting side. Land may be allotted to a group of households if so required by the land-allotting side for production management;
2. Those households and individuals who once worked for the businesses, but who have retired, or

resigned for health reasons, or who have been paid off, and members of their families who have reached working age and want to receive land for production;

3. The households and individuals who reside legally in the locality, and are so certified by the People's Committees of communes, wards and towns;

4. The organizations, households and individuals from other localities who invest in production as planned by the land-allotting side.

Article 4.- The basis for allotment and reception of land :

1. The land fund which the authorized State agency has decided to give to the land-allotting side to use for agricultural production, forestry and aquaculture;

2. Feasible projects or investment projects already ratified by the authorized level;

3. Capital and labor of the land-receiving side;

4. State investment and capital subsidy policies, and relevant labor-social policies.

Article 5.- The principles for allotment and reception of land :

1. Ensuring the interests of both the land-allotting side and the land-receiving side;

2. Allotting land on stable, long-term plan, and on feasible projects or investment projects;

3. Land is allotted together with the trees planted, animals bred and other property on it;

4. The allotment and reception of land must be carried out under contract. A contract between the land-allotting side and the land-receiving side must specify the economic contents, the rights and obligations of each side, and their commitments to ensure proper implementation of the contract.

Article 6.-

1. The land allotment dossier includes :

a/ An application for receiving land;

b/ A land-allotting contract;

c/ A photocopy of the map or sketch of the plot of land allotted;

d/ Papers recording the allotment and reception of land, trees planted (including industrial plants), animals bred, and other property on it;

e/ Other papers and supplements concerning the allotment of land (if any).

2. The dossier on the allotment of land for agricultural production and aquaculture shall be made in duplicate, one copy for the land-allotting side and one copy for the land-receiving side; a third copy shall be sent to the People's Committee of the commune which has the forest land in case of allotment of forest land.

Article 7.- The obligations and rights of the land-allotting side :

1. The obligations of the land-allotting side :

a/ Correctly locating the area, site and boundaries of the land allotted on the map and on the site; evaluating the value of trees planted, animals bred, forest trees, the present state of forest, and projects on land and on water surface;

b/ Carrying out activities in support of agricultural production, forestry, fisheries, the processing and marketing of products, and the provision of capital as stipulated by the State Bank, in order to create favorable conditions and environment for the land-receiving side to take the initiative in production;

c/ Implementing policies on investment, labor support and protection, and social insurance as stipulated by law;

d/ Compensating the land-receiving side for any losses that may be caused by violations of the contract.

2. The rights of the land-allotting side :

a/ Guiding and checking the implementation of the contract on land allotment in accordance with the land law;

b/ If the land-receiving side violates the contract, the land-allotting side considering the seriousness of the violation shall decide the amount of compensation

for losses, or annul the contract, and shall have to take responsibility for such decision.

Article 8.- The rights and obligations of the land-receiving side :

1. The rights of the land-receiving side :

a/ Undertaking production on the lot of land allotted, and enjoying the results of their labor and investment on it as contracted. They can conduct inter-cropping and animal breeding as contracted, and are entitled to all the by-products therefrom;

b/ They can erect makeshift shelters to protect production or to store production implements and materials; build drying yards, dig water wells, build water tanks, and water supply and drainage systems, dig manure pits, and build animal and poultry sheds, as stipulated by the land-allotting side;

c/ They can take back or get compensation from the land-allotting side for their investment on the lot of land allotted, in case they move to another place, take up another occupation, or can no longer work the land; or when the land-allotting side wants to take back part or the whole of the lot to use for another purpose, which has been approved by the authorized State agency:

d/ When the land-allotting side violates the contract, the land-receiving side shall be compensated for any damage resulting therefrom, or they can cancel the contract, depending on the seriousness of the violation by the land-allotting side;

e/ In case of natural disasters or mishaps, they shall be considered for exemption or reduction of fees paid to the land-allotting side as stipulated by law;

f/ When the recipient of land dies, the representative of the household members shall continue to carry out the contract till the expiry date.

In case the land-receiving household has no member capable of continuing to carry out the contract, the land-allotting side shall take back the land and allot it to another person; compensate the heir for the value of property already invested in the land when the land-receiving contractor dies; if the land-receiving side has no heir, the compensations shall be paid to the produc-

tion development fund of the land-allotting side.

2. The obligations of the land-receiving side :

a/ Paying to the land-allotting side :

Land tax for the land allotted; the value of trees planted, forest trees, animals bred and facilities in direct service of production on the land and water surface allotted, in which the land-allotting side has invested as contracted; social insurance and medical insurance from welfare fund as stipulated by the State;

b/ Repaying to the land-allotting side the loans in money or materials, or the services provided in advance;

c/ Selling products produced on the lot of land allotted to the land-allotting side as contracted;

d/ Using the land for the right purpose in accordance with the plan of the land-allotting side, improving and fertilizing the land, and keeping it from deterioration;

e/ Observing the stipulations on preventing and fighting pest and diseases for plants, animals, forest trees, preventing and fighting forest fire. Protecting the resources of land, water, architectural structures and the ecology.

f/ Paying compensations to the land-allotting side for any violation of the contract that causes damage;

g/ Returning the land when the authorized State agency decides to take it back as stipulated by law.

Article 9.- Allotting farm land planted with perennial trees :

1. To combine the allotment of land with allotment of orchards if the land has already been planted with perennial trees from the State's investment capital; the land-allotting side must properly assess the value already invested in the orchard in order to contract the land according to the production cycle of the trees; the land-receiving side must return the full value of the orchard to the land-allotting side as contracted.

The assessment of the value of the orchard must be based on the principle of preserving the total amount

of capital granted by the State, and assessing the real value of the orchard at the time of its allotment.

2. With regard to land of newly planted perennial trees :

a/ The land-allotting side may re-lend the capital granted by the State and other sources of capital to the land-receiving side for the planting of perennial trees on the land allotted. The land-receiving side must return all the loans to the land-allotting side as contracted;

b/ The land-allotting side may use the capital granted by the State and other sources of capital to directly organize the new planting of perennial trees, and then allot the land as stipulated at Item 1 this Article;

c/ In case the farmer households and individuals are allotted cultivable land or barren hills to plant perennial trees, but they are in financial difficulty in the new planting, then the State-owned businesses may obtain the capital granted by the State and other sources of capital, and together with the farmer households and individuals, organize the planting of perennial trees on that land; after planting trees, the State-owned businesses shall allot the orchards to the households and individuals. The households and individuals who receive such orchards must return the capital invested by the businesses as contracted.

3. The term of the land-allotment contract is 50 years, to be effected as follows :

a/ When the production cycle of the orchard expires, but the term of the land-allotment contract remains valid, the land-receiving side can continue to use the land for production, in accordance with the plan of the land-allotting side till the expiry of the contract;

b/ When the term of the land-allotment contract expires, but the orchard has not yet completed its harvest cycle, the land-receiving side may continue to use the land till after the harvest cycle of the orchard.

Article 10.- Allotting farm land for planting seasonal crops :

1. With regard to land intended for seasonal crops

invested and subsidized by the State to create areas of material supply to the processing industry, or to produce farm products for domestic consumption and export, the allotment of this land must be combined with the implementation of the policy on investment, subsidy, loans, technical services and purchase of products on contract;

2. With regard to small, scattered plots of land for planting seasonal crops, improved pasture and pasture not mentioned at Item 1 of this Article, it shall be allotted to the land-receiving side to invest in production and market the products by themselves;

3. The maturity of land-allotment is 20 years.

Article 11.- Allotting forest land :

1. The land-allotting side must determine the area, present state, location and boundaries of each lot of forest on the site and on the map, before allotting it to the land-receiving side to protect, tend and reforest as contracted;

2. The maturity of land allotment is 50 years for protection forests and forests of special use, and must be based on the harvest cycle for production forests.

Article 12.- Allotting planned forest land for protection forests :

1. With regard to very vital and vital headwater forests, they are allotted for protection, tending and reforestation according to a plan ratified by the authorized level;

Every year, the State allocates funds for the land-allotting side to pay to the land-receiving side as contracted.

2. With regard to forests for environmental-ecological protection and coastal protection forests (to prevent sand encroachment, protect sea dykes and prevent coastal erosion), every year the State allocates funds for the land-allotting side to pay to the land-receiving side to protect forests and reforest as contracted.

Article 13.- Allotting planned forest land for forests of special use :

1. With regard to areas which should be preserved, the land-allotting side shall allot them only to those households living within the preserves for protection. These households shall have to preserve the full area of forest allotted to them. Every year, the State allocates funds for the land-allotting side to pay to the land-receiving side as contracted;

2. With regard to those areas which should be restored ecologically, they shall be allotted to the households for protecting and regreening as contracted.

Article 14.- The allotment of protection forests and forests of special use to serve tourist, cultural, rest and recreation activities, etc., shall be carried out according to the Government's separate regulations.

Article 15.- Allotting planned forest land for production forests :

1. With regard to land covered by natural forests, it shall be allotted and received for protection and restoration as contracted;

2. With regard to land for afforestation :

a/ With regard to land planted with trees with State capital, both the land and forest shall be allotted. The land-allotting side shall assess the value of the investment made before the allotment; the land-receiving side shall return the value of the forest planted to the land-allotting side as contracted. The assessment of the value of the forest planted must be based on the principle of preserving the total amount of capital invested by the State and the real state of the forest at the time of its allotment;

b/ With regard to the land without forest, if the land-receiving side reforests it with their own investment capital or with subsidies from the State, and when the forest becomes productive, the land-receiving side must sell their products to the land-allotting side as contracted. In case the land-allotting side makes their own investment, and when the forest becomes productive, the land-receiving side must return the capital invested and sell the products to the land-allotting side.

Article 16.- Allotting land with water surface for aquaculture :

1. With regard to land with water surface for aquaculture invested by the State :

a/ The land-allotting side shall assess the value of the project and aquaproducts raised in it before allotting it. The land-receiving side must return the value of the project and aquaproducts raised to the land-allotting side as contracted. The assessment of the value of the project and aquaproducts must be based on the principle of preserving the total amount of capital invested by the State together with the real state of the project and aquaproducts at the time of the allotment;

b/ Ponds, lakes, swamps and other water surface of small scale shall be allotted to households and individuals on contract. The maturity of allotment shall not exceed 20 years;

c/ With regard to ponds, lakes, swamps and other water surface of large scale or closely connected to each other, if they cannot be allotted to one household, they may be allotted to a group of households or a suitable organization. The maturity of allotment shall be agreed upon by contract.

d/ With regard to water surface used specially for raising breeder aquaproducts of special value, or new varieties of aquaproducts, and high-tech projects for production of breeder species which require strict management to ensure high quality, they shall be allotted to a group of workers or a technical team. The maturity shall be agreed upon by contract.

2. With regard to land with water surface not invested with State capital, the land-allotting side can open a bidding for it among households, groups of households, organizations or individuals to organize production on contract.

Article 17.- With regard to large lakes belonging to irrigation or hydro-electric power works, and ponds and lakes in parks and national gardens which are also used for aquaculture, the Ministry of Water Resources shall cooperate with the other ministries and branches concerned to give guidance on the raising, exploitation and protection of aquaproducts, and on environmental protection, in conformity with the stipulations for protection of those projects and the stipulations for their technical maintenance and use.

Article 18.- The Minister of Agriculture and Food Industry, the Minister of Forestry, the Minister of Water Resources, the Director General of the General Administration of Land, the Heads of the ministerial-level agencies, and the Heads of the agencies attached to the Government concerned shall, in furtherance of their function and powers, guide and supervise the implementation of this Regulation.

The Minister of Agriculture and Food Industry, the Minister of Forestry, and the Minister of Water Resources shall cooperate with the Minister of Finance in promulgating regulations on the setting up and use of production development fund, welfare fund, production insurance and management cost fund.

The Minister of Agriculture and Food Industry, the Minister of Forestry, and the Minister of Water Resources shall cooperate with the Minister of Justice to issue models of contracts on land allotment.

Article 19.- The Ministers, the Heads of the ministerial-level agencies, the Heads of the agencies attached to the Government, and the Presidents of the People's Committees of the provinces and cities directly under the Central Government shall have to organize the implementation of this Regulation. All stipulations made earlier which are contrary to this Regulation are now annulled.

On behalf of the Government

The Prime Minister

VO VAN KIET

DECREE No.2-CP ON THE 5TH OF JANUARY, 1995 OF THE GOVERNMENT DEFINING THE COMMODITIES AND SERVICES BANNED FROM COMMERCIAL BUSINESS, AND THE COMMODITIES AND SERVICES ALLOWED FOR COMMERCIAL

BUSINESS UNDER CERTAIN CONDITIONS ON THE DOMESTIC MARKET

THE GOVERNMENT

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

With a view to exerting unified State management of the commercial business activities with regard to commodities and services on the market as prescribed by law, ensuring the right to lawful business of the business organizations and individuals and the legitimate interests of the consumers, and preventing the misuse of business to carry out illegal activities;

At the proposal of the Minister of Trade,

DECREES :

Chapter I

GENERAL PROVISIONS

Article 1.- This Decree defines the commodities and services banned from commercial business, and the commodities and services allowed for commercial business under certain conditions on the domestic market (hereunder called commodities and services banned from business and allowed for business under certain conditions).

All organizations and individuals conducting commercial business activities in these categories of commodities and services, irrespective of their economic sectors and whether they are Vietnamese or foreigners, must abide by the provisions of this Decree.

Article 2.- The commercial business activities regulated by this Decree are the circulation of commodities or the conduct of services on the market aimed at gaining profits. They include the conduct of one, a number or all the commercial activities, such as buying, selling, transporting, exporting, importing, stocking, exhibiting, advertizing, brokering or other commercial services.