

DECREE No. 48/2007/ND-CP OF MARCH 28, 2007, ON THE PRINCIPLES AND METHODS OF DETERMINING PRICES OF FORESTS OF DIFFERENT TYPES

THE GOVERNMENT

Pursuant to the December 25, 2001 Law on Organization of the Government;

Pursuant to the December 3, 2004 Law on Forest Protection and Development;

Pursuant to the Ordinance on Prices;

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

DECREES:

Chapter I

GENERAL PROVISIONS

Article 1.- Scope of regulation

This Decree provides principles and methods of determining the price of the right to use protection forest, special-use forest or production forest that is natural forest (hereinafter collectively referred to as forest use right price); and the price of the right to own production forest that is plantation forest (hereinafter referred to as plantation forest ownership price).

Article 2.- Scope of application

The forest use right price and plantation forest ownership price shall be promulgated by the People's Committees of provinces or centrally run cities (hereinafter referred to as provincial-level People's

Committees) under the provisions of this Decree as a basis for:

1. Calculating forest use levies when the State allocates forests with collection of forest use levies or the value of the forest use right or the plantation forest ownership right when the State allocates forests without collection of forest use levies under Article 24 of the 2004 Law on Forest Protection and Development.

2. Calculating forest rents when the State leases forests not through bidding for the forest use right or plantation forest ownership right under Article 25 of the 2004 Law on Forest Protection and Development.

3. Calculating compensations when the State recovers forests under Article 26 of the 2004 Law on Forest Protection and Development.

4. Calculating the value of capital contribution in the form of the forest use right or plantation forest ownership right to enterprises under Clauses 1 and 3 of Article 35 of the 2004 Law on Forest Protection and Development.

5. Calculating compensation money for damage caused to the State by persons who violate the forest protection and development law.

6. Calculating taxes, charges and fees as provided for by law.

Article 3.- Subjects of application

This Decree applies to Vietnamese state agencies, units, organizations, households and individuals, overseas Vietnamese and foreign organizations and individuals related to the determination and application of prices of forests of different types in Vietnam.

Article 4.- Interpretation of terms

In this Decree, the terms below are construed as follows:

1. Forest use right price means the value a forest owner may acquire from his/her forest in the period during which he/she is allocated or leased the forest, which is calculated in money per hectare of protection forest, special-use forest or production forest that is natural forest according to the Regulation on forest use and management promulgated by the State.

2. Plantation forest ownership right price means the value a forest owner may acquire from his/her forest in the period during which he/she is allocated or leased the forest, which is calculated in money per hectare of production forest that is plantation forest according to the Regulation on forest use and management promulgated by the State.

3. The actual market price of transfer of the plantation forest ownership right or the right to use production forest that is natural forest under normal conditions is an amount of money calculated per hectare of production forest that is plantation or natural forest on the basis of the result of popular actual transactions on the market between transferor and transferee under conditions not affected by factors of price increase or decrease such as speculation, planning change and transfer under coercion or between persons having blood relationships.

4. The actual market rent of the forest use right under normal conditions is an amount of money calculated per hectare of protection forest, special-use forest or production forest that is natural forest on the basis of the result of popular actual transactions on the market between lessor and lessee

under conditions not affected by factors of price increase or decrease such as speculation, planning change and transfer under coercion or between persons having blood relationships.

5. Net income from forest means an amount of money earned by a forest owner from forest product exploitation, landscape business, ecotourism and/or scientific research (if any) less forest-related investment expenses, taxes and other reasonable expenses.

6. Forest use levy or forest rent means an amount of money payable by a forest owner for the use of forests for forest product exploitation, landscape business, ecotourism and/or scientific research purposes according to the Regulation on forest use and management promulgated by the State.

7. Compensation money paid to a forest owner when the State recovers his/her forest means an amount of money which the State shall pay to the forest owner corresponding to total incomes the forest owner can earn during the remaining allocation or lease duration from forest product exploitation, landscape business, ecotourism and/or scientific research in the forest according to the Regulation on forest use and management promulgated by the State.

8. Compensation money payable by a person who commits a law-breaking act causing damage to forest means an amount of money payable to the State by a person who commits a law-breaking act causing damage to forest, including the value of forest products and the environmental value of the damaged forest.

a/ The value of forest products is the value of all timber and non-timber forest products on the area of the destroyed forest;

b/ The environmental value is the annual environmental value of forest, which is the quotient of the net income of the annual environmental value divided by the interest rate of one-year term savings in Vietnam dong applied by a commercial bank that has average interest rates in the locality at the time of price determination or is the value of products of the forest multiplied by coefficient k from 2 to 5 (depending on each type of forest).

Article 5.- Principles and bases for determining prices of forests of different types

1. Determining prices in a public, transparent, objective and scientific manner.

2. Being close to the actual market price of the forest use right or plantation forest ownership right under normal conditions; when the actual market price of the forest use right or plantation forest ownership right sees big fluctuations, appropriate adjustments shall be made.

3. Being based on the forest location, status and deposit, and forest product quality at the time of price determination.

4. Complying with the forest planning and plans; regulations on management and use of each type of forest; and econo-technical standards and norms promulgated by the State.

5. Forest blocks of the same type and functions, equivalent location, and similar status, deposit and forest product quality must have the same price.

Chapter II

METHODS OF DETERMINING PRICES OF FORESTS

Section 1. INCOME METHOD

Article 6.- Income method

1. Income method is a method of determining the price of a given forest area on the basis of net incomes earned from the forest and converted to the time of price determination and the interest rate of one-year term savings in Vietnam dong applied by a commercial bank that has average interest rates in the locality at the time of price determination.

2. The income method is applied to determining the price of the right to use protection forest, special-use forest or production forest that is natural forest or the price of the right to own production forest that is plantation forest.

Article 7.- Conditions on application of the income method

The income method may be applied when there is sufficient information for ascertaining net incomes earned by forest owners from forest areas to be priced.

Article 8.- Process of determining prices by the income method

1. Surveying and collecting information on the area of the forest to be priced, including information on the type of forest based on forest use purpose, forest status and deposit, forest product quality, and regulations on forest management and use.

2. Identifying revenues and expenses related to forest product exploitation, landscape business, ecotourism and/or scientific research (if any) arising from the forest area to be priced.

3. Computing net incomes from the remaining years of the production cycle (for production forests that are plantation forests); net incomes from the years of the forest use period (for protection forests, special-use forests or production forests that are natural forests) or average annual net incomes (if any), for natural forests.

4. Identifying the deposit interest rate under Clause 1, Article 6 of this Decree.

5. Determining the price of the right to use protection forest, special-use forest or production forest that is natural forest or the price of the right to own production forest that is plantation forest.

Section 2. EXPENSE METHOD

Article 9.- Expense method

1. Expense method is a method of determining the price of a given forest area on the basis of reasonable expenses made in the forest and the interest rate of one-year term savings in Vietnam dong applied by a commercial bank that has the highest interest rate in the locality at the time of price determination.

2. The expense method is applied to determining the price of the right to own production forest that is plantation forest when there is not yet on the market any transaction in this type of forest to be priced.

Article 10.- Conditions on application of the expense method

The expense method may be applied when there is sufficient information for ascertaining reasonable expenses made in the forest area to be

priced from the time of making investment to the time of price determination.

Article 11.- Process of determining prices by the expense method

1. Surveying and collecting information on the status of the forest and infrastructure used for protecting and developing the forest at the time of price determination, and regulations on forest management and use.

2. Collecting data on reasonable expenses made in the forest from the time of making investment to the time of price determination.

3. Identifying the deposit interest rate under Clause 1, Article 9 of this Decree.

4. Identifying interests equivalent to bank deposit interests of investment expenses in the period from the time of making investment to the time of price determination.

5. Determining the price of the right to own production forest that is plantation forest.

Section 3. COMPARISON METHOD

Article 12.- Comparison method

1. Comparison method is a method of determining the price of a given forest area through analyzing the actual prices at which the plantation forest ownership right has been transferred or the forest use right has been transferred or leased on the market or the transaction prices of the plantation forest ownership right or the forest use right (between the State and forest owners) of forests of the same type, similar status and deposit and forest product

quality for comparison with the forest area to be priced.

2. The comparison method is applied to determining the price of the right to use protection forest, special-use forest or production forest that is natural forest or the price of the right to own production forest that is plantation forest.

Article 13.- Conditions on application of the comparison method

1. The comparison method may be applied when there is sufficient information on forest areas of the same type already transferred or leased on the market or transacted (between the State and forest owners) which are comparable with the forest area to be priced.

2. If the forest areas used for comparison and the forest area to be priced have dissimilar factors, coefficients may be used to adjust these dissimilarities.

Article 14.- Process of determining prices by the comparison method

1. Surveying and collecting information on the forest area to be priced, including information on the type of forest based on forest use purpose, forest location, status and deposit, forest product quality and infrastructure used for protecting and developing the forest at the time of price determination, and regulations on forest management and use.

2. Identifying information on forest areas with prices for comparison, including information on forest location, status and deposit, forest product quality and infrastructure used for protecting and developing the forest at the time of transfer, lease or transaction on the market.

3. Analyzing and comparing for selecting similar

and different price criteria between forest areas used for comparison and the forest area to be priced.

4. Adjusting dissimilar factors in the forest use right price or plantation forest ownership price between forest areas used for comparison and the forest area to be priced.

5. Determining the price of the right to use protection forest, special-use forest or production forest that is natural forest or the price of the right to own production forest that is plantation forest.

Section 4. SELECTION OF METHODS OF DETERMINING FOREST PRICES AND ADJUSTMENT OF PRICES OF FORESTS OF DIFFERENT TYPES

Article 15.- Selection of methods of determining prices of forests of different types

Agencies and organizations having the function of price determination and consultancy shall base themselves on the principles and methods of determining prices of forests of different types provided for in this Decree and the practical local conditions to select appropriate methods for determining prices of forests of different types.

1. The selection of methods of determining forest prices shall be based on the type of prices of forests to be determined and must ensure the interests of forest owners and people engaged in silviculture.

2. When necessary, the methods of determining prices of forests of different types provided for in this Decree may be combined to determine forest prices or for checking, comparison or matching purposes before deciding on a particular price.

Article 16.- Adjustment of prices of forests of different types

Provincial-level People's Committee shall decide to adjust prices of forests of different types in the following cases:

1. When forest use planning and plans are adjusted.

2. When the actual market price of the forest use right or plantation forest ownership right increases or decreases by over 20% compared to the current prescribed price for six or more consecutive months.

Chapter III

ORGANIZATION OF IMPLEMENTATION

Article 17.- Responsibilities of provincial-level People's Committees

1. To assign specialized agencies or hire organizations having the function of price determination and consultancy to determine the prices of forests of different types under the provisions of this Decree.

2. To organize the evaluation of prices of forests of different types, submit them to the People's Councils of the same level for approval, and publicize them in their localities.

3. To check, handle and settle issues related to the determination of prices of forests of different types according to their competence.

4. To monitor fluctuations in the market transfer prices and rents or the prices of transactions (between the State and forest owners) of the forest use right or plantation forest ownership right; to

regularly update information on prices of forests of different types.

5. To set specific coefficients "k" as a basis for determining compensation money payable by persons who commit acts in violation of the forest protection and development law, causing damage to the State, under the provisions of Clause 8, Article 4 of this Decree.

6. Funds for determining prices of forests of different types shall be ensured by the state budget.

Article 18.- Responsibilities of ministries and branches

1. The Ministry of Agriculture and Rural Development shall assume the prime responsibility for, and coordinate with the Ministry of Finance in, guiding the implementation of this Decree.

2. The Ministry of Agriculture and Rural Development shall coordinate with relevant ministries and branches in examining, supervising and settling any problems arising in the course of implementation of this Decree.

Article 19.- Implementation provisions

1. This Decree takes effect 15 days after its publication in "CONG BAO."

2. Ministers, heads of ministerial-level agencies, heads of government-attached agencies and presidents of provincial-level People's Committees shall implement this Decree.

On behalf of the Government
Prime Minister
NGUYEN TAN DUNG