

THE GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM
Independence – Freedom - Happiness

No.187/1999/QD-TTg

Hanoi, 16 September 1999

**Decision by the Prime Minister
On Renovation of the Organization and Management System of
State Forest Enterprises**

The Prime Minister

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

Pursuant to the Law on State Owned Enterprises dated 30 April 1995;

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

Pursuant to the Land Law dated 14 July 1993, and the Law on modification and addition of a number of articles of the Land Law dated 2 December 1998;

Pursuant to the regulation on organizational re-arrangement and renovation of the management system of State Owned Enterprises in the agricultural sector issued together with Decree No. 12/CP dated 2 March 1993 by the Government.

In accordance with a proposal by the Minister of Agriculture and Rural Development and comments from the Ministry of Planning and Investment, the Ministry of Finance, the Ministry of Science, Technology, and Environment, the Ministry of Labour, Invalids, and Social Affairs, the Government Committee on Organization and Personnel, the State Bank and the Director of the General Department of Land Administration

HEREBY DECIDES:

Article 1. Objectives

Article 2. Principles for the renovation in organization and management system

Article 3. Re-organization of existing SFEs

Article 4. Management and use of forests and forest land

Article 5. Policies on Labour

Article 6. Financial policy

Article 7. Renovation of organization and management within SFEs themselves

Article 8. Implementing organization

The Ministry of Agriculture and Rural Development, together with the Ministries of Planning and Investment; Finance; Labour, Invalids and Social Affairs; the General Department of Land Administration and other sectors concerned are to guide People's Committees of provinces and provincial level cities, and also corporations to which SFEs belong, in preparing proposals on rearrangement and renovation of organization and management of State Forest Enterprises pursuant to this Decision. The proposals should be implemented within the year 2000.

Article 9. This Decision takes effect 15 days from the date of signing. All previous regulations contrary to this Decision are hereby abrogated.

Article 10. Ministers, leaders of ministerial-level agencies, leaders of authorities under the Government, and Chairmen of People's Committees of provinces and provincial level cities are responsible for the implementation of this Decision.

For the Prime Minister

Deputy Prime Minister

(Signed)

Nguyen Cong Tan

Article 1. Objectives

The objectives of the renovation of the organization and the management system of the State Forest Enterprises are the following:

- Increase the production and improve the economic results of the enterprises;
- Strengthen the key role in forestry production of the Enterprises;
- Improve the function of the Enterprises as centers for provision of materials and technology;
- Make the Enterprises serve as processing and trading centers for forestry and agricultural products for organizations, households, and individuals;
- Improve the contribution by the Enterprises to protection and development of the forests;
- Make the Enterprises contribute to socio-economic development in the localities where they operate.

Article 2. Principles for the renovation in organization and management system

1. Continue to maintain and strengthen SFEs in the following cases:

- a) Where they have so large blocks of forest land that a State agency is required because the demand for management and investment is beyond the capacity of other kinds of organizations;
 - b) Where they operate in remote and isolated areas, where they can play a leading role for socio-economic development and contribute to national defense of the area.
2. Guarantee the SFEs the right to self-determination in economic production and make the forest workers who have been contracted for management of a forest area into the real owners of that land, thereby abolishing the role of the Enterprises as providers of State subsidies.
 3. Ensure a harmonious benefit-sharing relation between, on one hand, labourers and the State and the SFEs and, on the other, between SFEs and localities.

Article 3. Re-organization of existing SFEs

1. SFEs are to be strengthened and should orient their activities in line with commercial principles in the following two cases:
 - a) Where SFEs manage natural forests classified as production and less essential protection forest.
 - b) Where SFEs establish industrial raw material forests.

The main tasks of those SFEs will be forest plantation, protection, and enrichment, exploitation and processing of forest products, provision of raw materials for industrial processing units, and provision of other services as required by the National economy.

Besides those main tasks, SFEs can operate combined businesses, with agriculture, forestry, aquaculture, industry and services, so as to make the best use of available resources such as labour, land and forests.

Very essential and essential protection forests scattered on production and less essential protection forest belonging to an SFE that in total cover less than the 5,000 ha required for a Protection Forest Management Board shall continue to be managed by the SFE in conformity with regulations applicable to protection forests.

Activities related to protection and establishment of forests on very essential and essential forest land are considered as Public services to be executed by SFEs as guided by the State.

2. Transformation of SFEs into Protection Forest Management Boards

SFEs who manage 5,000 ha or more of essential or very essential watershed protection forest (as decided by the Prime Minister or the Chairman of Provincial People's Committee) or whose land to more than 70% consists of such land, shall be transformed into Protection Forest Management Boards and are to run their activities in accordance with regulations applicable to income-earning administrative economic units. In order to create additional incomes, scattered areas of production forest and forest land located within areas of protection forest shall also be allocated to the Management Board for reforestation, protection, exploitation and utilization.

3. Transforming SFEs into other commercial organizations

SFEs who meet difficulties in commercial production, SFEs who manage less than 1,000 ha of production forest land, as well as SFEs with their land interspersed with agricultural land or located close to residential areas shall be transformed into suitable business organizations for provision of services to agriculture, forestry and industrial production.

Before the transformation is made, a proposal should be prepared and submitted to the appropriate authority for appraisal and approval. The proposal should also state the requirement of land of the new organization, so that the remaining land held by the SFE can be transferred to the local authorities for allocation or lease to organizations, households, or individuals, for use in accordance with the Law.

Article 4. Management and use of forests and forest land

1. People's Committees of provinces and provincial level cities, in cooperation with the supervising authority of the SFEs (if any), are to re-survey the forest and forest land of enterprises which have not been granted Land Tenure Certificates. The boundaries of land allocated to the SFEs for management should also be clearly indicated both on maps and in the field.

By the end of the year 2000, People's Committees of provinces and provincial level cities shall have completed land allocation and issuance of Land Tenure Certificates to SFEs. This is to be done under the guidance of the General Department of Land Administration and the Ministry of Agriculture and Rural Development. The remaining forest and forest land shall be transferred to local authorities for re-allocation or lease to organizations, households of former workers of SFEs, and farm households for utilization in accordance with Laws in force.

2. The State assigns the duty to manage and utilize the forests on a long-term, sustainable basis to the State Forest Enterprises; this duty covers both special-use, protection, and production forests, each kind to be managed according to overall plans made by the appropriate authority. The forests should also be sub-divided into compartments in accordance with their status, with each compartment clearly presented with respect to area and quality, thereby providing a basis for subsequent controls on how the enterprises carry out their duty to protect, develop, and utilize the forests in accordance with regulations in force.

During the first quarter of 2000, the Ministry of Agriculture and Rural Development is to issue regulations regarding procedures for allocation and contracting of forest and on methods for classification and determination of quality of the forests. This is to be done before allocation or contracting is carried out so as to provide a basis for subsequent supervision by the responsible authorities at different levels.

3. For natural forests classified as production forests or less essential protection forests, the Enterprises are to carry out silvicultural measures aiming at enriching the forest and also harvest the forest and use its products, following standards and methods prepared by the enterprise and forwarded to the provincial People's Committee for appraisal and approval.

Annually, after the harvesting plan is approved, SFEs are to agree with the units contracted (organizations, households, individuals) on plans for harvesting and on the system for supervision. SFEs have the right to determine how the harvesting is to be organised and

may also invite interested organizations to compete for harvesting rights in a bidding process.

4. For planted production forests, SFEs have the right to decide time and method for harvesting and also to plan how to re-generate the forest after harvesting. Forest products obtained from planted forest can freely be traded in the market.

5. For natural forests classified as very essential and essential protection forest which are under the management of a State Forest Enterprise, the enterprise has the right to harvest the following kinds of trees on a selective basis: dead trees, fallen trees, trees attacked by pests, trees with broken tops, over mature trees, and trees in excessively dense stands. The share of wood removed shall not exceed 20% and the harvesting must be carried out in accordance with plans prepared by the enterprise and approved by the provincial People's Committee.

In cases where bamboo covers 80% or more of the area, SFEs are allowed to exploit up to 20% of the volume in accordance with plans approved by the provincial People's Committee.

6. In essential and very essential watershed protection forest planted with State funds, SFEs have the right to harvest auxiliary trees and secondary-growth trees.

When the main forest species has reached maturity, the Enterprise has the right to exploit it in a rotational fashion where not more than 10% of the planted area is harvested at each occasion. Harvesting may be carried out as selective cutting, cutting in bands, or as clear cutting of small plots, not exceeding 1 ha in essential and 0.5 ha in very essential watershed protection forests.

The enterprise must carry out reforestation activities within 12 months of harvesting

Article 5. Policies on Labour

1. In case households of SFEs' employees (both presently employed persons and those already retired) are legally residing on the area but have not been allocated residential land, the SFEs are to request local authorities to allocate land and issue Land Tenure Certificates for residential land to them.

2. In coordination with the People's Committee of the local commune (or ward, town) concerned, SFEs are to request People's Committees of districts, towns or district level cities to allocate agriculture and forest land and issue Land Tenure Certificates to households of SFEs' employees who are entitled to land allocation as regulated in Decree No. 64/CP dated 27 September 1993, Decree No. 85/1999/ND-CP dated 28 August, 1999 and Decree No. 02/CP dated 15 January 1994.

The area of land to allocate to households of SFE employees is to be the same as to farmer households in the locality.

3. SFEs shall follow existing regulations on early retirement to staff and workers who are no longer assigned work after the process of production reorientation of their SFE and who are not to receive training in other technical fields enabling them to change their work. SFEs in financial difficulties can pay the pension in kind, in the form of production forest under their management, to persons who volunteer to take early retirement. After

harvesting the forest, those persons either have to return the land to the SFE or continue to use it, but then under a contractual arrangement with the SFE. If people who have taken early retirement apply for residence in the area of the SFE, the local authority will be responsible for permanent registration and allocation of agricultural and forest land suitable for production to them. The area of land to be allocated shall in such cases be equal to the average allocated to local farmer households.

4. When implementing clauses no. 1, 2 and 3 of this Article, in case there is not sufficient land available for allocation in the locality, SFEs shall invite the local authority to use land belonging to SFEs for allocation to households belonging to the above mentioned groups. Such allocation of land should, however, be based on existing land use plans. Subdivision of SFE land into too small plots should be avoided.

5. Persons with business relations with SFEs who receive land and forest belonging to SFEs, and get no salary from the State but instead earn their income from production on land and forest contracted to them shall pay social insurance and to be entitled to the corresponding social services according to regulations of the Government on social insurance, applicable to persons working in State Farms and SFEs.

Article 6. Financial policy

1. Revenues from sale of wood and major non-wood products are to be used as follows:

- Cover expenditures for exploitation, transport, and marketing of the forest products and also reforestation on SFE land (if applicable, including payment to households, organizations and individuals who have received land and forest for plantation, protection and tending against contracts).
- Fulfilling the financial responsibilities of the SFEs to the State.
- Setting up an SFE fund as regulated by Law.

2. The State shall reimburse SFEs the entire amount of their income tax for reforestation and other public service activities of the Enterprises in accordance with estimates by the Provincial People's Committees.

3. All previous Government payments to SFEs for establishment of production forests are now allocated by the Government to SFEs, to constitute a part of their capital.

4. SFEs are entitled to support from the State in implementing projects regarding protection, assisted natural regeneration and enrichment of natural forest as well as projects regarding concentrated forest plantations for supply of industrial raw materials as regulated in Decree No. 43-1999/ND-CP dated June 29th 1999 of the Government on Development Investment Credit of the State.

5. The State shall provide 100% of the cost as estimated by the SFE and approved by the Provincial People's Committees for construction of essential infrastructure for production and public services including:

- Plantation, protection and tending of very essential and essential protection forest managed by SFEs;

- Production within areas planned for concentrated production of industrial raw materials (roads, landings etc.)
- Activities in support of socio-economic development, thus contributing to national defense and security in upland and remote areas.

Article 7. Renovation of organization and management within SFEs themselves

1. SFEs shall contract land and forest on a long-term basis in accordance with Decree No. 01/CP dated January 4th 1995 of the Government.

SFEs shall make written contracts with organizations, households and individuals in which the following items are specified: rights and responsibilities of the receiver (organization, households and individuals) as well as the contractor (SFEs) so that the receivers are encouraged to invest capital and labour in tending, protection and development of the forest. The contracts should also clearly state the share of the value of the main products in the forest to be received by the two parties upon harvesting..

Apart from the above, the receiver of land and forest from SFEs shall be entitled freely to collect non-wood products in the forest (except rare and precious non-wood products as regulated in Decree No. 18/HDBT dated January 17th 1992). They are also allowed to cultivate agro-forestry crops in order to improve their living standard.

2. SFEs are free to organize technical groups directly carrying out their production tasks in difficult areas where it is inefficient to contract those duties to households, organizations and individuals.

3. SFEs can use land without forest cover and other resources belonging to them (such as capital, technology, and market position) in creating joint ventures with households of their employees, farmer households, international and national organizations and individuals in reforestation, agro-forestry production, processing and marketing, as well as in provision of forest-related services to different economic sectors in the localities.

4. SFEs shall coordinate with the local Forest Inspection Agency to assign forest inspection staff to monitor SFEs, to assist the directors of SFEs in guiding the forest protection units of the Enterprises, to protect the forest and to deal with cases of violation of the Law, including forcing the violators to compensate the forest owner in accordance with regulations in force.

5. Each SFE should limit its staff to one director, one deputy director, one chief accountant and a number of professional and service staff. In each production group, only one group leader and one technician are needed.

Article 8. Implementing organization

The Ministry of Agriculture and Rural Development, together with the Ministries of Planning and Investment; Finance; Labour, Invalids and Social Affairs; the General Department of Land Administration and other sectors concerned are to guide People's Committees of provinces and provincial level cities, and also corporations to which SFEs belong, in preparing proposals on rearrangement and renovation of organization and management of State Forest Enterprises pursuant to this Decision. The proposals should be implemented within the year 2000.

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