

Law on Forest Protection and Development in Vietnam

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Law on Forest Protection and Development in 1991, in 2004, Decree No. 23/2006/ND-CP, 3 March 2006 on implementation law on forest protection and development regulates are to ensure sustainable development in terms of socioeconomic and environment; forest protection and development need to be in line with land use planning; forest protection is the responsibility of every agency, organization, and household, individual; ensure harmonization between the state and forest owner's interest; forest owners fulfill their rights and obligations during land use period. The State commits to have investment policy in forest protection and development in close connection with other socio-economic policies. The State encourages organizations, households, individuals to receive land for forest establishment on barren land and denuded hills, expand forms of land lease and mortgage for forest plantation. There is a classification of 3 forest types: protection, special use and production forest with respective management and use mechanism.

Natural forest belongs to the entire people, and managed by the State. The State developed plan on forest protection and development, forest allocation, lease, revoke, land use purpose conversion; forest price. The State allocates forest to organizations, households, individuals, village community; regulates rights and obligations of organizations, households over each allocated forest type. Forest allocation: forest allocation, lease and revoke need to be in parallel with land allocation, land use right license granting; land use tenure is not exceeding 50 years and area of 30ha/household. Forest allocation to village community without dividing forest into small pieces for individual community members; it is not allowed to converse, concess, offer, guarantee, mortgage and contribute capital under land use right license.

Protection forest allocation to households, individuals: households and individuals have rights to transfer and leave land use right license for inheritance. For natural production forest: forest owners have rights to harvest forest products, mortgage, guarantee, contribute capital under the form of added value generated through their own investment in comparison with the original value defined at the allocation time.

Overall, the planning, plan on forest protection and development have important roles in enhancing the effectiveness and efficiency of state management on forestry, which has delineated forest land fund for Forest Protection and Development, preventing forest degradation, contributing to implementation of the forestland planning orientation.

However, there are some shortcomings in the implementation process. Although there is only forest for management but it is adjusted in many documents. These documents are issued at different times, developed by different agencies which have led to an overlap, unified point, so the management bodies, business and people have difficulty in implementing of the law.

Based on the main uses, forests are classified into three categories: protection, special use and production (Article 4 of the Law on Forest Protection and Development, 2004). The management

of the three forest types is difficult, from developing the strategy, planning, plans to implementation, testing, monitoring, statistics, inventory of forest resources. On the other hand, the division into three types of forests will have difficulty in the process of cooperation and integration, especially in forest certification, identifying the legality timber source and trading of carbon credits. The reality in localities shows that the classification of three types of forest has made the fragmentation on each type of forest area, causing difficulty in management organization. In addition, each forest type itself has protective functions, conservation and production/services, so the classification of three types of forest have absolute functionality of each forest type, making forest owners difficult to promote effective management and use of forests, especially for protection forest.

There is no provision on the coordination and responsibility of the Agriculture and Rural Development sector, Natural Resources and Environment sector in the planning, plan for forest protection and development linked to planning, plans for forestry land use.

The development, implementation and monitoring the implementation of planning, plans on forest protection and development have not been paid adequate attention; the decentralization of planning management is still inadequate; forest protection and development planning is prepared in accordance with the administrative unit which does not guarantee inter-regional connections, does not promote the strength of each region and ensure the harmonious development between regions.

In the implementation of forest protection and development planning, there are still many problems, weaknesses such as improper and ineffective adjusting of the planning, and plans for forest protection and development. Planning, plan on forest protection and development at the communal level are almost not implemented due to limited capacity of the staff, lack of staff and almost no expense.

There is an inconsistency between the general provisions on the right on forest allocation for all subjects in general in Article 28 of the Law on Forest Protection and Development in 2004 and the right on forest allocation for rural communities in Article 29 of the Law on Forest Protection and Development, 2004.

According to regulations, the state leases forest to organizations, households and individuals in the country and collects forest leasing cost annually. While foreign organizations, and individuals can pay forest leasing cost annually or one time for the entire rental period. Above forest leasing payment terms corresponds to the rights of forest owners. This leads to inequality between organizations, households in the country as well as foreign organizations and individuals.

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