

Review of Vietnam Forestry Policies

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Introduction

The forestry sector is a specific sector, which has an important role in economic development, social security and ecological environment. Currently, the sector is managing 16.24 million hectares of forests and forest land, accounting for about half the total area of the national territory, directly related to the lives of tens of millions of people. Therefore, the development of forests and sustainable forest management is the main goal, and a top priority of the Government of Vietnam.

In recent years, Vietnam Government has continued the efforts to improve forest management efficiency, promoting sustainable forest management, establishing the right to use forest resources through forest socialization. Since 1995, Vietnam forest area has continued to increase, by 2009, coverage was 39.1%; many protection and special-use forests in the country were established on the basis of the overall planning of the country. This helped to effectively protect watershed forests, and conserve forest ecosystems, plants, wild animals. Those are the result of the correct policies of the State to protect and develop forests.

However, the forestry sector of Vietnam is also facing new challenges: the society needs economic development that creates increasing pressures on forests; forest area has increased but the quality of forests does not meet requirements; the competitiveness of forestry products and investment attraction in forestry production are low; changes in US and European markets which are the main export markets of Vietnam furniture are increasingly stricter, etc.

Practice shows that many forest policies have really come to life, creating a favorable legal framework and mobilizing resources to the protection and development of forests, contributing to stabilize the socio- economic situation, poverty alleviation, improving the lives of people in mountains and midlands.

However, with the development of market economy and international economic integration, a number of policies in the process of applying has revealed various limitations, which were not really suited to the general situation of the country's development. Moreover, some policies are slowly amended, supplemented and improved in order to promptly adjust relations with forest and forest land. On the other hand, legal documents were enacted by multiple state agencies and promulgation is done in different circumstances, conditions, times, so there are conflicts,

overlapping or duplication of documents which cause difficulty for local authorities in policy implementation.

Major forestry policy groups

Forest management policies

Forest Protection and Development Law (Article 4) regulates that, based on the principal using purposes, forests are classified into three categories: protection, special use and production. Each type of forest is classified into different categories. This classification is complex, leading to duplication of identifying using purpose for each type of forest, causing difficulties in the management, protection and use of forests. Circular No. 34/2009 / TT-BNN dated 10 June 2009 of MARD regulated the criteria and classification of forests, of which (Article 3 - criteria for determining forests) regulating for new plantations forest, it must ensure the density of 1,000 trees / ha, whereas if planting forest in bands, it just needs 600 plants / ha, in sandy areas it needs to plant 1,100 trees / ha, if ensuring the survival rate of 85%, it will be accepted but not recognized as forest (because the density of less than 1,000 trees). Article 8 – is about classification of forest by reserves, provisions on poor forest, reserves from 10 - 100m³, but with the wide margin, it would be difficult to manage this forest type.

Decision No. 304/2005/QD-TTg dated 23 November 2005 of the Prime Minister (Article 4) on the pilot forest allocation to households and communities in local ethnic minority villages in the Central Highlands provinces and Circular No. 17/2006/ TT-BNN dated 14 March 2006 of the Ministry of Agriculture and Rural Development guiding Decision 304 (Clause 2, Section II) regulated that, production forest is allocated to people, which is natural forest, it is not in the group of rich or average forest, and it has prescribed reserves or cover; Decree No. 200/2004/ND-CP of the Government dated 3 December 2004 on rearrangement, innovation and development of SFE (Paragraph 4 of Article 4) stipulates that for the production of forest area which is poor natural forest of SFE, the local authorities should recover for the allocation and lease for the different groups. This leads to the fact that some provinces only allocate poor forest, young forest to households, and communities which in effect limit the benefit from forests.

Forest Renting: Law on Forest Protection and Development (Article 25) regulates that organizations, households and individuals in the country are allowed by the State for forest rents and they have to pay renting fee annually, while other foreign organizations and individuals can select to pay renting fees annually or for the entire rental period. Forest renting payment terms above corresponds to the right of forest owners as prescribed in this Law (Article 66, 71, 75, 76). This leads to inequality between organizations, households and individuals in the country and foreign organizations, individuals. About benefit from forests, Decision No.178/2001/QD-TTg dated 12 November 2001 of the Prime Minister regulated the benefits and obligations of households and individuals who are assigned, leased or given contract on forests and forest land.

Circular No. 38/2007/TT-BNN 25 April 2007 promulgated by MARD guiding the steps and procedures for allocation and lease forests to organizations, households, individuals and rural communities regulated that when allocating natural forests, it needs to identify forest reserves. However, so far, when allocating natural forests to households, it only identifies the indicator of

forest area, forest status indicators are often identified in a very general way (forest types II, III, IV or rich, average, poor and rehabilitation forests); there is no summary of the amount, quality of forest wood in allocated area, so there is no basis to determine the value added forest.

Decree No. 23/2006 / ND-CP (Article 29) does not have specific provisions on the coordination mechanism between agriculture and rural development sector and natural resources and environment sector in the change of forest use purpose in linkage with land use purposes. On the other hand, there are no guidelines for reimbursement of biodiversity value of the converted forest, management of the change of forest use purposes.

Policies for forest protection, biodiversity conservation

Decree No. 09/2006/ND-CP of the Government dated 16 January 2006 regulates forest fire prevention but have no mention of resolving the consequence after forest fires in accordance with the Law on Forest Protection and Development (Article 42); Clause 3 of Article 20 regulates about the approval rights on plans for forest fire prevention of some entities, as Chairman, rangers, etc. but it does not stipulate the approval right on plans for forest fire prevention of the district chairman. So in fact the district does not promote the initiative in the process of preventing and fighting forest fires in the area.

Decree 09 regulates that forest owners that do not benefit from the state budget, must ensure their funding for forest fire prevention and fire fighting. This is a major obstacle to forest owners being households, communities, other state forest owners (the management board of Protection Forest and Special Use Forest - SUF), because allocating resources from the province is very limited, primarily supporting some major forest fires. So when forest fires occur in districts, towns, the rangers, forest owners are confused, because there is no funding for fighting forest fires.

Decree No. 23/2006 / ND-CP of the Government dated 3 March 2006 on implementing Forest Protection and Development Law (Article 46) stipulates that MARD shall promulgate regulations about the area or type of forest animals are allowed to hunt, catch, the instruments to be banned or restricted from use in hunting, catching and caging of wild animals. But so far, there is no documents regulating this issue.

Decision No 07/2012 / QD-TTg dated 8 February 2012 of the Prime Minister on promulgating a number of policies on strengthening forest protection (Article 3, 4, 5). This decision regulates funding support to the CPC in forest protection at the grassroots level, establishment of a fund to protect and develop forests at commune level and policies of forest co-management, forest protection force at grassroots level; however, these provisions are only in principle, there should have more specific provisions.

Forest development policy

Decision 186/2006/QD-TTg dated 14 August 2006 of Forest Management Regulation (Article 10, 19, 31, 37) regulates natural forest regeneration (special-use, protection, and production forests); Circular No.99/2006/TT-BNN dated 06 November 2006 of the Ministry of Agriculture and Rural Development guiding some articles of Decision 186 (Clause 2, Section II) provides guidelines on criteria for degraded forest and types of degraded forest to be regenerated; Circular

25/2011/ TT-BNN dated 06 April 2011 of MARD on modifying, supplementing or repealing some regulations on administrative procedures in the field of forest protection and development under Resolution No. 57 / NQ-CP 15 December 2010 of the Government (Article 7 is amended and supplemented in Circular 99) also regulates on forest regeneration; Decision 73/2010/QD-TTg dated 16 November 2010 of the Prime Minister on the regulation of forestry construction investment, provides concept on rehabilitation of poor natural forests.

Basically, the content of regulations on forest regeneration in the above policy documents has no conflict but there is lack of specific provisions on the method, specific technical procedures when conducting forest regeneration; inspection and supervision of forest regeneration ... On the other hand, the provisions of Circular No. 99 regulates that poor natural forest (for timber forest) can be regenerated with a timber volume smaller than 50m³/ha, whereas Circular 34/2009 / TT-BNN dated 10 June 2009 of the Ministry of Agriculture and Rural Development about regulations on criteria for identification and classification of forests does not mention the term "degraded forest" but only uses the phrase "poor forest" (reserves from 10 - 100m³/ha), low-reserves forest (reserves under 10m³/ha).

Policy on exploitation and use of forests

Law on forest protection and development (Article 56) regulates that for the organization who exploits production forest timber which are natural forests, they must have forest management plan, exploiting design; Decision 34/2011/QD-TTg dated 24 June 2011 of the Prime Minister on amending and supplementing some articles of Decision No. 186 (Article 1) requires a forest management plan (or plan on Sustainable forest management), exploiting design; Circular No. 35/2011/TT-BNN dated 20 May 2011 of MARD guiding exploitation of timber and non-timber forest products requires a forest management plan or plan on sustainable forest management, exploitation design. But so far, there are no guidelines on developing plan for sustainable forest management.

Clause 5 of Article 39 regulates that households, individuals, rural communities who have needs regarding natural forest logging, can just report for Commune People Committee (CPC) for certification and management. But in Article 7 of Decision No 178/2001 / QD-TTg dated 12 November 2001 of the Prime Minister on the benefits and obligations of households and individuals who are assigned, leased or given with contract on forests and forestry land regulates that when logging natural forests for housing furniture, household or individual must submit an application to the CPC to be confirmed, then submit this to the DPC for approval, providing license on forest exploitation. Thus, there is an inconsistency between the provisions on forest management and benefit policies and the right on approving logging for house furniture.

Decision No 34/2011/QD-TTg dated 24 June 2011 of the Prime Minister on amending and supplementing some articles of Decision 186/2006 / QD-TTg, which modifying paragraph 3 of Article 39 (exploiting forest product in the natural production forest). This decision regulates that the Prime Minister decides the total annual exploiting quotas, MARD announces annual exploiting production; Province People Committee (PPC) allocates exploitation plans to forest owners who are organization and District People Committee (DPC) according to plan of MARD;

DPC allocates exploitation plans to forest owners being households, individuals and rural communities.

Under this provision, forest owners are not autonomous, have self-determination in production and business activities in forest areas which are allocated by the State. Target of annual timber harvest is not based on the actual ability of the forest but basing on the will of management agencies. The limit of logging (in some province, even they close the forest) has led to benefit forest policy and has been disabled, forest owners and the state do not have revenues to reinvest for the forest. Moreover, the prohibition of exploitation is inconsistent with the development of forest trees. Rational exploitation of forest resources is also a silvicultural treatment to regenerate and improve forest quality.

Decree No. 23/2006/ND-CP (Article 53) regulates that for forest production which is planted forest, no more than 30% of non-forested land area can be used for agricultural production, fishery production; whereas Decision No 186/2006/QD-TTg of the provisions (Article 33, Article 42) for the protection forest, production forest, no more than 40% of non-forested land area or mangroves land or no more than 30% of non-forested area in other areas can be used for agriculture and fishery production.

Article 55 of Decree 23/2006 / ND-CP; Article 22 of Decision 186/2006/ QD-TTg; Article 23 of Decree No.117/2010/ND-CP; Decision No 104/2007/QD BNN dated 27 December 2007 issued by MARD about management regulation of eco-tourism activities in the national park, nature reserve; Article 8 of Circular No. 78 refers to the lease of the SUF; however it is not clear that in forest leasing target groups, if it includes foreign organizations and individuals? If the non-governmental organizations of Vietnam can be leased with SUF for ecotourism business?

Policy on investments, credit, finance

Decree 108/2006/ND-CP dated 22 September 2006 of the Government regulates detailed regulations and guidelines for the implementation of some articles of the Investment Law but this decision only regulates about forest planting and caring in the list of special investment incentives areas, artificial board production from domestic agricultural forest raw materials on the list of investment incentive sectors (can be given some preferential regime as exemption of enterprise income tax, import tax , land rent ...); business activities of production forest which is poor natural forests, forest products processing (Aside from artificial board production from domestic agricultural forest raw materials), construction of infrastructure in concentrated material area which is not in the list of investment preference sector.

Decree 108/2006/ND-CP (Article 33) regulates policies to support investments in infrastructure outside of industrial zones, export processing zones, high-tech zones and economic zones; however, there is no policy to support infrastructure investment for concentrated forest products raw materials areas.

General assessment about forestry policy system

Strength:

During reform period, the forestry policy system of Vietnam is rather comprehensive and completed. It covers wide range of forestry activities from forest management, protection, development, business production to forest environment while creating favorable conditions for sector management. Several laws were available such as land law, law on forest protection and development and on these basis, relevant legal documents issued by Government and Ministerial level.

Under the centrally planning mechanism, forestry activities mainly depended on state own sector, including state forest enterprises and state owned forest entities, in addition to a very small proportion of cooperative economy. In economic reform process, market economy is recognized with various economic sectors.

Implementation of policy on forest, forest land allocation (land law, law on forest protection and development), particularly to households, individuals (similar to agricultural land allocation to farmer households) has significantly changed tenure rights over forest, and forest land. Forestry based households and individuals has developed strongly together with engagement of private sector. By 2010, nearly 10 million ha of forest land has been allocated in the whole country. By 6/2009, 1,028,559 land use right license have been granted, including organizations: 43,314 license with total 4,986.482 ha; households, individuals: 982,296 license with total 3,372,756 ha¹ (*source: MONRE*). Forest, forest land allocation to households has created fundamental conditions to establish forest owners while connecting laborers and forest land. Being allocated barren land, denuded hills, supported by state investment capital and entitled to Government's encouraging policy on plantation timber harvest, plantation of timber products and its consumption, households have become driving force on material forest plantation which contributes to improve and stabilize livelihood of several ten thousand farmer households.

Forestry policies have been regularly revised, supplemented on one hand toward the Party and Government's orientation on economic management policies within different periods, and on the other hand accessing to market economic mechanism and international economic integration so timely meeting the sector practical requirements and enabling the sector to shift from state forest management to forestry socialization, multi-sectoral forestry economic commodity.

Weaknesses:

- Unstable forestry policy system is subsidized so it fails to enhance forestry socialization and market mechanism (particularly regarding natural forest and forest land).
- Ownership, forest tenure, rights on business management; benefit sharing on forest, forest land, particularly rights on natural forest assets, which have not yet been clearly and transparently regulated within the existing legal documents and regulations. As consequences, understanding and application of these regulations are different.

¹ MONRE

- Missing policy on establishment of stable national forest estate.
- Lack of concrete awareness and common consensus on natural forest as the state assets. As such, policies on forest, forest land allocation and leasing are often seen as natural resources protection policies rather than production instruments. Forest, forest land have not yet become tradable assets in the market.
- There is gap between land law and law on forest protection and development regarding authority to allow conversion of land in close connection with forests.
- Inappropriate forest investment policies (both plantation and natural forest) are not suitable with forestry characteristics. Local people find it hard to access investment support credit, but only access to inequality credit from non-state own entities.
- Limited capacity on organization of policy implementation. Lack of consistent and close guidance and insufficient effectiveness and effect.

Some proposed forest policy in the coming period

In principle, the management and use of forests, special-use forests, protection forests and production forests must have specific managers. If forests are not allocated or leased, they must perform the allocation or leasing to forest owners, of which priority is given to the group participated in afforestation, forest protection and forest regeneration during implementation of project 661.

In particular, the state subsidies shall be declining through the mobilization of social resources for the protection and development of forests and increasing exploitation rights, benefit from forest for forest owners.

Allowing and facilitating the forest owners to exploit, use and consume of forest products from project 661, but it must ensure reforestation towards stable and sustainable development which promotes protective effect and environmental protection. And it should also ensure the interest harmony between the State and the forest owners, forest owners and people who have contracts on forest protection, and forest regeneration and afforestation.

It needs to have specific provisions on the rights and obligations of the SUF management owner, protection forests and production forests which were supported with capital from project 661; rights and obligations of households and individuals, rural communities who receive contract on forest protection, regeneration and afforestation of SUF.

REFERENCES

- Decree No. 23/2006/ND-CP dated 03 March 2006 of the Government on the implementation of Law on Forest Protection and Development.
- Decree 108/2006/ND-CP of the Government dated 22 September 2006 stipulating and instructing the implementation of some articles of the 2005 Investment Law.
- Decision No 186/2006/QD-TTg dated 14 August 2006 of the Prime Minister on Regulation on forest management.

Decision No 73/2010/QD-TTg dated 16 November 2010 of the Prime Minister promulgating regulations on management of silviculture construction investment.

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Decision No 104/2007/QD-BNN dated 27 December 2007 of the Ministry of Agriculture and Rural Development promulgating regulations on management of ecotourism activities in the national park, nature reserve.

Circular No. 34/2009/TT-BNN dated 10 June 2009 of the Ministry of Agriculture and Rural Development regulating criteria for identifying and classifying forest.

Circular No. 17/2009/TT-BTNMT 21 October 2009 of the Ministry of Natural Resources and Environment regulating the certificates of land use rights, ownership of housing and other assets attached to land.

Circular No. 25/2009 / TT-BNN dated 05 May 2009 of MARD on direction in implementing statistics, inventory and profile for forest management.

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