1. Background
   - Since 1990, the State has been issuing a number of regulations regarding benefit sharing policies for households and communities allocated with forests and forestlands. However, these documents only form a legal framework for implementation of benefit sharing policies in localities. There is a question of how to implement the benefit sharing policies for households, individuals and communities allocated with forests and forestlands. What are the shortfalls of those policies when applied to specific local conditions? While the State does not have nation wide benefit sharing policies, what may be the incongruence between policies inaugurated locally and other policies of the State and how to deal with this problem? Because of this practical emergency, there is a need for studying and assessment of the implementation of profit sharing policies for households, individuals and communities allocated with forests and forestlands.

   Nevertheless, “benefit sharing” is a broad concept. This report only addresses the sharing of benefits derived from forestlands, which include timber, firewood, non-timber forest products (NTFP), intermingling agricultural products, fishery products, livestock, tourism services and partial use of bared forestlands for agricultural and fishery production.

2. Survey Objectives
   - To study the state of implementation of benefit sharing policies for households, individuals and communities allocated with forests and forestlands in a number of localities in two provinces Gia Lai and Dac Lac. To clarify shortfalls, shortcomings and problems arising during the implementation of benefit sharing policies at local level.
- To study people’s expectations and recommendations of localities in regards to implementation of benefit sharing policies.
- To propose a number of suggestions for implementation of profit sharing policies in the incoming period.

3. Survey Methods
3.1. Collection of secondary materials
- Studying materials relating to profit sharing policies. Studying reports relating to allocation of lands and forests to individuals, households and communities.

3.2. Choosing sites for direct survey
Selected sites include two districts per province, one commune per district and two villages per commune. One state forest enterprise and one management board for protection forests, where forests and forestlands are allocated to people, are selected in each province.

3.3. Data selection method
- Contact with representatives of Department of Agriculture and Rural Development, Sub-Department of Forestry Development, State-owned forestry enterprises, management boards for protection forests, Commune People’s Committees in the two provinces.
- Face-to-face interviews with village heads and households, where forests are allocated to private sector.
- Discussion within National Group for Community Forestry in Hanoi. The framework for this major study is presented in Diagram 01.
4. Results of survey on state of implementation of benefit sharing policies in two provinces Gia Lai and Dac Lac.

4.1. Gia Lai Province

4.1.1. The state of implementation of benefit sharing policies for households, and individuals allocated with natural forests.

4.1.1.1. Legal aspects

October 2, 2003, People’s Committee of Gia Lai has issued Decision 106/2003/Q§- UB with annexed temporary regulation on allocation of forests on benefit basis according to Decision 178 (also known as Decision 106). This regulation was implemented at local level on the basis of Government Decree 01/CP dated January 4, 1995 on allocation of agricultural, forestry, and fishery lands within state-owned enterprises (known as Decree 01/CP) and Prime Minister’s Decision 178/2001/Q§-TTg dated January 12, 2001 on rights and obligations of households, individuals allocated with forests and forestlands.

Legal subjects of Decision 106 are state-owned forest enterprises and management boards for protection forests. Regulatory scope of this document are natural forests, that can be contracted to people for benefits according to Decision 178.

Hence, Decision 106 only addresses benefit-sharing policies regarding production forests, but not protection forests. Decision 178 stipulates that beneficiaries from forests were
households and individuals contracted with forests and forestlands. Decision 106 adds village communities to this group.

- According to Decision 178, households and individuals allocated with forests and forestlands, who have lump sum or annual contracts, are not beneficiaries. Only the ones who have long term contracts are considered to be beneficiaries according to decision 178 and 106.

- Regarding benefit earning rights, Decision 178 stipulates that main forest products that households and individuals are entitled to depend on types of forests (protection or production) and state of forests according to Decision 682/QSKT dated August 1, 1984 by Ministry of Forestry (MARD at present) on the issuance of normative designs of forests allocated for business purposes (Decision 682/QSKT). Decision 178 only defines benefit sharing for natural forests that are timber with all-year-green wide leave and semi-defoliated forests. If the household or individual is allocated with Dipterocarpus forest and forests of other types, then the ratio of products that it is entitled to is defined by Provincial People’s Committee according to inter-ministerial Circular 80/2003/TTLT/BNN-BTC dated September 3, 2003 by MARD and MOF guiding the implementation of Decision 178 (Circular 80). This means that the benefit sharing scale stipulated in Decision 178 does not apply to Dipterocarpus forest and forests of other types (e.g. pines and cinnamon).

Decision 80 also provides calculation formula for distribution of main products. For instance:

<table>
<thead>
<tr>
<th>Amount that the commune is entitled to</th>
<th>= Volume of forest products measured in delivery yard</th>
<th>x Price of standin g tree</th>
<th>x Ratio of contribution to commune budget</th>
</tr>
</thead>
</table>

Formula (1)

Formula (1) is applicable for distribution of products to contractors as follows:
Amount that the principal party is entitled to = Volume of forest products measured in delivery yard \( \times \) Price of standing tree \( \times \) Earning ratio for principal party

<table>
<thead>
<tr>
<th>Formula (2).</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount that the contractor is entitled to = Sales of timber in delivery yard (-) Natural resource tax (-) Amount distributed to principal party</td>
</tr>
</tbody>
</table>

The principal and the contractor must pay fees for exploitation and transportation according to the volume of products that they are entitled to. Also according to Circular 80, in order to implement the benefit sharing policies, provincial People’s Committees should issue the price table of standing. This price table serves as a basis for distribution of main products between parties. Provinces may realize it in two following ways:

**First way:** using price table of standing trees issued by provincial authorities as a basis for calculating natural resource tax (for timber from natural forests), tax on agricultural lands (for timber from planted forests).

**Second way:** Provincial People’s Committee may issue a special price table of standing trees for benefit sharing between parties according to Decision 178. This way is applicable when there is a significant difference in rights of parties. The adjustment of price for standing trees means adjustment of the rights of parties, because price for standing trees is the only variable in formula 2. However, it is noticeable that the price table of standing trees is applicable in this case only for benefit sharing, not for calculating natural resource or agricultural taxes.
According Decision 178 and Circular 80, forests are grouped into five types of state: IA, IB, IC (bare lands, land without forests); IIA, IIB, IIIA1 (forest regenerated after slash-and-burn or exploitation); IIIB, IIIA2, IIIA3, IVA, IVB (medium and rich forests), etc. People receiving forests of different state are entitled to different ratios of product distribution. The ratios defined in Decision 178 are applicable for timber all-year-green broad leaves forests and semi-defoliated forests. Decision 106 defines common ratios for all types of forests. This may lead to unfair distribution of products for contractors, whereas contractors with dipterocarpus forests may benefit less than contractors with timber all-year-green broad leaves forests and semi-defoliated forests.

Decision 106 only defines two states as the basis for product distribution: (1) natural forests capable for exploitation at the moment of contract (state IIIA2 and above) and (2) forests of medium and lower medium capacity, depleted forests, forests regenerated after being slashed-and-burned (IIA1-IIIA1). This classification of forests is simple and easy to apply. However, it can easily lead to unfair profit sharing, because a common ratio of 1.5-2.0% is applicable for every year of contract. In order to mitigate the inequitability, Decision 106 also stipulates that the State may provide initial subsidies for contractors with depleted forests of different types. However, the question of where the subsidization comes from and how much and for how long is not easy to answer when thousands of depleted forests are allocated to households. In addition, Decision 106 stipulates a framework of benefit sharing ratios, not the specific ratios in details for provinces or sub-zones of provinces. In the mean time, according to Circular 80, provincial People Committees must stipulate benefit-sharing ratios for main products based on situations in each locality of the province and states of allocated forests within the framework of Decision 178. If provincial PCs only define general frameworks then it will be very difficult for participants (e.g. state-owned forestry enterprises, forest management boards) because it is not known
who is responsible for concrete benefit sharing ratios. There could be two cases:

Firstly, the principal and the contractual parties agree upon the product distribution ratio within the framework (1.5-2% yearly) stipulated in Decision 106.

Secondly, the principal party decides the product-distribution ratio.

- Gia Lai Province does not have any regulation on benefit sharing policies for households who are contracted for protection, care and regeneration of natural and protection forests according to Decision 178. Allocation of forests and forestlands in regards to forests of special purposes and protection forests is implemented according to Decision 661/1998/QS-TTg of the Prime Minister dated July 29, 1998 on objectives, tasks and implementation of 5 million planted forests project (Decision 661). The decision states that the person protecting and regenerating protection forests is entitled to receive VND 50,000 per ha per year for at least 5 years. A contractor with contracts for regeneration with filling-up planting receives VND 1 million per ha per year for 6 years. The payment is scheduled as follows: VND 350,000/ha in the first year, VND 250,000/ha in year 2 and 3, VND 50,000/ha in the next years.

To summarize, in legal aspect, Gia Lai Province implements two mechanisms of contracting forests and forestlands.

(1) Contracting protection forests and forestlands and forests of special purposes according to Decision 661.

(2) Contracting natural forests as production forests according to Decision 178 (Decision 106).

4.1.1.2. Practical Aspect

Results of survey in a number of localities of two provinces can be summarized as follows:

a. Contracting forests and forestlands according to Decision 661

- Ha Ra Forest Management Board contracts out protection forests to households and village communities in Chơn Thành, Chưm
r-n 2, Hµ Ra Commune, M"ng Giang District for the amount of VND 50,000/ha/year payable in two installments per year. However, the contracts states that money is paid to contractors only after the principal party receives funding from the State.

Thus, contracts regarding protection forests are sign on annual basis and only for the area that certainly will receive funding from the State. If for any reason the funding from the State is not received, then the principal party will not sign contracts and will organize the protection of forests by itself. Ha Ra Forest Management Board is allocated with 10,800 ha of natural protection forests, out of which 5,000 ha has been contracted, consisting of roughly 50%. According to Decision 661, the State provides funding for contracted protection forests only for 5 years. After this period, the contracting household will not receive the funding. Instead, they are entitled to benefits from forests according to Decision 178. These benefits include collection of non-timber forest products, grazing livestock in forests, using dead and fallen or broken trees, or trees defected by diseases or pests, using byproducts of thinning process, and exploiting protection forests when they grown to exploitation norm with the intensity not more than 20%. The benefit sharing ratio is as follows:

- Contractors with IC type (forestlands without forest) receive 95% of product values. Contractors with forests regenerated after being slashed-and-burned receive 75%-80%. Contractors with forests of above medium capacity (more than 100m³ /ha) receive 2% of product values. The rest goes to principal party. Contracted households need to pay for exploitation and transportation of timber to delivery yards and for collection of products they are entitled to. Thus, the State already has policies to allow exploitation of protection forest at slow pace (with conditions so as to maintain protection function as regulated by the laws). However, study of the practice reveals the following:

- Protection forests contracted to people are generally situated in high mountains that are difficult to access.
Therefore, the cost of transportation is too high. Moreover, many places do not have markets for timber. Because of that, contracted people generally do not care about exploitation of timber. They care only about receiving VND 50,000/ha/year and collecting non-timber forest products.

- Protection forests contracted to households are of depleted type with very little non-timber products. Meanwhile, it takes a long time until timber can be exploited. If the State does not continue to pay VND 50,000/ha/year, then people will terminate contracts. At present principal parties do not know how to deal with this problem, because activities concerning protection, regeneration and management of forests are of public benefit and funded by the State. Principal parties do not have any source of funds to continue paying for contractors.

- There are opinions that it is not recommended to grant people with rights to benefit directly from protection forests, because most of contracted forests situated close to villages are depleted. When the waiting time is too long (more than 30 years), this provision becomes meaningless. Instead, paying continuous annual fees is recommendable. This notion is contradictory to the Government policies of reducing subsidies for protection forests by granting more rights to benefit from forests. However, it is suitable to some localities. The question here is whether there should be special benefit sharing policies for some particular biodiversity zones.

- Contracts for planting of protection forests are generally yearly or task-based, for example contracts for vegetation clearing digging holes, or growing and caring of trees during the first three years. After the work has been done, the principal may sign contracts with other households or take the task of protection of forests by itself.

- Protection forests have been contracted out to village communities. However, the village is not the contractor by itself. It must assign a number of households to sign the contract with the principal party. All incomes from the contract are contributed to village funds to pay to households that patrol
forests. Parts of the incomes goes to public fund of the village or public works such as building of roads or bridges.

Thus, study of practices in Gia Lai shows that the implementation of Decision 178 has many difficulties concerning contracted protection forests, which limits its feasibility. This policy is applicable only for protection forests of high capacity with easy access, and where the market for forest products exists. It is possible to apply Decision 178 to forests that provide continuous sources of non-timber products. This means after the contractual period of five years, the contractor ceases to receive subsidies, but begins to benefit from exploitation of non-timber forest products and salvaged timber collected through siviculture techniques (e.g. fallen trees, trees defected by diseases or pests, dry dead trees, etc.)

- People’s knowledge about contract policies is not clear. Sometimes these policies are confused with hunger elimination and poverty reduction. The policies regulate the payments directly to people who protect the forests. They are not to solve parts of problems of communities living in remote areas.

b. Implement of contracting policies regarding natural forests as production forests in accordance with Decision 178

Following survey results:
- Decision 178 classifies forests into five types of state. Most of people do not understand this classification, because they come from ethnic minorities and have low level of education. However, they still know that there are different types of forests and contracted people must benefit from forests differently. In practice, people have their own classification, which is different from the one of the State, for example “bare land” (equal to types IA, IB, IC); young forests, thin forests (IIA1-IIIA1); old forests, forests with many high trees (IIIA2 and above).

- On the survey site, households and communities have been contracted with forests, although Decree 01/CP does not stipulate communities as subjects of contract. According to local people, because there are different types of forests and different values
of trees, it is very difficult to have separate contracts for each household. It is the best to have a contract for the whole community in the village. The practice shows that contracting forests out to communities was highly effective. Benefits from forests are distributed according to village regulations, in which people participate and follow. However, contracting forests out to communities can be done only in places where local government is more powerful and equipped with good management capacity, and where the sense of community is strong. In some places, forests contracted out to communities already provide sufficient timber for the needs of communities and for building houses of involved households.

- In practice, households wish to receive only forests that are able to provide NTFP everyday, or forests with big reserves of timber that can be exploited in a few years.
- People do not pay attention to benefit sharing ratio, because in practice most of contractors still are not able to exploit main forest products, because most of the forests they receive are already depleted.
- Contracting forests out to households on benefit sharing basis is difficult because of current state of cultivation. In some contracted areas people grow agricultural species. Sometimes two households cultivate on the same plot, which is contracted out to one of them only. In case there are agricultural lands in the forest that have been cultivated for a long time, people are reluctant to give up the forest to new owners, because the benefit they see is not the forest, but the agricultural land in it.
- In some places forests are contracted out to households based on state of their agricultural lands, therefore, the priority is convenience of both agricultural and forest protection activities.
- Regarding depleted forests or bare lands, principal parties provide initial support in the form of investment capital or seedlings. This seems to be very effective. People see their benefits in the right to cultivate in forestland and initial
investment capital that they receive. Decision 106 stipulates that all initial capital will be repaid once the forest becomes exploitable. However, the survey shows that this provision is rather formal only, because it usually takes more than 30 years until the forest can be harvested for main products. Will it be possible to have initial investments back by then? In order to be rational, the principal party only pays VND 50,000/ha/year as fees for protection of forests. In practice, people use this money for agricultural cultivation or livestock grazing on contracted forest lands.

- The average contracted area is 30 ha per household.
- Following table summarizes benefits of contracted households:

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision 178</th>
<th>Decision 106</th>
<th>Survey results</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Beneficiary</td>
<td>Contracted household</td>
<td>Households, village communities</td>
<td>Households, groups of households, contracted villages.</td>
</tr>
<tr>
<td>2. Benefits from main exploited products</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
2.1. Contract for protection and generation of protection forests

- Receiving payments within 5 years.
- Collection of NTFP
- Salvage timber from dead and fallen trees, etc.
- Main exploited products: exploiting timber with intensity less than 20%.
+ If the contracted forests of IC type: receiving 95% of exploited products.
+ Forests of types IIA, IIB, IIIA1: receiving 75-85% of products.
+ Forests of types IIA2, IIIA3, IIIB, IVA, IVB: receiving 2% of products for each year of the contract. The remainder goes to principal

- Because the contracts are yearly, payments are made for each year.
- VND 50,000/ha/year
- Regeneration with filling-up planting: VND 1,000,000/ha in 6 years
| 2.2. Households contracted for planting, protecting and tending protection forests | - Receiving funds from the State.  
- Entitled to 100% of products of secondary and mix-planted trees, thinning products, fruits, and oils.  
- Entitled to use 20% of bare lands for agriculture.  
- Main exploited products: Allowed to exploit with intensity not more than 20%. Entitled to 80%-90% of products. The rest goes to principal parties. The contracted household pays tax, exploitation and transportation | - Fore planting new forests: VND 4 million/ha  
- Mix-planting agricultural species.  
- There are no major thinning products yet.  
- Contracts are made for 3 years. Upon the termination, the contract may be prolonged or signed by other households. |
<table>
<thead>
<tr>
<th>Expenses for the part it receives.</th>
</tr>
</thead>
</table>
| **2.3. Contracts**  
**for protection of natural forests as production forests**  
- Salvaging forest products derived from application of silviculture techniques.  
- Mix-planting of special product trees and agricultural trees and grazing livestock in forests.  
- Exploiting main products with intensity not more than 30%. Receiving 1.5%-2% of product values during contract time.  
The rest goes to principal parties. The contracted household pays tax, exploitation and  
| 1. Contracted forests are capable for exploitation at the moment of contract signing:  
- Salvaging forest products.  
- Mix-planting, grazing livestock in unfilled spaces of the forest.  
- Exploiting main products.  
The contracted household receives 1.5%-2% of product values after tax and deduction of advance amount and production expenses. The remainder goes to the principal party.  
2. Contracted forests are capable for exploitation at the moment of contract signing:  
- Salvaging forest products.  
- Mix-planting, grazing livestock in unfilled spaces of the forest.  
- Exploiting main products.  
The contracted household receives 1.5%-2% of product values after tax and deduction of advance amount and production expenses. The remainder goes to the principal party.  
People cannot differentiate states of contracted forests according to Decision 178. They use their own classification.  
- People consider types IA, IB and IC are considered identical and the derived benefit from them must be the same.  
- Types IAI-IIIA1 are considered as thin forests.  
- Types IIIA2 and above are considered as old forests.  
People cannot differentiate between protection and production. |
transportation expenses for the part it receives.

- Forests are of medium and lower medium capacity but not capable for major exploitation; depleted forests, forests restored after slashed-and-burned agriculture.
  - Exploiting NTFP.
  - Salvaging forest products derived from application of silviculture techniques.
- The income from forests must be at least equal to the contract amount for forest protection (VND 50,000/ha/year).
  
  If the forest is too depleted and impossible

- Benefits of contractors:
  + People only care about subsided amount of VND 50,000/ha/year. They also receive money for buying seedlings and fertilizers. Other benefits include lands for agriculture, timber for domestic use, and NTFP.
  + People care little about exploitation of products, because they have to wait too long, or because there is no access to forest or no market for timber.
+ At present, the need for domestic timber
to be exploited right away, the contractor may receive VND 50,000/ha/year for 5 years for protection of forests. This amount is deducted from forest products when the exploitation time comes.

- Exploiting main products. Receiving 1.5%-2% of product sales after deducting tax, advance amount and production expenses according to the laws. The remainder goes to principal parties.

is not great (mostly for splitted households). However, communes do not have forests, therefore, most of timber is exploited in forests belonging to state-owned enterprises or in protection forests.

- Forests are contracted to households and to villages.

4.1.1.2. Implementation of benefit sharing policies for households and individuals allocating with natural forests

- Decision 178 stipulates rights of households to benefits derived from forests in following cases:

- The household is allocated with forests of special purposes, protection or production forests.
- The household is allocated with bare forestlands in order to grow protection or production forests and the like.

Nevertheless, up to now Gia Lai Province has not issued any specific guidelines for allocation of natural forests and benefit-earning rights of contracted households and individuals. Instead, in order to have a basis for implementation of the policies on allocation of natural forests and distribution of benefits, the province has instructed a number of localities to develop pilot models of forest allocation to groups of households and communities. This experiment is carried out within the scope of the project according to Decision 467/QS-UB dated July 22, 2002 by People’s Committee of Gia Lai.

The benefit-sharing rights in regards to products of major exploitation according to Decision 178 are as follows: If the contracted forest is regenerated after slash-and-burn cultivation (types IIA, IIB), or it is depleted forest, then the contractor receive 70%-80% of products of major exploitation. However, the survey shows the figure of 6%-10% per year, which means 100% of product values (for a growing period of 15 years). Decision 178 also stipulates that if the contracted forest is of type IIIA2, then the contractor is entitled to 2% of products of major exploitation. However, the survey shows a figure of 12% per year, which means 40% of product values (because major exploitation can be carried out after 4 years of tending).

Notwithstanding the above, Circular 80 stipulates that in case of Dipterocarpus forests, Provincial People’s Committee can define benefit-sharing ratios different than the Decision 178 framework defines. Therefore, the ratios defined in pilot models can and must be considered carefully in order to reserve the principle that the contractor could benefit only from the value-added part of forests since the beginning of the contract, because the forest already has some capacity before, which is not the result of contractor’s work. This part has to be contributed to the State budget (commune budget).

The survey shows that because it takes 15 to 26 years until major exploitation, the current benefits of contracted groups of
households (or communities) are not products of major exploitation, but include agro-forestry products, NTFP, mix-planting products, intermingling agriculture lands, timber for domestic use, salvaged timber, etc. The following table summarizes benefits of contractors:

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision 178</th>
<th>Decision 106</th>
<th>Survey Results</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Beneficiaries</strong></td>
<td>Households and individuals</td>
<td>Groups of households, communities</td>
<td></td>
</tr>
<tr>
<td><strong>2. Benefit from products of major exploitation</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>2.1. Households allocated with natural forests as production forests.</strong></td>
<td>- Planting agricultural and pharmaceutical species, grazing livestock.</td>
<td>a. Forest type IIA (young dipterocarpus forest): - Growing mangos and green peas on unfilled lands in forests. - Mix planting grafted cashewnut and green peas. - Planting eucalyptus. - Entitled to 100% of products of major exploitation b. Forest of type IIB (young Dipterocarpus forset) - Conducting fishery activities in natural lakes. - Planting of Litsea in unfilled lands. - Filling up planting with Hopea and Dipterocarpus alatus on</td>
<td></td>
</tr>
<tr>
<td>100% of products of major exploitation.</td>
<td>stream banks.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Forests of types: entitled to 70-80% of product values.</td>
<td>- Entitled to 100% of products of major exploitation.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>+ Forests of types IIIA2, IIIA3, IVA, IVB: Entitled to 2% product values for each year of the contract. The rest is contributed to commune budget. The contracted household pays tax, exploitation and transportation expenses for the part it receives</td>
<td>c. Forest type IIIA1:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Growing pezziza on trunks of trees of insignificant economic value after thinning.</td>
<td>- Planting Bambusa procera on stream banks.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Growing bamboo for harvesting bamboo shoots on stream banks in forests.</td>
<td>- Growing of bamboo for harvesting bamboo shoots on stream banks in forests.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Salvaging forest products derived from application of silviculture techniques.</td>
<td>- Salvaging forest products derived from application of silviculture techniques.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Exploiting NTFP (palm leaves,</td>
<td>- Exploiting NTFP (palm leaves,</td>
<td></td>
<td></td>
</tr>
<tr>
<td>- Entitled to 9% of products per year, i.e. 100% of products (for 12 years of tending).</td>
<td>- Entitled to 9% of products per year, i.e. 100% of products (for 12 years of tending).</td>
<td></td>
<td></td>
</tr>
<tr>
<td>d. Forest types IIIA2 and IIIA3: Entitled to 12% of product values for each year of contract, i.e. about 40% of exploited products (for 4 years of tending).</td>
<td>d. Forest types IIIA2 and IIIA3: Entitled to 12% of product values for each year of contract, i.e. about 40% of exploited products (for 4 years of tending).</td>
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</tbody>
</table>
2. §¾c L¾c Province

4.1. 1. Implementation of benefit sharing policies for households and individuals allocated with natural forests

4.1.1.1. Legal aspect

- Since the issuance of Decision 178 and Circular 80, Dac Lac Province has not issued any guidelines for implementation at local level. However, the Province has approved land allocation plans for a number of localities, which address benefit-sharing rights of contractors. Examples include Decision 2805/QS-UB dated Oct. 22, 2002 of Provincial People’s Committee on approval of allocation plan for 2,355 ha of forestry land in a number of villages in Krêng Bêng District. The land originally belonged to Krêng Bêng state-owned forest enterprise. Another example is Decision 708/QS-UB dated Mar. 6, 2003 of Provincial People’s Committee on approval of allocation plan for 2,431 ha of forestry land in a number of villages of EA HLEO District. The land originally belonged to EA HLEO state-owned forest enterprise. In these decisions, benefit sharing rights are defined as in Decision 178. Up to 2002, Dac Lac Province has allocated 24,855 ha of forests to 4,419 households, groups of households and communities on the benefit-sharing basis according to Decision 178.

4.1.1.2. Practical aspect

Survey results show the following:

- People see their benefits in having sufficient agriculture lands, exploiting all forest byproducts, or exploiting timber for critical needs (coffins, houses, livestock cages). Therefore, most of households have their agricultural lands inside allocated forestlands, or they receive additional 1 or 2 ha of agricultural lands for each 10-15 ha of forests per household.

- Some people said the volume of 5m³ of round timber according to regulations is not sufficient for house building. It must be at least 10-15m³/household.
- The benefit from products of major exploitation includes 6% of product values for each year of contract. Although some people do not understand this figure very well, they totally agree with the notion that a contractor should receive benefits corresponding to the growth of forest. Some people suggest that expected waiting time until major exploitation must be clarified in contracts so that they can adjust their management and production plan. Another issue that has been mentioned is criteria of trees that can be exploited. Is Decision 02/1999/QS-BNN-PTLN of MARD dated Jan. 5, 1999 (Decision 02) regulating the exploitation of timber and forest products applicable to households and communities? What are procedures of exploitation and transportation of timber as products of major exploitation by contracted households and communities? At the moment the Government has the policies of limiting exploitation of natural forests and closing natural forests in the future. Does this create any difficulty for timber exploitation according to Decision 178? Is it contradictory with the policies of closing natural forests?

- It is noticeable that exploitation of forests contracted out to communities, including major exploitation and salvaging of byproducts, must not affect the next contractors. The notion of “Equality” in benefit sharing of community-managed forests attracts the attention of many people.

- In practice, because the states of forests allocated to households are different, some households do not have exploitable trees for the purpose of house building, whereas other households or groups of households have many of them without any need. In this situation, people negotiate with each other to exploit timber for house building. However, it is not clear whether this timber needs to be returned when the forests become capable for exploitation.

- In some places, contractors do not understand their rights on allocated forests and allow other people cut down trees in their forests for different reasons, such as house building or other needs. Land use certificate is a formal document only. One
reason is because allocated forests are already capable for exploitation and do not need too much tending, so people pay little attention to them.

- Households allocated with forests that do not have unfilled lands for agricultural activities are in difficult situation. Some of them clear parts of forests for agricultural production. The others negotiate with other households to cultivate on their unused lands.

- Assuring the equality when implementing profit-sharing policies is a problem of concerns. In some places criteria for allocation of forests include the approximate of households or villages to forests, the willingness of villagers to receive forests and forestlands, and the terrain of the locality.

- Sometimes there are households without forests. People’s opinion is that this is unfair and is contradictory to the notion of “equality”, according to which forests must be equally allocated to everybody. As the consequence, after receiving forests and forestlands, contracted households voluntarily redistributed what they received to the remained households.

- In some places households in need of agricultural lands negotiate with the others to have the lands. Households that do not have unfilled spaces in their forests experience a shortage of agricultural lands, therefore, they temporarily clear of forests for agricultural production. Thus, uneven distribution of forest resources leads to unequal distribution of forests to households. Some households have forests but do not have lands and vise versa. The purpose of temporary clearance of forests is to meet urgent needs for agricultural lands.

The following table summarizes benefit-sharing policies for people allocated with forests.

<table>
<thead>
<tr>
<th>Item</th>
<th>Decision 178</th>
<th>Provincial regulation on the site of survey</th>
<th>Survey results</th>
</tr>
</thead>
</table>

<table>
<thead>
<tr>
<th>1. Beneficiaries</th>
<th>Households and individuals</th>
<th>Households, groups of households, communities</th>
<th>Groups of households and communities</th>
</tr>
</thead>
</table>
| 2. Benefit from products of major exploitation. | | Rights to benefits as defined in Decision 178. | - Entitled to collect and use forest byproducts, such as dried firewood, top branches, bamboo shoots, mushrooms, traditional medicines on the allocated lands.  
| 2.1. Households allocated with forests as production forests | - Planting agricultural and pharmaceutical species, grazing livestock.  
| | - Salvaging forest products derived from application of silviculture techniques.  
| | - Exploiting not more than 10m$^3$ of timber for domestic use.  
| | - Carrying out major exploitation with intensity not more than 30%.  
| | + Bare lands (types IA, IB, IC): entitled to 100% of products of major exploitation.  
| | + Forests of types: entitled to 70-80% of | - Exploiting timber for house building (timber types III-IVIII) with approval of District PC. The exploitable volume is 5 m$^3$ round timber per household for every 20 years.  
| | | Timber can be exploited from allocated forests or forests of local state-owned forest enterprise.  
| | | - Carry out major exploitation and benefit from 6% of product values for each year of |
| product values. + Forests of types IIIA2, IIIA3, IVA, IVB: Entitled to 2% product values for each year of the contract. The rest is contributed to commune budget. The contracted household pays tax, exploitation and transportation expenses for the part it receives contract after paying tax, i.e. 90% of total products of major exploitation (for a tending period of 15 years). From year 16, the contracted household is entitled to 100% of timber allowed to be exploited from forests. - Contractors pay all design, exploitation, and transportation of products corresponding to the portions they are entitled to. - Entitled to agricultural production on unfilled spaces in forests. |

4.3. Problems emerging during implementation of Decision 178
- Most of people see the benefits from allocated forests only in having lands for agricultural production, collecting NTFPs, and exploiting timber for house building, but not in products of major exploitation, while Decision 178 only defines the benefit-sharing ratio for the latter.
- There are unofficial forms of land occupation in the areas of allocated forests, where slash-and-burn cultivation and forest exploitation already exist. The implementation of benefit sharing policies leads to conflicts in land use rights.
Uneven distribution of forest resources is an obstacle to allocation of forests and implementation of benefit sharing policies based on equality. This also relates to uneven distribution in terms of area and capacity. In some communes only 65% of households received forests that have unfilled areas for agricultural production. This means the remained 35% of households do not have agricultural lands while they may have forests with exploitation capacity. It is a very difficult task to have an equal distribution in terms of area and capacity.

There is a question of whether it is legal for households to negotiate among each other in exploitation of forests. Another problem is the criteria of exploitable trees in allocated forests. Finally, what are procedures for exploiting of timber and forest products in forests allocated to households?

Is it allowable for households and groups of households without unfilled forest areas to temporarily clear off small parts of forests for agricultural production?

It is possible to add potential benefits to the rights of contractors. This includes benefits from ecological tourism, exploitation of construction sands and gravels, use of water resources, and so on.

Benefit sharing policies must also address expenses necessary for timber exploitation, such as expenses for exploitation design, exploitation and transportation cost, natural resource tax, fees of different kinds, etc. The policies need to clarify how contractors should pay these expenses.

Any change in natural resource tax will affect benefits of contractors, because Decision 178 does not specify the tax rate.

Although contractors receive lands for agricultural production, they may not have capital for investment. Meanwhile, the conditions for borrowing money are very difficult, making it impossible for people to access State loans. This limits the ability of contractors to exercise their rights to exploit existing potentials of allocated forests.

Some allocated forests do not have any market values. Will the values of exploited products cover all expenses? Is it
possible to convert too depleted forestlands to agricultural lands?

- Most of the rights stipulated in Land Law, such as right to convert, right to transfer, right to rent, inheritance, mortgage and capital contribution by land use rights, have not been exercised so far.

4.4. General Conclusion:

- Benefit sharing policies according to Decision 178 has attracted certain attention of authorities of the two provinces. However, Gia Lai Province focuses on forest contracting and benefit sharing polices, while Dac Lac Province focuses on forest allocation and benefit sharing polices.

- Some provisions of Decision 178 is not very feasible for remote areas. They are suitable only for areas with developed market of forest products and convenient infrastructure.

- Legal differences between long-term forest allocation and forest contracting is not clear, leading to confused benefit sharing policies. This results in a number of impediments during implementation of Decision 178.

- Both provinces are short of guidelines on implementation of Decision 178 and Circular 80, causing limitations in implementation of benefit sharing policies. Especially, Circular 80 has not been studied very well.

- Decision 178 emphasized benefits from products of major exploitation as the main motivation source, when in practice people care more about attached agricultural lands, NTFPs, and timber for house building, which are not the main benefits according to Decision 178.

- When forests are allocated to households, states of forests do not receive enough attention. This is a factor affecting the rights of people, leading to complications when the time of major exploitation comes, because by then the products will vary very much between the forests.

5. Suggestions
- It is necessary to provide supports to local levels on development of guidelines on implementation of Decision 178 and Circular 80, which are suitable to concrete local conditions.

- Because of the lack of information due to the fact that benefit sharing policies have been implemented very recently, it is not necessary to conduct further studies about this topic.

- It is suggested to conduct studies on other topics, such as community-based forest management in a number of localities, including benefit sharing policies for community-managed forests (in Bac Kan and Lang Son), or benefit-based forest allocation according to Decision 178 (in Son La and Lai Chau).

Appendix 1: List of interviewed or surveyed organizations and individuals

Appendix 2: Survey Timetable (Dec. 3 to Dec. 12, 2003)