Ministry of Agriculture and Rural Development

Forest Protection Department

SEVERAL ISSUES RELATED TO FORESTRY LAND

ALLOCATION IN VIETNAM

Land is an important resource, it's the regular concern of the Government of Vietnam and every person also has thereof regard.

Land administration has two major issues: Land use and land management. In the aspect of land management, land is a major property of nation; in the aspect of utilization, land is allocated by the Government to organizations, individuals for their use on long terms.

Forestry land is nationally owned. However, forestry is closely related to the life of 24 million inhabitants of ethnic peoples who are living in forestry land; the middle land, lowland and coastline areas are directly impact by natural forest, plantation in terms of protection purpose and forest product supplies.

After the ratification of the Laws on land management in 1993, the government has promulgated Decree 02/CP dated 15 January 1994. The decree stipulates the provisions on forestry land allocation to organizations, households, individuals for their stable utilization on long terms towards forestry purpose (hereinafter refers to as Decree 02/CP on forestry land allocation).

Presently, the Decree 02/CP has been implemented by provinces and localities.

The forest protection department is assigned mandates by Ministry of Agriculture and Rural Development to provide advice and guidelines on forestry land allocation based on Decree 02/CP on forest land tenure allocation and Decree 01/CP on forestry land contracted allocation.

Based on time frame of the seminar, the forest protection department presents an overview and major contents relating to forestry land allocation to facilitate discussions which help to find out an efficient approach for land use planning and land allocation.

I. HIGHLIGHTS IN IMPLEMENTING DECREE 02/CP ON FORESTRY LAND ALLOCATION.

1. The basis for forestry and agricultural land allocation is the land use planning and plans at commune level which is approved by the district people's committee (it includes interim approval), however, for the time being, there is no land use planning and plans yet in almost mountainous communes.
2. The popular characteristics in middle land and mountainous communes are: Large area of forestry land and small area of agricultural land (especially irrigated field is very few). Dislike in delta area, the agricultural land for planting food crops, perennial trees and settlements are classified unclearly.
3. Based on Decree 64/CP on agricultural land allocation, the recipients are households and individuals only. The agricultural land area has been allocated to household, individual based on Instruction 100 and Decree 10/NQ TW on renovation of agricultural economic management of the Politic Bureau. Therefore, in the Decree 64/CP on agricultural land allocation, it is affirmed that, article 3: based on present status, securing the unity and sustainability in rural area, promoting production development, to implement the policy to ensure land for farmers undertaking cultivation, aquaculture. To allocate
agricultural land to household, individual is official allocation and land tenure certificate to be issued for their stable and long term utilization. Article 6: the recipient of agricultural land for stable and long term utilization is members of households residing in the localities, including military attendants,... While the Decree 02/CP on forestry land allocation, the recipient composes of organizations, households, individuals who will use land in stable and long terms in line with appropriate using purpose of each forest category.

4. Forestry land allocation should combine with government policies on investments and subsidies. This is stipulated in para 2 - Article 3, para 4 - Article 4, para 2 - Article 9, para 1 - Article 12, point d, para 1 - Article 15 of Decree 02/CP on forestry land allocation. The investment and subsidy of government is connected closely with development of feasible and investment projects under the government Program 327, 773, Decree 42/CP dated 16 July 1996 of the government promulgating Regulations on management of investment and construction.

Hence, at para 4 - Article 4, it is provided: in case forestry land is allocated in connection with the implementation of government policies on investment, subsidy, such allocation should be in line with annual plan for subsidy and investment budget of the government.

5. The area for implementing forestry land allocation under Decree 02/CP is mainly in mountainous region (highland and remote area), middle land, coastline where the economy is less developed, difficult access and people is of low awareness. There are about 24 millions of people living in forestry land (19.2 million ha, composing of three forest categories: protection forest - 7 million ha, special use forest - 2 million ha, production forest - 10.2 million ha), so the forestry land allocation is a urgent and complicated requirement. But, the urgent and complicate level of forestry land allocation is different from locality to locality, and from ethnic group to ethnic group. Where is the economic profit is promising, where is natural and plantation forests are remained, the subsidy and investment of government are available, there is a large demand for land allocation and it's contrary where such conditions are absent.

From above mentioned 5 highlights, during implementation of Decree 02/CP, attention should be paid to social-economic efficiency for forestry land users and benefit of environment protection but not the quantity of allocated land.

II. IMPLEMENTATION OF DECREE 02/CP ON FORESTRY LAND ALLOCATION.

1. Land use planning

1.1. Method for developing forestry land use planning and plans

- The terms of land use planning and plan have been initiated since 1963 and from time to time, it is gradually perfected. Presently, there are terms of land use planning and plan proposed to base on administrative units (province, district, commune, etc.) and base on branches (agriculture, forestry, etc.). In this report, we introduce the terms of land use planning and plans based on branch.
- The planning for forestry development is established following two steps: first is the plan of land distribution between branches; second is studying to develop plans for forestry development, focus on classification of three categories of forest.
- Comprehensive study is required, it's integrated specific benefit with general benefit, long term and short term benefits.
- Don't be too ambitious, the plan is set up based on available information, it's changeable based on additional information.
- Carry out basic survey on situation, physical features of land, soil, climate of the locality which facilitate setting up orientation of production for each locality.
- Undertake land distribution for agriculture, forestry and other industries.
- Particularly in agriculture, forestry, if it lacks of zoning and planing, there is no basis for identifying a good production orientation for district and lower level. This orientation is very helpful for restructuring production towards marketing production.
- Assess conditions and potentiality (in precise figures) for agriculture and forestry development in each region.

1.2. Some characteristics in implementing forestry land use planning
a. Based on major using purpose, forestry land is classified into three categories of forest: protection forest, special use forest and production forest. Therefore, forestry land should be identified belong to which forest category before its allocation.
b. A forest area of one category can cover many communes, districts, provinces; it specially happens to protection and special use forests.
c. Forestry land to be planned as production forest doesn't need to be consecutive, it can be scattered with agriculture land for annual crops or perennial trees where it is suitable for agroforestry in terms of farming economy of households.

1.3. The constraints for forestry land use planning and plans.

a. The basic information system on land is not comprehensive, it's stored scatterly and doesn't help integrated management, it's necessary to update to meet requirements; one document has not been implemented or not implemented completely, another document is issued.
b. The developing motivation for each branch, region, locality has not yet identified to enable developing an appropriate land use planning for each locality (especially district and commune).
c. It's lack of time and physical facilities to identify a good methodology, standard and technical criteria, capacity of specific staff is still at lower level and it's difficult for preparing land use planning and plans for province, district, commune, and each region.

1.4. Oriented planning for forestry land allocation to farmers living in the area of forestry land.

For the time being, in Vietnam, there are 24 million people living in the area of forestry land, mainly in the forestry land where is planned as protection forest, production forest, a few living in special use forest.

The benefit for people living in different categories of forest: protection, production and special use forest is not the same, it is set out bellows:

**Protection forest:**

- Watershed protection forest: people living in the critical and very critical protection area is only allocated forestry land based on contract for protection or afforestation (newly planted or protection for natural regeneration); they are allowed to collect non wood forest products and firewood for their consumption. The farmers who received such forestry land is paid by the government (present rate is 50,000 dong/ha/annum).
  - If people living in:
    - Less critical area of watershed;
    - Sand dune protection area;
    - Wave protection, reclamation where land is stable already;
    - Environmental and ecological protection forest;

  the government will allocate forestry land to farmer for stable utilization on long term and it's allowed to combine forestry production with agriculture and fishery (agrosilvoaquaculture)
  
  - The government of Vietnam will have policy to support investment to facilitate farmers to protect existing forest and to plant the new forest.
  - The product created on this allocated forestry land is farmer's property.

**Special use forest:**

- People living in special use forest, if they want to have any operation inside the special use forest, they should obtain permit from the management board of that area and follow the regulations of protection.
- People living in core zone of national parks, nature reserves should follow the strict regulations of such area, all actions cause badly effect to forest are prohibited.
- People living in special use forest will be allocated land based on contract as follows:
  - In core zone, the management board just allocates land to households living scatter inside the zone for forest protection purpose. The household is responsible for protecting entirely forest area. Annually, the state budget is subsided to management board to enable them pay the household based on the signed
In the regeneration zone, forest is allocated to households based on contract for protecting forest and planting additional plantation as indicated in the contract.

**Production forest:**

The forestry land which is planned as production forest is allocated to organizations, households, individuals. They are encouraged by the government to receive land for planting forest. Agrosilvoaquaculture is applied in bare land and denuded hills. The government has a policy to support afforestation, agriculture and aquaculture (fish farming) combined with processing, marketing products and infrastructure building.

Forestry land designed as production forest to be allocated to organizations, it is conducted based on contract:

- Where is covered by natural forest, contract is prepared for forest protection, protection for natural regeneration.
- Where is land available for planting forest:
  - for land covered by plantation and forest has been planted by government budget, land is allocated together with plantation growing on the land based on contract. The land deliver assesses the amount invested on such plantation. The contractor repays such amount to distributor based on signed contract. The assessment of plantation value is calculated following principles that it covers the investment and actual value of plantation at the contracted time.
  - for bare land and the contractor will invest to plant forest by their own budget or subsidy for afforestation, when the plantation will be mature, the contractor will sell products to the land deliver based on the contract. If the land deliver has invested for afforestation, the contractor will return the investment back and sell products to the deliver.

2. Forestry land allocation.

2.1. Forestry land allocation to household and individual for protection and afforestation

Vietnam has issued the policy on forestry land allocation to organizations, households and individuals for stable utilization on long term (Decree 02/CP dated 15 January 1994), the procedures to allocate to household as follows:

a. Land to allocate households and individuals when the land use planning at commune level is available, it’s classified clearly 6 types of land (if in the locality, all types are available as indicated in the Laws on Land Management 1993).

  - The households and individuals have to prepare the application which is certified by the people’s committee
  - The households want to receive forestry land up to 10 ha, they have to indicate the strategy of their production in the application. If they require more than 10 ha, the detailed production plan should be attached with application and it’s confirmed by the district agriculture and rural development department (to guarantee that it will be implemented as planned).

b. The district authority to consider and issue the decision for allocation, in the decision, the rights and benefits of forestry land recipient are identified transparently.

c. The index map of allocated land is submitted. The map is prepared in appropriate scale and detailed descriptions of the boundary.

d. Forestry land is handed over in the field, this action follows the allocation decision.

e. The district cadastral department will help the district chairman to complete procedure to issue forestry land tenure certificate.

f. The forestry land recipients identify by themselves the demarcation of the land they are allocated with the witness of the owners of the adjacent plots.
2.2. Allocation to the residential community

Out from the forestry land allocated to households living in the area, there are some areas which can not allocate to each household, then it is allocated to community of village, hamlet, group of households for protection and development of forest. Such areas include sacred forest (where there are tombs), protection forest of irrigated damp, small reservoir, historical relict forest, etc. All community will enjoy the environment benefit resulted by their protection and development. Concerning harvesting and forest product collection, it should follows the government policy, the regulations for protection and development of village and hamlet community or the regulations created by the group of households (in line with the laws).

Presently, depends to localities, district forest protection station or district land management department receive the document for studying and allocating forest land to residential community.

The agriculture and forestry extension services are provided by related district extension units.

The extension service content is different from locality to locality, it's changed in accordance with different ethnic groups and various species.

2.3. Allocation to private company

The policy on land allocation in general and forest land allocation in particular confirms that land can be allocated to private company, they have the same rights, benefits and responsibilities like state organizations, NGOs, households and individuals. In concrete:

- The premier will allocate forestry land to private company from 1000 ha and up;
- The chairman of provincial people's committee will allocate forestry land to private company up to 1000 ha;
- The chairman of district people's committee will allocate forestry land to private company up to 100 ha.

The government of Vietnam encourages all economic elements to receive bare land and denuded hills where are planned for afforestation. They are exempt from taxes for the first cycle. The plantation is made for protection and special use forest, the owners don't have to pay land use tax.

2.4. The forestry land which is planned for protection forest, production forest situated in the buffer zone of national parks, nature reserves, it is allocated to farmer household with the same procedures of forestry land in less critical protection area or production forest.

3. The role of people:

The policy on forest land allocation of Vietnam indicates:

a. The government will allocate forestry land where is covered by natural forest, man-made forest planted by state budget to household, individuals who have got official approval of their management and utilization plans. The land is allocated to them for protection, development and stable utilization under government planning and plans.

b. The government allocates forestry land without forest cover, the forestry land where is designed for protecting vegetation cover. This kind of allocation is attached with reasonable policy on support and investment to household, individual to facilitate them use land on long term and toward forestry purpose under government planning.

c. For forestry land with forest cover (natural and man-made forest) and vegetation cover to be protected, the households, individuals who receive land should bear responsibilities against government for forest resource and vegetation cover which are handed over as stated in the contract.
Therefore, the farmer is delivered the rights to manage, utilize forest resources. If they well manage and utilize it, their rights, benefits and responsibilities will be protected by the government and equal against laws.

d. The first action of forestry land allocation process is land use planning, the farmers are involved in two ways:

- Through their representative at the Commune People's Council (people's committee at commune level prepares the land use planning for their commune, submit to people's council before submitting to the chairman of district people's committee for approval). The representatives at people's council will discuss, consider and issue resolution to accept the land use planning for their commune.
- During process of land allocation at village and hamlet level, the farmers are asked for their idea about their agreement or disagreement of current management of forest resource (through farmer meeting).

The farmers mainly concern about economic benefit after receiving forestry land for forest protection and development; what is their rights, benefits and obligations against government. In terms of forest resource management, the farmers just think how to make their forest evergreen, quickly supply forest products, market for these products, their forest is of high productivity, etc. The government concern is through farmers' expectations, if they archive, the environment will be improved and the farmer's life and their production will be increased as well.

4. Achievements and experiences in forestry land allocation:

Vietnam has carried out forestry land allocation since 1968, each period, we have archived different results. In general, we have archived: we have protected remain area of natural forests, planted additional plantation areas; converted state forestry which mainly relies on forest exploitation into community forestry with major activities are forest protection and development. Therefore, after years of forestry land allocation, Vietnam has protected 9,477,600 ha of existing natural forest and planted additional 1,316,400 ha of plantation.

Vietnam has founded the paper material region covering Phu Tho, Tuyen Quang, Ha Giang, Yen Bai, Lao Cai provinces; the pit prop supply region in Bac Giang, Quang Ninh, Lang Son provinces; the large timber supply region covering the former 4th zone, central coastline and central highlands.

Many farmer households received forest land have well managed, they can make fortune by forestry business and their income is from 10 to 100 million dong/annum/household.

The government of Vietnam has policy to support, invest or credit to facilitate farmers protecting and developing forest (Decision 264/CT dated 22 July 1992 by the former chairman of ministers' council, now to be known as premier).

Experiences learnt from better off provinces, organizations, households, individuals are as follows:

1. They have developed the proper business plans, species suitable to climate, soil and local tradition are selected, stable market for products is ensured. For instance, the cinnamon tree in Yen Bai, Quang Ninh; star aniseed in Lang Son; plum, cardamom trees in Lao Cai; tea in Tuyen Quang; violet sugar cane in Hoa Binh and recently, litchi in Luc Ngan - Bac Giang; cashew and paper materials in Dong Nai, Song Be, etc.
2. The organizations, households, individuals themselves have their own budget, labor force, sound topography, and custom of forestry farm in middle land provinces and in the east of the south delta.
3. The government has partly supported in terms of budget, seeds and seedlings, materials or good policy on marketing which are offered through PAM afforestation project, SIDA plantation for paper materials, the assistance from AIDAB, SIDSE or afforestation projects for protection forests. People are very happy and easily get success thanks to projects with government support.
4. The forestry land recipients are allowed to decide on their land use patterns. They can select the pattern which is of good efficiency. They are not forced to plant on bare land and denuded hills the species without good proven or they don't have adequate money to invest. On the other hand, they are not allowed to destroy forest for planting agriculture crops. It's necessary to identify a certain cover rate of forest and perennial trees which secures watershed protection and living environment protection.
5. The allocation speed should be according to government and people's conditions of finance, technique and people's awareness, if not, it's just perfunctory. The efficiency of land allocation is assessed based
on land use benefit but not the quantity of land has allocated.
6. Land allocation should be carried out at the same time or one step ahead of extension services. It helps farmer properly decide to plant good economic species.

III. PROPOSED TERMS FOR FORESTRY LAND ALLOCATION.

1. Instruction No. 286TTg

To implement the instruction 286TTg dated 2 May 1997 of Premier on strengthening the urgent measures to protect and develop forest, all localities have to combined this closely with the implementation of Decree 02/CP on forestry land allocation, urgently demarcate the boundary of protection forest, special use forest, production forest where still have natural forest, this will be used as basis for forestry land allocation.

The forestry land fund for protection and afforestation is divided into two components:

- Land fund (forest and afforestation land for national reserve) under direct management by the government includes protection, special use and production forests and forest area hasn't got using owner yet.
- Land fund to allocate to organizations, households, individuals (non state entrepreneurs) for their stable utilization on long term toward forestry purpose (Decree 02/CP dated January 1994)

2. Agriculture land allocation

a. Agriculture land fund should be identified first to initiate allocation:

- Agriculture land for planting annual crops: rice, maize, peanut, sesame, beans, etc.
- Agriculture land for planting perennial trees: fruit trees, tea, coffee, etc.
- Garden land (adjacent of settlement land);
- In mountainous area, based on forestry planning, the district people's committee will design and instruct people to cultivate on upland field, vertical intensive cultivation, rotation cultivation, husbandry, agroforestry. This type of land is not allocated in terms of agriculture land. Actually, it is used by farmer, procedures for forestry land allocation should be completed.

b. Land planned for developing agriculture in future.

c. Agriculture land allocation will combine with allocation of settlement land (should consider the plan of newly developed settlement), forestry land, etc. to help households, individuals developing forestry farm.

d. During agriculture land allocation, attention to be made to custom, cropping practice of various ethnic groups, clans, backup production or marketing production and marketing issue, etc. to decide an appropriate area to allocate to households, individuals or to complete procedures of land allocation for the land has been in use by them.

e. The productivity of agriculture production in mountainous area is normally low, therefore, in process of land allocation, we should evaluate the fertility and profit promise as well as farmer's investment potentiality for producing agriculture products, toward intensive cultivation, high productivity and avoiding expansive cultivation.

3. Conditions for achievements in forestry land allocation:

Pursuant provisions on land tenure certificate stated in para 2 Article 3 of Laws on Land Management 1993 (conversion, assignment, lease, inheritance, mortgage of land use rights), the forestry land allocation should be conformable to sentiment and reason.

Where has a large area of bare land and denuded hill for afforestation but there is no plans, or the plans are
not approved yet, due to urgent demand, then the provincial people's committee can temporary identify site, production orientation, species to plant, etc. to enable district people's committee carrying out forestry land allocation.

The activities include:

- Identification of administrative boundary of commune, village, hamlet, land fund, etc.
- Clarify boundary of agriculture, forestry, settlement land, etc. Particularly forestry land, further clarification is made for three categories of forest.
- Identify object, number of organizations, households, individuals to be allocated forestry land.
- Delegate authorities of commune, village, hamlet to organize for registration, collate demands of forestry land allocation to organizations, households, individuals for forestry use purpose.
- The working teams are sent to communes, they prepare initial plans of forestry land allocation, submit to the conference of commune and village leaders for discussion.
- Prepare procedures for forestry land allocation under Decree 02/CP.
- Organize to deliver land in the field upon availability of Decision on forestry land allocation.
- Prepare cadastral document and issue land use certificate.
- Complete the procedures for forestry land has been allocated by former authority before the promulgation of Decree 02/CP.