

GOVERNMENT

SOCIALIST REPUBLIC OF VIETNAM

Independence - Freedom - Happiness

No: **05/2008/ND-CP**

Hanoi, January 14th 2008

DECREE ON
The Forest Protection and Development Fund

THE GOVERNMENT

Pursuant to the Law on the Organization of the Government dated December 25th 2001;

Pursuant to the Law on Forest Protection and Development dated December 3rd 2004;

At the proposal from Minister of Agriculture and Rural Development,

DECREED:

Chapter I
GENERAL PROVISIONS

Article 1. Scope of regulation

1. This decree regulates the establishment, management and utilization of the Forest Protection and Development Fund (hereafter referred to as Fund).

2. In case of discrepancy between any international treaties or agreements provision to which Vietnam is a signatory and this decree, the provision in international treaties or agreements shall take precedence.

Article 2. Regulated entities

This decree is applied for state agencies; organisations, households, individuals, contributing village communities, sponsoring or receiving supports from the Fund; international organisations, foreign organisations and individuals, overseas Vietnamese contributing and donating to the Fund.

Article 3. Purposes of Fund establishment

1. Mobilizing society resources to protect and develop forests, contribute to implementation of the forestry socialization strategy.

2. Raising awareness and responsibility towards forest protection and development works of beneficiaries from forests or whose actions have direct impacts on forests.

3. Building capacity and efficiency in forest management, utilization and protection by forest owners, contributes to the implementation of forestry development strategy.

Article 4. Principles for Fund operation

1. The Fund does not operate for the purpose of profit, but has to maintain initial State invested fund.

2. The Fund supports programmes, projects or non-project activities that have not been invested with State budget or gained investment approval.

3. The Fund operation must be public, transparent and effective manner, utilized for the right purposes and in compliance with the law.

Article 5. Conditions of Fund establishment

1. Existence of the demand for the establishment of the Fund for the purpose of forest protection and development.

2. Existence of ability to mobilize financial resources and to manage the Fund, ensure stable, sustainable and effective Fund operation.

3. Commitment to maintain initial state fund investment.

4. Fund establishment, management and utilization proposals (schemes) being approved and establishment decision issued by authorized state authority.

Chapter II

FUND MANAGEMENT STRUCTURE AND OPERATION

Article 6. Responsibilities and Powers of the Fund

1. Responsibilities of the Fund

a) Mobilize, receive and manage compulsory contributions; donations, grants, voluntary contributions, trust financing from national and international organisations and individuals; support finance from state budget;

- b) Appraise, select programmes, projects or other non-project activities to submit for approval or decision for support investment of authorized body;
- c) Financial support for programmes, projects or non-project activities;
- d) Oversee, supervise recipients of funds supported by the Fund;
- đ) Comply with law and regulations on book records, accounting and auditing;
- e) Carry out other duties assigned or appointed by authorized state agency.

2. Powers of the Fund

- a) Fund allocation to each programme, project or non-project activity according to approved annual plan;
- b) Review, appraise, verify performance of programmes, projects or non-project activities supported by the Fund;
- c) Suspend, withdraw supported funds after discovering incompliance with fund utilization commitments or other related statutory regulations by organisations, households, individuals, communities;
- d) Make recommendations to authorized state management bodies to issue, amend, adjust regulations on the targets, activities supported by the Fund.

3. The Fund is a state financial institution, with legal entity, having specified seal, and able to open an account at a bank or State treasury according to statute law.

Article 7. Fund organisation

1. Fund organisation at central level

a) Fund at Central level (hereinafter referred to as Central Fund) is established and managed by Ministry of Agriculture and Rural Development;

b) Fund management and administration includes Fund management council (hereinafter referred to as Council), Control Board and Administrative Body.

- Fund management council is established by Minister of Agriculture and Rural Development. The Fund management council includes Chairman, Vice Chairmain and Council members. Members of the Council work part-time.

The Chairman is a representative of senior officials from Ministry of Agriculture and Rural Development and Vice Chairmen are appointed by Minister of Agriculture and Rural Development.

Council members are appointed by the Minister of Agriculture and Rural Development, and include Department level leaders from ministries, sectors: Ministry of Agriculture and Rural Development, Ministry of Finance, Ministry of Planning and Investment.

The Council takes full accountability of all its activities to the law and to Minister of Agriculture and Rural Development.

- The Fund Control Board members shall be decided by the Council.

- Fund administrative body is established within the Department of Forestry (under Ministry of Agriculture and Rural Development), is accountable to Fund management Council, Head of Department of Forestry and to the law.

c) Ministry of Agriculture and Rural Development approves Regulations on Organisation and Operation of the Fund.

2. Fund organisation at provincial level

a) Fund at provincial level (hereinafter referred to as Provincial Fund) is established following the decision of Chairman of Province People's Committee, in compliance with all conditions in Article 5 of this Decree. The Provincial Fund answers directly to Province People's Committee or provincial Department of Agriculture and Rural Development;

b) Fund management and administration body is assigned by Chairman of Province People's Committee or Director of Department of Agriculture and Rural Development.

3. The Government encourages Fund establishment at district, commune, village levels; Funds' duties, powers, organisational structure are defined by Chairmand of Province People's Committee.

Article 8. Relationship between Central Fund and Provincial Funds

1. Responsibilities of Central Fund

a) Financial support to Provincial Funds;

b) Guide, supervise, monitor the management and utilization of fund supported by Central Fund;

c) Guide and share experiences on Fund management practices.

2. Responsibilities of Provincial Funds

a) Receive, manage and utilize fund supports from Central Fund;

b) Receive supervision, monitoring from Central Fund in relation to supported funds from Central Fund;

c) Report Fund management and utilization status to Ministry of Agriculture and Rural Development.

Chapter III

FINANCING SOURCES AND FUND MANAGEMENT, UTILIZATION

Article 9. Financing sources for the Fund

1. Financing sources for Central Fund

a) Initial investment from state budget of 100 billion VND and fully disbursed within 2 year period, from the Fund establishment date;

b) Voluntary donations from international organisations; local and foreign organisations, individuals;

c) Trusted finance from international organisations; local and foreign organisations, individuals; from other Funds and finance sources.

2. Nguồn tài chính của Quỹ cấp tỉnh

a) Initial investment from provincial level state budget. The specific support level shall be determined by Province People's Committee, in compliance with their mandate;

b) Revenues from compulsory contributions by subjects defined in Article 10 of this Decree;

c) Voluntary donations from international organisations; local and foreign organisations, individuals;

d) Trusted finance from international organisations; local and foreign organisations, individuals; from other Funds and finance sources;

đ) Supports from Central Fund.

Article 10. Compulsory contributors to provincial Fund

1. Contributions from forest owners while still havesting, trading timber, being of the following instances:

a) Economic organisation with allocated production forests without having to pay forest utilization fee;

b) Economic organisation with allocated production forests areas and paying forest utilization fee or transfered forests but forest utilization fees, forest transfer fee paid from state budget;

c) Allocated households, individuals with production forest with having to pay forest utilization fee.

2. Contributions from landscape, resort, forest ecological - environmental services company.

3. Contributions from investment projects that have to cut down forest for ground clearing, and unable to replant the forest at the request.

4. Ministry of Agriculture and Rural Development supervises, in cooperation with Ministry of Finance, the determination of contribution levels and other responsible agencies carry out the reception of contributions to the Fund.

Article 11. Exemption and Remission of contribution

1. Entities exempted from contributing:

a) Organisations, households, individuals defined in item 1 Article 10 of this Decree who endured natural disasters and suffered unavoidable damage to harvested timber volume will be considered with full exemption of partial exemption from contribution;

b) Households, individuals defined in item 1 Article 10 of this Decree allowed to harvest timber for their own household and individual consumption are fully exempted from contribution.

2. Entities remitted from contribution:

Organisations, households, individuals defined in item 1 Article 10 of this Decree who directly harvest and trade timber, reside in areas with challenging and particularly challenging socio-economic conditions according to the definitions of Law of Investment dated November 29th 2005, are remitted with 50% of the contribution level.

3. Ministry of Agriculture and Rural Development supervises, in cooperation with Ministry of Finance, the determination of order, procedure and authority of allowing exemption, remission of contribution defined in item 1 and 2 of this Article.

Article 12. Support targets and contents

1. Supported entities are organisations, households, individuals, village communities within the country, engaging in programmes, projects or non-project activities in accordance with the contents of item 2 of this Article.

2. Support contents

Depending on the specific conditions of the Fund at each level, the contents of the programmes, projects or non-project activities that are considered for support includes:

- a) Carrying out communications, dissemination and implementation of policies, laws on forest protection and development;
- b) Testing and dissemination of sustainable forest management, protection and development modalities;
- c) Fund support to prevent deforestation and illegal production, trading and transportation of forest products;
- d) Testing and utilization of new species for forest plantation;
- đ) Support scattered trees forest plantation;
- e) Development of non-timber forest products on forest land;
- g) Training of human resource for grass-root level forest protection and development;
- h) Implementation of programmes, projects or other non-project activities entrusted by national and international organisations or individuals.

Article 13. Conditions for Support

1. Programmes, projects or non-project activities must be approved by authorized entities.

2. Supported organisation's staff has expertise in forestry and experienced in implementation of programmes, projects or non-project activities supported by the Fund.

3. Supported households, individuals, village communities have sufficient civil capacity to implement programmes, projects or non-project activities supported by the Fund.

4. Commitments to return full or part of initial funding according to determination of agency authorized for Fund establishment.

Article 14. Methods of financial supports from the Fund

1. Full or partial grant support of funding for the implementation of programmes, projects or non-project activities defined in Article 12 of this Decree.

2. Agency authorized for Fund establishment determines the order, procedure and targets of full or partial grant support depending on types of programme, project or non-project activity; as well as determines the support level, repayment period, cases of exemption or remission from repayment of fund.

Article 15. Fund budget forecasting and balancing

1. Central Fund

a) The Fund takes responsibility in the preparation and report of the Fund financial revenues, expenditures plan to Ministry of Agriculture and Rural Development annually;

b) Periodically (quarterly, annually), the Fund prepares and submits the report on the implementation progress of the Fund financial plan to Ministry of Agriculture and Rural Development. At the end of accounting year, the Fund prepares the annual financial report and balance sheet to submit to Ministry of Agriculture and Rural Development for review and approval.

2. Provincial Fund

Provincial People's Committee determines the order, procedure of preparation and report of the financial plan; balancing revenues and expenditures at provincial level, in compliance with the financial laws and regulations.

CHAPTER IV APPROVAL AND MANAGEMENT OF PROGRAMMES, PROJECTS OR NON-PROJECT ACTIVITIES SUPPORTED BY THE FUND

Article 16. Procedure, order of registration and approval of programmes, projects or non-project activities

1. Central Fund

The registration, approval of programme, project or non-project activity request for support from Central Fund is regulated as follows:

- a) Entities defined in Point 1 Article 12 that request support must submit registration portfolio to the executive body of the Fund.

The portfolio includes:

- Support request statement;
- Programme, project or non-project activities approved by authorized party.

- b) The Fund executive body reviews, in cooperation with functional agencies, and submit to the Fund Management council for consideration and approval;

- c) After the approval of Fund Management Council, Fund Director would notice the supported target and oversee the delivery of support.

2. Provincial Fund

The registration, review and approval of programmes, projects or non-project activities supported by Provincial Fund would be regulated by Chairman of Provincial People's Committee or Director of Department of Agriculture and Rural Development.

Article 17. Implementation of programmes, projects or non-project activities

1. Organisations, village communities supported by programmes, projects are responsible for establishment of project management unit and implementation of approved programme, project.

2. Organisations, households, individuals supported by non-project activities would not establish project management unit, but assign personnel to monitor and supervise the implementation of approved activity.

Article 18. Monitoring and evaluation of programme, project or non-project activities implementation

1. Central Fund

The Fund executive body supervises the periodic or unscheduled inquiry of implementation of programmes, projects or non-project activities supported by Central Fund. If necessary, the executive body may contract consultant to investigate and evaluate the implementation progress of programmes, projects or non-project activities supported by Central Fund.

2. Provincial Fund

The organisation of investigation, evaluation of implementation of programme, project and non-project activities by Provincial Fund would be regulated by Provincial People's Committee.

Chapter V RESPONSIBILITIES OF STATE MANAGEMENT BODIES TOWARDS THE FUND

Article 19. Responsibilities of Line Ministries and Sectors

1. Ministry of Agriculture and Rural Development

a) Promulgation of regulations on the organisation and operation of Central Fund and model regulations for operation of Provincial Funds;

b) Approval of annual work plan of Central Fund;

c) Approval of annual budget and balance statement of Central Fund;

d) Oversee, supervise, monitor the operation of Central Fund and Provincial Funds;

d) Engage in negotiations and agreements on behalf of the Government on bilateral financial supports with international donors that committed to contribute to the Fund, in compliance with the law;

e) Report annually to the Prime Minister on the operation and implementation results of programmes, projects or non-project activities of the whole Central and Provincial Fund system.

2. Ministry of Finance

a) Supervise the Fund in different levels, in cooperation with Ministry of Agriculture and Rural Development, on the application of management mechanism and utilization of the Fund's finance;

b) Provide sufficient initial funds support towards Central Fund for the period of 2 years, from the establishment of the Fund due to approval of budget plan;

c) Monitor, supervise financial activities of the Fund at central and provincial levels.

3. Ministry of Planning and Investment

Cooperate with Ministry of Agriculture and Rural Development and Ministry of Finance to develop initial funding plans for the Fund, submit for review and approval by the Government.

4. Other relevant ministries, sectors carry out state management functions within their mandates towards the Fund activities.

Article 20. Responsibilities of Provincial People's Committee

1. Provincial People's Committee promulgate Regulations on the organisation and operation of the Fund at their level in accordance with the model Regulations of Ministry of Agriculture and Rural Development and in compliance with the law.

2. Supervise, monitor the Fund in the mobilization, compulsory contribution, donation of financial resources for the provincial Fund.

3. Initiate and monitor programmes, projects or non-project activities supported by Central Fund and provincial Fund, within their territory.

4. Supervise the provincial Fund in the formulation of budget plan, balance statement of the Fund and report to People's Committee, finance department at the same level and Central Fund.

Chapter VI ENFORCEMENT PROVISIONS

Article 21. Enforcement effectiveness

This Decree takes effect after 15 days from the day of publication on official gazette.

Article 22. Enforcement responsibility

Ministers, Heads of ministry-level bodies, Heads of Government agencies, Chairmen of People's Committee of provinces and municipalities are responsible to enforce this Decree./.

**ON BEHALF OF THE
GOVERNMENT
PRIME MINISTER**

Recipients:

- Secretariat of Party's Central Committee;
- Prime Minister, Deputy Prime Ministers;
- Line Ministries, ministry-level bodies, Gov agencies;
- Office of central committee for directing prevention and anti-corruption;
- People's Councils, People's Committees of provinces and municipalities;
- Central Office and Party Boards;
- President Office;
- Ethnic Council and National Assembly's Boards;
- National Assembly Office;
- Supreme People's Court;
- Supreme People's Procuracy;
- State Audit;
- Central Committee of the Vietnamese Fatherland Front;
- Central Agencies of unions;
- Gov Office: Chairman, Vice chairmen, Gov Website, Prime Minister's Spokeperson, direct Departments and bodies, official gazette;
- Retain: Archive, NN (5b). A.

Nguyen Tan Dung signed