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# Inputs to some articles on forest products processing & trade for the forest law guiding Decree development

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### **On behalf of the**

German Federal Ministry for Economic Cooperation and Development (BMZ)

## ABBREVIATIONS

VPA FLEGT Voluntary Partnership Agreement on Forest Law Enforcement, Governance and Trade

EUTR European Union Timber Regulation

MARD Ministry Agriculture and Rural Development

VNFOREST Viet Nam Administration of Forestry

PPC Provincial People Committee

# INPUTS TO SOME ARTICLES ON FOREST PRODUCTS PROCESSING & TRADE FOR THE FOREST LAW GUIDING DECREE DEVELOPMENT

## I. BACKGROUND AND RATIONALE

The Law on Forest Protection and Development No. 29/2004/QH11 was adopted by the National Assembly at the 6<sup>th</sup> plenum of the XI tenure, the Law took effect from May 1<sup>st</sup> 2005. This is the legal documents of highest level for implementation legal provisions, policies that aim for protection and development of forests towards a forestry of which the management objective is for people, with the engagement of multiple economic sectors and which evolved from a mainly State owned forestry; forestry economy mainly depended on harvesting, use of natural forests to protection, restoration of natural forest and plantation of new forests, forestry economic development is attached to protection of ecological environment, national defence and social security.

Although a number of important result and achievement were witnessed, but to date, the Law on Forest Protection and Development reveals itself many shortcomings, limitations in forest protection, which resulted in forest quality and forest area degradation, unceasing and increasingly complicated situation of forest land encroachment, forestry production is defragmented, forestry production and businesses gain low effectiveness, timber and forest products processing industry remain tattered, technologies applied are outdated, productivity and added value remains low, the sector's contribution to the country economy is disproportionate to its capacity.

In the context where agricultural production in general and forestry production in particular has extensively integrated with the international economy over the past years, that many forest products has become important produces contributed to income of the domestic economy, in the meantime, step by step the role, position and potential of the timber and forest products processing industry of Viet Nam in the world's map of timber processing has been affirmed. That the timber exportation turnover has soared dramatically over the past year, from VND 4.4 billion in 2010 to USD 7.3 billion in 2016 and expectedly will reach USD 8 billion in 2017 has affirmed the sector's great development and also requires that the sector's contribution in the country development to be recognized.

However, recognition of significant contribution of forest products processing and trade has yet been reflected appropriately in the current legal documents. Especially, this is even much limitedly stipulated in the Law on Forest and Protection.

In order to meet the increasingly expectation of the society to the forestry sector, specific provisions are especially needed, as well as powerful, feasible enough policies and mechanisms in order to unceasingly push up forwards the timber processing industry development, the Government has agreed upon consulting with the Standing Committee of the National Assembly on amendment of the 2004 Law on Forest Protection and Development in order to ensure that during the movement and evolution of the society, new ideas are well apprehended, irrelevant contents are corrected based on lessons learnt from the practice of management during the implementation process.

Being one of the important contents in the forestry production chain, forest products processing

and trade industry plays an extremely important role in creating the sector value. Over the past few years, legal basis for the timber and forest products processing and trade mainly has depended on and been synchronized with the common policies and mechanisms accommodating the development of the processing and trade industry in the whole country and trade related provisions in domestic and international legal framework. However, with the coming into being of the amended Law on Forest Protection and Development (Law on Forestry), specialized mechanisms, policies for promotion and development of the timber, forest products processing and trade need to be considered, in order to ensure the harmonization, consistency to the current provisions in the domestic legal framework and international commitment as well, in the meantime, to propose specialized mechanisms, policies (if any) in order to develop the legal system that secures the sector development along a value chain from plantation, management, protection, harvesting, processing and consumption of forest products in a close and effective manner.

With the support of the Project "Programme on conservation and sustainable use of forest biodiversity and ecosystems services in Viet Nam which is funded by the German Government via GIZ, the study on policy for development of forest products processing and trade was done by the author in order to propose mechanisms, policies to be stipulated in decrees guiding the implementation of the Forestry Law which is newly adopted by the National Assembly of the Socialist Republic of Viet Nam at the 4th plenum of the XIV tenure.

## 1.1. THE STUDY OBJECTIVE

To elaborate articles, clauses, points relating to forest products processing and trade in the Decree guiding the implementation of the Forestry Law, in the meantime, to justify the recommendations given.

## 1.2. SCOPE OF THE STUDY

Chapters, Articles Clauses relating to forest products processing and trade mentioned in the Law on Forestry.

## 1.3. STUDY METHODOLOGY

- Preparation work: review, collect related documents (the Law on Forest Protection and Development and recently the Law on Forestry which is adopted by the National Assembly as of November 15th 2017, the Law on Investment, the Law on Enterprises, the Law on support to small and medium companies....) and bylaw documents which govern the forest products processing and trade.
- Study overall all available documents relating to forest products processing and trade.
- Conduct interview with stakeholders on shortcomings, causes and solutions in order to develop forest products processing and trade.
- Discuss with the relating expert team, managers and companies on limited points and orientation in development of the forest products processing and trade.

- Synthesize the report and complete the report: the author shall complete the report based on acquired comments from stakeholders, experts, especially the Department of special use forests and protection forest management, Department of Legislation-Inspection and the standing team for the Forestry Law development.

## II. THE RESULT OF REVIEW FOREST PRODUCTS PROCESSING AND TRADE RELATED PROVISIONS AND IMPLEMENTATION THEREOF

### 2.1. REGARDING PROMULGATION OF LEGAL DOCUMENTS AND IMPLEMENTATION OF MECHANISMS, POLICIES ON MANAGEMENT OF FOREST PRODUCTS PROCESSING AND TRADE

- The Law on Labour that was amended in 2012, has come into effect since 01/01/2013;
- The 2014 Law on Land that has come into effect from January 1<sup>st</sup> 2015;
- The 2004 Law on Forest Protection and Development, the Forestry Law that were adopted by the National Assembly on November 15<sup>th</sup> 2017, shall come into effect from January 1<sup>st</sup> 2019;
- The 2008 Law on Value Added Tax;
- The 2005 Law on Importation, Exportation tax;
- The Law on Enterprises that was adopted by the National Assembly in 2014, has come into effect from July 1<sup>st</sup> 2015 (promulgated at Decision 68/2014/QH13 dated November 26<sup>th</sup> 2014);
- The Law on Investment that was adopted by the National Assembly in 2014, has come into effect from January 1<sup>st</sup> 2015 (promulgated at Decision 67/2014/QH13 dated November 26<sup>th</sup> 2014);
- The 2017 Law on Support for Small and Medium Enterprises;
- Decree 55/2015/ND-CP dated June 9<sup>th</sup> 2015 of the Government on credit policy for agriculture and rural development;
- Decree 210 /2013/ND-CP dated December 19<sup>th</sup> 2013 of the Government on the policy incentivizing companies to invest in agriculture and rural development;
- Decree 218/2013/ND-CP dated December 26<sup>th</sup> 2013 of the Government detail and guide the implementation of the Law on Enterprise Income Tax;
- Resolution 30a/2008/NQ-CP dated August 27<sup>th</sup> 2008 of the Government
- Decree 210/2013/ND-CP dated December 19<sup>th</sup> 2013 of the Government on the policy incentivizing companies' investment in agriculture, rurality
- Decision 38/ 2016/QĐ-TTg, dated September 14<sup>th</sup> 2016 of the Government on promulgation of some policies on forest protection, development and investment in infrastructure, commissioning public services to agro-forestry companies

### 2.2. AN OVERVIEW OF FOREST PRODUCTS PROCESSING AND TRADE SITUATION IN VIET NAM

At the moment, Viet Nam is home of some 12,000 timber processing and forest products trading facilities, out of them, about 8,000 are small establishments, of 4,000 timber and forest products processing and trade, 3,000 are timber processing companies which are categorized as follows:

- Economic sector-based structure: private companies accounts for 82%; FDI companies: 14%; State owned companies: 4%.
- Investment scale-based structure: companies with <1,000 capital accounts for 16%; from 1-5 billion: 48%; from 5- 10 billion: 13%; from 10 – 15 billion: 16%; from 50 – 200 billion: 5%; >200 billion is 2%.
- Competence, equipment, technology based structure: small size, with rudimental equipment (more than 1,600 establishments, companies) accounts for 53%; the remaining includes 1,400 establishments, companies (out of those, nearly 1,000 are owned by domestic organizations and individuals and more than 400 are FDI ones) of which equipment and technology applied are at the average good level in the world.

**\* Timber and timber products exportation**

The timber processing industry is integrating in depth and in width into the world's market. Viet Nam's timber products are being consumed in over 100 countries and territorial areas (Phuc Xuan To and all, 2016). In 2016, exportation turnover of the whole industry reached USD 7,23 billion, increased about 5% in comprison with that of 2015 and about 15% in comparison with that of 2014.

In 2016, the timber processing ranked the 6th in terms of turnover among the country's exportation categories (According to statistics 1/2007 of the Viet Nam Customs). On the world exportation map, Viet Nam is at the moment the 5th timber exporting country in the world, who ranks the 2nd in Asia, after China. In the period 2001 – 2010, the Viet Nam's growth rate of timber and timber products turnover reached 27% on average, this rate was 15% in the period from 2011-2015.

- The consumption market: Viet Nam forest products has found their ways to 120 countries and territories. America is the biggest exportation market, the markets that follow are Japan, China, Korea and EU...
- The American market: is the most important market to Viet Nam's timber commodity and timber products. In 2016, the timber and timber products exportation turnover of Viet Nam to this market reached USD 2.812 billion which recorded the highest in all the Vietnam's exportation market, equivalent to 40.5% in total exportation turnover of this product of the whole country.
- The Chineses market: that stands after the American one, Chinese market is the 2nd large timber and timber products market of Viet Nam. In 2016, the exportation turnover to China was USD 1,020 billion, accounted for 14.6% of the total country's exportation turnover.
- Japanese market: is the country to which the export turnover of Viet Nam ranks the 3rd among others. In 2016, the export turnover reached USD 980,6 million, accounting for 14,1% of the total Viet Nam's timber and timber products exportation turnover.
- About products: products for exportation include some staples such as: family furniture, office furniture, outdoor furniture semi-products timber and other art craft products, non-timber forest products.

**Table. Value of timber and timber products exportation based on markets**

Or	Commodities/countries	Value (USD)	%
	<b>Timber &amp; timber products</b>	<b>6.969.096</b>	<b>100,0</b>
1	America	2.825.126	40,5

2	China	1.020.235	14,6
3	Japanese	980.634	14,1
4	Korea	575.100	8,3
5	England	307.155	4,4
6	Australia	169.232	2,4
7	Canada	138.006	2,0
8	Germany	110.946	1,6
9	France	100.573	1,4
10	Netherlands	69.212	1,0

(Source, Viet Nam Customs – value of timber and timber products in 2016).

**\* Timber and timber products importation:** The integration of the processing industry does not only reflect the diversity of the markets that Viet Nam is exporting its products to but also reflected through Viet Nam's importation of material timber. According to Phuc Xuan To and all, 2016 (the study of Phuc Xuan To and all 2016), in 2015, Viet Nam imported about 4,79 million of cubic meter timber, as a rounded up figure, which equivalent to about USD 1,7 billion. With about 160-170 different timber species from 70-90 countries and territorial regions. Many imported timber species after being made into products in Viet Nam have been re-exported to the material timber exporting countries. At the moment, as the timber supply resources of Viet Nam mainly come from planted forests with the main trees species are acacia and eucalyptus, the timber supply from importation resources is playing special important role to the survival and development of the timber processing industry.

FDI companies in the timber processing industry

The proportion of FDI enterprises in the wood processing industry accounts for a small proportion in the enterprises' structure (about 14%). However, the export value of this group is very large, accounting for about 50% of the total export turnover of timber and timber products of countries (Nguyen Thi Thu Trang and Phan Minh Thuy, 2015).

### **Labour in the timber processing industry**

Currently, the timber processing industry is providing jobs for about 300,000 laborers, with 50% of those distribute in the Southeastern Viet Nam, where is home of the most timber processing facilities in the country. The number of employees in other regions is lower than in the Central Coast and Central Highlands with about 80,000 workers, 40,000 in the North, 30,000 in the North. In general, the quality of labor in the timber industry is poor, with only 1-2% of the total number of workers with university degrees; 20-30% of the total trained workers, the rest are common labor (Nguyen Ton Quyen, 2016). This leads to low quality and productivity in the timber industry; The labor productivity in Vietnam's timber industry is only 50% of the labor productivity in the Philippines timber industry, 40% in China and 20% in the EU (Nguyen Thi Thu Trang, Phan Minh Thuy, 2015).

### **\* The domestic supply**

Total planted forest area:

**Table. Area of planted forest among 3 categories of forest of the country 2014-2016**

Forest category (ha)	2014	2015	2016
Special use forest	70.878	79.179	82.062
Protection foest	625.848	622.656	666.430
Production forest	2.692.621	2.227.650	2.756.413
<b>Total area of planted forest</b>	<b>3.696.320</b>	<b>3.886.337</b>	<b>4.135.541</b>

(Source: *Statistics of forest changes monitoring over years – MARD*).

Of the more than 4 million hectares of planted forests being production forests, the area of planted forests over the years is the basis for calculating the annual harvested output by the age of harvesting of trees.

According to data from the Ministry of Agriculture and Rural Development, in 2017, the country harvested about 18 million m<sup>3</sup> of timber from planted forests in the country, made an increase of 700,000 m<sup>3</sup>, equivalent to about 5% compared to the output in 2016, and an increase of 5.2 million m<sup>3</sup> corresponding to about 29% compared to 2015 (VNFOREST's final report 2016, 2017).

In addition, the planted forest areas outside the planned area for three forest categories is also a source of material timber for processing. According to the Ministry of Agriculture and Rural Development (MARD), the area of planted forests outside the planned area for 3 forest categories in 2016 is 630,636 ha.

Timber supply from latex declined rubber trees: the volume of rubber timber harvested from the annual reforestation area shows that, in 2017, the volume of rubber tree harvested reached about 2.6 million m<sup>3</sup> on an area of 17,000 rubber ha. The volume of rubber harvested from reforested areas is expected to increase over the coming years. By 2020, the output of rubber will reach about 3.5 million m<sup>3</sup> (Tran Thi Thuy Hoa et al., 2015).

#### **\* Some difficulties and challenges of the timber processing industry**

- The production scale of local establishments is small, with low competitiveness, low efficiency of production and business, and the number of foreign direct investment (FDI) establishments only accounts for 14 % but their export turnover accounts for 50% of the country. This shows that 86% of timber processing enterprises in the country are small in size and with under developed technology, products, as a result are of low quality, fail to compete in the market. Products are mainly processed for export and consumption in the domestic market.

+ In terms of quality of raw materials: In previous years, the management of forest plant varieties is not good, on the other hand due to limited investment capital, some planted forests are of poor quality and low yield. In addition, due to economic conditions people often exploit forests at their early age, with small diameter timber. Therefore, although the planted forest area has increased, with the increasing demand for raw material timber for export, we still have to import timber which is qualified, has legal origin and with SFM certificate

+ Regarding policies on credit, interest rates, exchange rates ..., these are issues of concern by companies in the timber industry due to lack of access to credit for production development.

+ About the funding source for forest owners, especially forest owners being households and individuals. In addition to access to land resources, forest owners need capital to invest in

developing afforestation and reforestation. The prolonged forest cycle requires households to have alternative livelihoods. In this context, only households with new economic resources are able to make investment in long rotation production cycle. In contrast, households with limited or unstable economic resources will not be endure enough for the long rotation production cycle.

+ Regarding production organization: The restriction on household economy in the development of raw material forest and timber raw material forests can be solved if there are sources of investment and support from outside. These sources of funds may be either direct loans from the government or ODA funds or private and joint venture funds. In recent years, there have been many proposals to the State on preferential credit policies for afforestation households. At present, there is no specific policy to solve difficulties in accessing long term capital by households. In addition, private investment in afforestation through joint ventures with land users is still limited due to the difficulties associated with transaction costs and the unprofessionalism of the households who plant forests under co-businesses with companies.

+ Access to long-term capital, incentives can not help households develop afforestation. Seed sources, access to science and technology, and disaster risks for plantation forests play an important role in the decision of planting forests for raw materials. Limited access to good seed sources, pests and disease resistance and extreme weather such as windstorms, droughts ... are barriers preventing households from prolonging their planting cycles.

+ Access to markets for timber products by households will play a very important role in the decision of the household to select the purpose of trading material timber. Some regions with no big scale enough timber processing industry such as the northern mountainous area and the northern central region, large timber development may not be the optimal solution for household economic development.

+ There is no trademark for timber products, most of timber products for export are ordered directly from international brands, Vietnamese enterprises are mainly providing outsourcing services, processing services based on product designs of international brands.

+ Being a signatory of many international agreements, next to advantages, there are many challenges to the export produces processing companies including higher requirements on qualification and regulations on use of laborers, technology, organization for production, environmental protection, technical barriers ... in the international market.

+ Requirement on the use of legal raw materials to produce products for export to major markets of Vietnam such as compliance with the US's Lacey Act, EUTR, Agreement VPA / FLEGT signed between Viet Nam and EU and regulations of other countries such as Japan, Australia ...

### 2.3. ACHIEVEMENTS IN SPECIFIC AREAS:

According to the Strategy for Forestry Development for the period of 2016-2020, the target in forest products harvesting and processing is defined, specifically:

- The volume of timber harvested in the country is 20 - 24 million m<sup>3</sup> / year (including 10 million m<sup>3</sup> of big timber), basically meeting the demand of raw materials for forest product processing, paper pulp and export.

- Harvesting of firewood for rural areas is stable at the volume from 25-26 million m<sup>3</sup> / year.

- Exports of forest products reached over US \$ 7.8 billion (including US \$ 7 billion of wood products and US \$ 0.8 billion of non-timber forest products);

Compared with the above-mentioned objectives, according to the data, the annual timber harvesting rate has always been increasing, as the natural forest closure policy takes effect, harvesting therein is forbidden, the material timber is mainly harvested from planted forests and

possibly the target set forth can be achieved. The timber and forest products processing and trade alone, right from 2017 has achieved the goal of exporting forest products which is set as over \$ 7.8 billion. These successes were achieved as a result of the combined impact of the State's mechanisms and policies, the efforts in forest development of the entire people, the effort and agility of the forest products processing and trade companies community, the participation, deep integration of Vietnam economy in international market ... specifically:

- Regarding mechanisms, policies and legal regulations:

+ A system of mechanisms and policies has been set up to encourage and support businesses in forest product processing and trade such as credit policies, land policies, tax policies.

+ The system of industrial parks and economic zones has been planned and formed for the production and processing of products; It has created the raw material areas in each ecological and economic region, ensuring the supply of the majority of raw materials for the forest products processing industry. In 2006, Vietnam provided only 20% of raw materials for processing forest products, 80% of which was imported, so far, we have managed to self supply 80% of raw materials for timber and forest products processing industry.

- On integration to international market:

Vietnam has established trade ties for large timber products in more than 120 countries and territories. Vietnam is ranked the 5th in the world, ranking second in Asia and has been named on the world map of timber processing and timber furniture export.

- Contribution to the production value of the forest sector:

+ According to statistics in recent years, the growth rate of forestry production value has the highest growth rate in the agriculture-forestry sector. An average of 6.5 - 6.57% per year (General Department of Forestry 2016, 2017).

+ Create stable jobs and employment for about 300,000 laborers, of which 35-40% are female laborers working in forest product processing establishments (Nguyen Ton Quyen, 2016).

## 2.4. SOME SURVIVE, LIMITED

Despite the above results, the forest product processing and trade industry still has some shortcomings:

- Forest products processing:

+ In general, over the past time, there have been only polices for the forest production activities such as forest seeding creation, planting, protection and harvesting so it is difficult to implement the process of forest management along a value chain

+ Many policies regulating forest product processing activities are scattered in many documents prepared by different sector ministries so the application and implementation are encountered so many difficulties.

Lack of resources to implement the State's policies, although policies on support of investment capital have been concretized in the documents of the State. However, forest product processing companies find it is difficult to access State support funds, such as the implementation of policies on investment support for forest product processing under Decision No. 147/2008 of the Prime Minister but there is no specific data recording the effectiveness of this program for forest product processing companies, which has been mainly recorded with support activities for improving the plant variety program. Planting forest for production ... (Ministry of Agriculture and Rural

Development, 2015). On the other hand, access to preferential credit sources is also difficult, so most businesses are not entitled to preferential credit sources.

Lack of accurate database for monitoring, management, planning, planning and development orientation for the sector.

+ The forest product processing industry is managed and monitored by two ministries: The Ministry of Industry and Trade is responsible for general management of the industry, including the wood processing industry; The Ministry of Agriculture and Rural Development (MARD) has specialized management of the timber processing industry in association with the development of raw material areas, so it is necessary to avoid overlapping and, in particular, the need for close coordination among agencies. from the central to the local.

- Regarding forest products trade:

+ there are still overlaps in the monitoring and management of forest products market among agencies and departments.

+ Vietnam has joined the WTO and signed 12 Free Trade Agreements (FTAs), including the Voluntary Partnership Agreement (VPA FLEGT), but many timber processing companies, especially small and medium ones have no conditions to approach, learn about and conform to the above regulations. Particularly, technical barriers in the use of domestic and imported raw materials which must be lawful and origin traceable.

+ Tax policies such as value added tax (VAT), import tax, raw materials, export tax, furniture items are still high, and change frequently which do not really encourage businesses to invest in forest products processing and trade.

+ In development of the market for forest products the policy to support the development of trademarks, trade promotion programs, exhibition support, research, database development and market information of wood products and forest products is still absent, especially lack of statistical data and analysis of domestic market, evaluation of world market trends (Introford, 2016).

+ There have not been many programs promoting timber furniture in Vietnam with the message "Vietnam is a country providing high quality timber products, downstream processed, convenient products and especially use of legal timber, durable in large markets "(Introford, 2016).

+ There is a lack of activities to support craft villages to build and promote their brands, especially in the domestic market (Introford, 2016).

+ The functional agencies do not have many activities to support timber processing enterprises seeking international customers; There is no guarantee mechanism to guide enterprises to participate in effective distribution chains in key export markets. Particularly, there is no mechanism for orienting the market development of wood products. There is no risk insurance policy that can support companies entering domestic and foreign markets (Introford, 2016).

+ There is no policy to support the development of furniture distribution channels and trade promotion of wooden furniture in the domestic market, there is no focal points to provide market information, prices, partners (Introford, 2016).

+ The domestic wood processing companies have not yet taken initiative to connect with each other to meet orders in bulk and not really share information in exploiting export markets. In addition, the competitiveness of Vietnamese wood products is weak, the quality of Vietnamese wood processing workers is not meeting the requirements of the industry (Introford, 2016).

### III. DETAIL PROVISIONS IN THE LAW ON FORESTRY

#### CHAPTER VII

#### FOREST PRODUCTS PROCESSING AND TRADE

#### PART 1

#### FOREST PRODUCT PROCESING

##### **Article 66. The policy on the development of forest product processing**

1. The policy on the development of forest product processing aims to:
  - a) provide support for businesses so they can enter into cooperation, joint ventures and partnerships with forest owners for development of raw material zones, sustainable forest management, product sales, application of advanced science and technology including high and new technology and green growth solutions, and increase of added values.
  - b) Prioritize the development of supporting industries in forest product processing.
  - c) Provide support for the training of human resources in forest product processing
2. The implementation of the policy on the development of forest product processing set out in Clause 1 of this Article shall comply with the government's relevant regulations.

#### SECTION 2

#### FOREST PRODUCTS TRADE

##### **Article 70. The policy on the development of the forest product market**

1. The policy on the development of the forest product market:
  - a) Organizations and individuals who enter into cooperation and partnership agreements on buying and selling forest products shall be provided with preferential credit;
  - b) The state shall provide support for branding, trade promotion, market development and supply of information of domestic and international forest product markets.
2. The implementation of the policy on the development of the forest product market prescribed in Clause 1 of this Article shall comply with the government's relevant regulations.

### IV. PROPOSED CONTENT OF THE PROVISIONS IN THE DECREE GUIDING THE IMPLEMENTATION OF THE FORESTRY LAW

#### 4.1. GENERAL PRINCIPLES FOR THE DEVELOPMENT OF A DECREE GUIDING IMPLEMENTATION:

- 1. Must be based on the provisions in the Forest Law that was adopted by the National Assembly of the Socialist Republic of Vietnam dated 15/11/2017**

**2. Must build on and further promoting the effectiveness of legal documents which are still valid.**

**3. Must ensure consistency, synchronicity and practicality in provision, which should be also in line with current conditions from the central to local levels.**

## **4.2. THE BASIS FOR PROPOSING CONTENTS IN THE DECREE GUIDING THE IMPLEMENTATION THEREOF:**

The Law on Forestry was passed by the National Assembly of the Socialist Republic of Vietnam on November 15, 2017 at the 4th meeting of the XIV meeting to meet the increasing demands of the society to the forestry sector such as effective use of forest and forest land; sector's potential proportionately contribution to the national economy; It is in line with the socialist-oriented market economy, fully integration in harmony with the trend of forest governance in the context of climate change, contributing to socio-economic development and environmental protection. The Forestry Law has established a comprehensive legal framework for the regulation of social relationships including the management, protection, development, utilization, trade, processing and marketing of forest products towards market and international integration. In that spirit, the field of forest product processing and trade is added to the Forestry Law and is specified in Chapter VII with two sections and 7 articles from Article 66 to Article 72 of the Forestry Law.

On the basis of the requirements, the consultant will draft provisions in two articles: Article 66. the policy on forest product processing development and Article 72; the policy on development of forest products market.

Development of dedicated, specific policies in the Forestry Law in order to facilitate the sector specialized activities along a value chain is facing many challenges in the context that current policies are governing all activities of the society. Therefore, the proposed direction is to review and synthesize current policies stipulated in the Government in Government's Decrees and the Prime Minister's Decisions that would be specified further in the draft decree. This is to better illustrate the priority of allocating resources, especially finance to implement policies for an effective development of sustainable forest products processing and trade.

The author proposes the contents and policies stipulated in the Decree guiding the implementation of the Law on Forestry to ensure the implementation of the Government's effective policies as follows:

*\* Encouraging and creating favorable conditions for organizations and individuals, especially start-up companies, with preferential policies on credit, finance, taxation and support for land sites ... for investment in construction of facilities...to set up forest product-processing establishments and factories in association with the construction and development of concentrated raw material areas in the direction of linking with forest owners being households and individuals in order to create large and favorable timber material areas which good conditions for transportation to make full use of existing resources, improve investment efficiency, optimize the forest production along a value chain.*

These policies have been concretized in the current Government's decrees:

**- Policies to support companies so that they can cooperate and co-business with forest owners to create raw material areas, apply sustainable forest management, consume products, apply advanced science and technology and green growth solutions, increase added value:**

*In Decision No. 38/2016 / QD-TTg dated 14/9/2016 of the Government promulgating a number of policies on forest protection and development and investment in infrastructure, assigning public tasks to agro-forestry companies:*

*Article 5. Support for afforestation, plantation of scattering trees and forestry extension*

1. (a) *Support to organizations, households, individuals and communities to grow large timber species, multi-purpose trees, indigenous species for which the rate of support is VND 8 million / ha, for species of small trees and scattering trees, the support rate is up to 5 million VND / ha.*

5. *One-time grant for certification of sustainable forest management for companies, communities, household groups and households: 70% of expenses which must not to exceed VND 300,000 / ha and on a scale of at least 100 ha (for natural forest, planted forest).*

*Article 14. Support for the processing of timber from specialized planted forests, particularly for poor provinces:*

1. Domestic investors having investment projects on timber processing factories; Industrial bamboo the Northwestern provinces, Central highlands and poor districts in accordance with Resolution 30a / 2008 / NQ-CP dated 27/12/2008 of the Government supported by the State budget as follows:

a) Investment support: VND 20 billion / MDF factory with a capacity of over 30,000 m<sup>3</sup> MDF / year; more than 10 billion VND / factory will be provided to factories who process particleboard and industrial bamboo with the scale of over 20,000 m<sup>3</sup> or more, supporting 10 billion VND / factory for the plywood board factories. over 100,000 m<sup>3</sup> to build infrastructure for transportation, electricity, water, workshops and waste treatment.

b) Investment support: The post-investment support is calculated based on the distance of transportation at a rate of VND 1,500 / ton / km; The distance is calculated from the location of the factory to the center of Hanoi, or the center of Da Nang city, or Ho Chi Minh city center by the nearest motorway; the support amount is calculated according to the actual equipment capacity of the plant; With the support period of 5 years, the support fund that is given right after the completion of the factory construction must be at least 70% of the total support.

*+ In the Government's Decree No. 210/2013 / ND-CP dated 19/12/2013 on policies to encourage companies to invest in agriculture and rural areas, it is stipulated that:*

*Article 15. Support for investment in the processing of timber from planted forest for the Northwestern provinces and poor districts under Resolution 30a / 2008 / NQ-CP dated 27 August 2008 of the Government:*

1. Domestic investors having investment projects on processing timber from planted forests; industrial bamboo is supported by the State budget as follows:

a / Investment support: VND 20 billion / MDF factory with a capacity of over 30,000 m<sup>3</sup> MDF / year; To support over 10 billion VND / factory for factories of processing particle board and industrial bamboo with the scale of over 20,000 m<sup>3</sup> for construction of transport, electricity, water and factory infrastructure and waste treatment.

b) Support the cost of transporting products at the rate of 1,500 VND / ton / km; The distance is calculated from the location of the factory to the center of Hanoi, or the center of Da Nang city, or Ho Chi Minh city center by the nearest motorway; The amount of transportation is calculated according to the actual capacity of the plant, the support period is 5 years, the total support is divided into three times, the support funds right after the completion of the plant must be at least 70% of the total supporting fund.

**- Preferential policies on tax and credit:**

+ *Is stipulated in the Government's Decree No. 218/2013 / ND-CP of December 26, 2013 detailing and guiding the implementation of the Law on Enterprise Income Tax, accordingly:*

*Article 15. Preferential tax rates:*

1. The preferential tax rate of 10% for a period of 15 years applies to:

a / The company's income from the execution of new investment projects in geographical areas with specially difficult socio-economic conditions specified in the Appendix to this Decree, economic zones and technology zones including the information technology center established under the Prime Minister's decision

+ *In Resolution No. 30a / 2008 / NQ-CP dated 27/8/2008 of the Government, provisions on credit policies.*

Part II, Section II:

A. Support production, creating jobs, increasing income

5. Encouraging and supporting enterprises, cooperatives and farms who invest in production, processing and trading in poor districts:

b / As for agricultural, forest and aquatic product-processing establishments who invest in poor districts, the State budget shall provide 50% of the loan interest at State-run commercial banks.

+ *Law on support for small and medium-sized enterprises in 2017, stipulates:*

*Article 8. Assistance in the access to credit*

1. In each period, the Government shall introduce policies on provision of assistance for credit institutions in increasing maximum loans granted to SMEs; encouraging credit institutions to provide loans for SMEs according to their credit ratings and other criteria; encouraging the establishment of independent consulting firms that assign credit ratings to SMEs

2. SMEs will be assisted in formulating their feasible plans for business operation, intensifying their management capacity and skills and financial transparency to increase the opportunities for the access to credit

3. SMEs will be provided with the credit guarantee from the credit guarantee funds for SMEs according to regulations in Article 9 of this Law

*Article 9. Credit guarantee funds for SMEs*

1. The credit guarantee fund for SMEs is a state fund other than the state budget which operates without profits and is established by People's Committee of the province.

2. The credit guarantee fund for SMEs shall provide credit guarantee for SMEs.

The credit guarantee for SMEs is based on the guaranteed property or the feasible plan for business operation or credit ratings of SMEs.

3. The credit guarantee fund for SMEs shall fulfill fully the committed guarantee obligations and shall not refuse to provide guarantee for eligible SMEs.
4. The Government shall provide detailed guidance on this Article.

*Article 10. The assistance in tax and accounting regimes*

1. SMEs may apply the corporate income tax rate lower than the common tax rate applied to enterprises for a limited period of time according to regulations of law on corporate income tax.

2. Micro- enterprises may apply tax administrative procedures and simple accounting regimes in accordance with the law on tax and accounting.

+ Decree No. 55/2015/ND-CP dated June 9, 2015 of the Government on credit policies for agricultural and rural development, stipulating:

*Article 14:*

1. Enterprises, cooperatives or cooperatives alliances that sign the contract with the entities directly carrying out agricultural production operations for supply or consumption of agricultural commodities shall be entitled to apply for unsecured loans considered by credit institutions at a maximum rate of a loan equal to 70% compared with the value of the project or plan for loans on a collaborative basis.

2. Main enterprises, cooperatives or cooperatives alliances (hereinafter referred to as main organization) that sign the contract to execute the project for value chain collaboration on the agricultural production with the entities directly carrying out agricultural production operations shall be entitled to apply for unsecured loans considered by credit institutions at the maximum rate of a loan equal to 80% compared with the value of the project or plan for production and business on a collaborative basis.

**- Land and site support policy:**

+ The 2017 Law on small and medium enterprises support, stipulates:

*Article 11. Support for production land:*

1. Based on the actual land fund conditions in their localities, the provincial-level People's Committees shall submit to the Provincial People's Councils of the same level for making decision on land allocation for the formation and development of industrial clusters; Processing zones for agricultural, forestry, fishery and marine products shall be concentrated for small and medium enterprises in conformity with the approved land use plan.

2. Based on the local budget condition, the provincial-level People's Committees shall submit to the People's Councils of the same level for making decision on support for land lease for small- and medium-sized enterprises in industrial parks, industrial clusters in the area. The maximum period of support is 05 years from the date of signing the land lease contract.

3. The support for land lease for small and medium enterprises specified in Clause 2 of this Article shall be effected through price subsidies for infrastructure investors in industrial parks, hi-tech parks or industrial clusters to reduce Price of leasing space for small and medium

enterprises. The subsidy amount is made by deduction from the land lease amount or supported directly by the local budget.

4. The support for production site prescribed in this Article shall not apply to medium- and small-sized foreign-invested enterprises and small- and medium-sized enterprises with State capital.

+ Decree 210/2013/NĐ-CP dated 19/12/2013 of the Government on incentive policies for enterprises investing in agriculture and rural areas, stipulates that:

*Article 8. Exemption, reduction of land use levy when change of land use purpose*

1. Investors with agricultural projects eligible for special investment incentives in the planning approved by competent state agencies shall be exempt from land use levy when changing land use purpose to execute such projects as prescribed in this Decree.

2. Investors with agricultural projects eligible for investment incentives in the planning approved by competent state agencies shall be reduced 50% of land use levy when changing land use purpose to execute such projects as prescribed in this Decree.

\* To leverage investment in human resource development through the renovation of the training model, close linkages between processing enterprises and training institutions in order to build up a pool of technical workers, skilled laborers, Qualified staff who can meet the requirements of production practice; Capacity building and technical facilities for the training of timber and forest products processing.

+ Decree 210/2013/NĐ-CP dated 19/12/2013 of the Government on incentive policies for enterprises investing in agriculture and rural areas, stipulates that:

*Article 9. Support in training human resource, market development and application of science and technology:*

1. Investors with agricultural projects eligible for special investment incentives, investment incentives and investment promotion shall be supported by the State Budget as follows:

a) To support 70 per cent of domestic vocational training expenses. Each laborer shall be trained only once a year and the duration of training eligible for supports must not exceed 6 months. The training expense level must comply with prevailing provisions.

In case where an investor has a long-term employment of untrained laborers, living in special use forests for training and use, contribute in protection of the special use forests, it shall be supported costs for training directly once at enterprise with VND 3 million / 3 months for each laborer.

- The 2017 Law on Support for small and medium, stipulates that:

*Article 15. Assistance in developing human resources*

1. SMEs are entitled to reduction or exemption of charges for training courses funded by the state budget on entrepreneurship, enterprise administration and job training for employees working in SMEs.

2. The State shall provide online training programs and training programs through mass media for SMEs and provide training courses at premises of SMEs engaged in production and processing area.

3. The Government shall provide detailed guidance on this Article.y.

*Article 17. Assistance for startups*

1. A startup may receive the assistance if the following conditions are fulfilled:

a) The startup has been put into operation for up to 05 years from the day on which its first ERC is issued.

b) The startup has not initiated public offering of its securities (in cases of a joint-stock company)

2. Such an SME mentioned in Clause 1 of this Article is entitled to the following forms of assistance

a) Assistance in the application and transfer of technologies, use of equipment at the technical establishments, incubators and coworking spaces, provision of instruction on testing and completing new products, services and business models;

b) Assistance in advanced training in development of products, investment attraction, providing advice on intellectual property, carrying out the procedures related to technical regulations and standards, measurement and quality;

c) Assistance in communication, publicity, promotion, connection of startups and attraction of investment from venture capital funds;

d) Assistance in commercialization of the results of scientific research and technological development, exploitation and development of intellectual property;

dd) In different periods, the Government shall introduce policies on interest rate subsidy on loans taken by startups. The subsidy on interest rate is provided by credit institutions.

*\* Encourage and create favorable conditions for enterprises to boost export of forest products, expand the market for forest product export, to dominate and consolidate market share of forest products in some big, potential markets through international cooperation, trade promotion activities.*

*- Decree 210/2013/NĐ-CP dated 19/12/2013 of the Government on incentive policies for enterprises investing in agriculture and rural areas, stipulates that:*

*Article 9. Support in training human resource, market development and application of science and technology:*

11. Investors with agricultural projects eligible for special investment incentives, investment incentives and investment promotion shall be supported by the State Budget as follows:

b) To support 50 per cent of advertising costs of the enterprise and products on mass media; 50 per cent costs of participation into domestic exhibitions and fairs; 50 per cent of charges for accessing market information and service charges from trade promotion agencies of the State.

*- The 2017 Law on Support for small and medium, stipulates that:*

*Article 13. Assistance in expansion into markets*

1. Ministries, ministerial authorities and People's Committees of provinces shall establish or join the public-private partnership to establish a distribution chain. Enterprises and other business investment organizations may establish their distribution chains.

2. Enterprises and business investment organizations joining the distribution chain of products manufactured in Vietnam having at least 80% of members that are SMEs are entitled to:

a) Remission of land rental, land levy and the levy on non-farming land in accordance with regulations of law.

b) Remission of corporate income tax for a limited period of time in accordance with regulations of law on corporate income tax.

3. Micro-enterprises and small enterprises will be given priority during contractor selection in accordance with regulations of law on bidding.

*\* Application of scientific and technological advances through scientific and technological transfer and cooperation activities in the country and in the world to gradually modernize the timber processing industry to meet promptly and efficiently the requirements of the product market.*

*- The 2017 Law on Support for small and medium, stipulates that:*

*Article 17. Assistance for startups:*

2. The support includes the detail information as follows:

a) Assistance in the application and transfer of technologies, use of equipment at the technical establishments, incubators and coworking spaces, provision of instruction on testing and completing new products, services and business models;

b) Assistance in advanced training in development of products, investment attraction, providing advice on intellectual property, carrying out the procedures related to technical regulations and standards, measurement and quality;

c) Assistance in communication, publicity, promotion, connection of startups and attraction of investment from venture capital funds;

d) Assistance in commercialization of the results of scientific research and technological development, exploitation and development of intellectual property;

*\* Strengthening the activities, building and creating a connection for of associations nationwide in order to create unity and synergy to ensure the interests and raise the responsibility of forest products processing and trade companies*

## **DRAFT DECREE GUIDING THE FORESTRY LAW IMPLEMENTATION**

### **Article 66. The policy on development of forest products processing**

1. Companies are supported so that they can enter into cooperation, joint-venture businesses, partnership with forest owners in order to create materials zones, consume products:

a) Organizations, households, individuals and communities are supported so that they can plant trees for big timber, multiple purposes trees, indigenous trees, the support rate is VND 8

million / hectare for big timber trees, VND 5 million / hectare for small timber trees and scattering trees (in accordance with Decision 38/2016-TTg)

b) Domestic investors who own investment projects of factories for processing timber from planted forests, industrial rattan and bamboo in the north west provinces, central highland provinces and provinces hosting poor districts are entitled to financial support from the State budget as follows according to Resolution 30a/2008/NQ-CP dated December 27<sup>th</sup> 2008:

c) A fund of VND 20 billion/factory will be granted for MDF production factory with scale of at least 30.000 m<sup>3</sup> MDF/year; a fund of over VND 10 billion / factory will be granted for factories processing industrial panels from woodchip, rattan at a scale of over 20,000 m<sup>3</sup>, a fund of VND 10 billion/factory will be granted to factories processing veneer panels at a scale of over 100,000 m<sup>3</sup> for infrastructure construction in service for transportation, electricity, treated water supply, workshops housing and waste treatment (Decision 38/2016-TTg)

- A post investment financial support based on the distance of products transportation at a rate of VND 1,500/ton/km; the distance is calculated from the factory location to the centre of Ha Noi city or the centre of Da Nang city, or the centre of Ho Chi Minh city on the nearest possible carriageway road; the value of financial support is calculated based on the actual productivity of the factory's equipment, the supporting duration is 5 years, minimally 70% of the fund is allocated right after the factory construction is completed (the remaining 30% will be disbursed in the period of 5 years)

đ) Investors whose forestry project falls in the category of being preferentially treated investment projects if lease land, water surface of households, individuals for implementing such investment projects shall be supported by the State with 20% of land, water surface leasing costs for the first 5 years since the completion of infrastructure construction (Decree 2010/2013/NĐ-CP, Article 7, Part 1)

e) Investors whose forestry project falls in the category of being preferentially treated investment projects that is included in the master plan of the State competent agencies are exempted from the land use levy when they change the land use purpose for the project implementation according to provisions in this Decree (Decree 2010/2013/ND-CP, Article 8, Part 1)

f) Investors whose forestry projects falls in the category of being preferential treated investment project which is included in master plans approved by the State competent agencies can enjoy deduction equal to 50% of the land use levy when change the land use purpose for the project implementation according to provisions in this Decree (Decree 210/ND-CP on incentive policy for companies investing in agriculture, rural development, Article 8, clause 2)

g) Companies who sign contracts of partnership business on goods supply, consumption with organizations, individuals who directly involve in forestry production are considered by credit organizations for being entitled to loans without collateral of which the value is equal to 70% the project value, partnership model is applied in the loan giving approach (Decree 55/ND-CP on credit policy for agriculture, rural development, Article 14, Clause 1).

2. Forest owners who are organizations, residential communities, households or groups of households shall be supported with an one of financial grant for sustainable forest certification on the basis of not over VND 300,000/hectare for an area of at least 100 hectares (Decision 38/2016-TTg), applied to natural forests and planted forests, meaning for all 3 forest categories.

3. Companies are supported so that they can apply science, advanced technologies, and green growth solutions, increase added value in forest products processing:

4. Supporting industries in forest products processing is prioritized (Decree 23/2015/ND-CP on development of supporting industries)

a) A preferential rate of enterprise income tax of 10% shall be applied during 15 years on companies implementing newly investment projects in supporting industries in forest products

processing in areas stricken with especially difficult conditions (in accordance with Circular 96/2015/TT-BTC, Article 11, Clause 1, point a).

b) Tax exemption is applied to importation of machinery, equipment which constitute manufacturing industry of driving and automatic supervision components working in the forest products product line; manufacturing technology, production of new generation biodiversity derived products in service for forest products preservation, processing.

5. Support shall be given to capacity development for human resource involving in forest products processing.

a) Budget for domestic vocational training targeting labourers working in the field of production of supporting technology for forest products processing industry is funded with 70% of the value. (Decree 210/ND-CP, Article 9, Clause 1, Point a)

b) In case investors recruit long-term labourers who have yet been vocationally trained, who are living in special use forests in order to provide capacity development measures and use, contributing to protection of special use forests their companies are supported with an one time financial grant for direct training cost in the companies site on the basis of VND 3 million/3 months / labourer.(Decree 210/2013/ND-CP, Article 9, Clause 1, Point a)

c) Small and medium companies working in the field of forest products processing are deducted, exempted with the costs for participating training courses funded from the State budget on topics of start-up, and business management, vocational training for labourers (the Law on support for small and medium companies (04/2017/QH14), Article 15, Clause 1)

d) The State shall organize the implementation of online training programmes, training programmes via mas media that target small and medium enterprises; direct training courses held at the small and medium enterprises sites in the topic of forest products processing and trade shall be supported. (the Law on support for small and medium companies, Article 15, Clause 2)

#### **Article 70. Policy for development of the forest products market**

1. Organizations, individuals who involve in cooperation, partnership for collective purchase, consumption of forest products are entitled to preferential credit without collateral requirement in the following levels (In accordance with Decree 55/2015/NĐ-CP):

a) Individuals, households who reside outside of rural areas involving in cooperation, partnership with production forests planters who are households, individuals for collective purchase of forest products are entitled to a grant of maximally VND 50 million/each (Decree 55/2015/NĐ-CP, Article 9, Clause 2, Point a);

b) Forest planters being households, individuals who sign contract for products consumption with forest products processing facilities are entitled to a grant of maximally VND 100 million (Decree 55/2015/NĐ-CP, Article 9, Clause 2, Point b);;

c) The rate of interest rate as for loans for the purpose of of protection forests, non-timber forest products development are subjected to negotiation of clients and credit organizations in compliance with regulations of the State Bank of Viet Nam over different periods.

d) In case credit programmes are serving agriculture, rural development In case credit programmes in service for agriculture, rural development are run under the guidance of the Government, the interest rate and and the funding rate is applied in accordance with the Government's regulations.

đ) Loans in the field of agriculture, rural development from the State budget or other entrusted organizations, individuals, the rate of interest must be compliant to provisions of the Government or agreements with the entrusted parties.

2. The State shall support the branding activities, trade promotion, market development, providing information of domestic and international markets for forest products.

a) Cost of training courses, in depth training courses on branding for products shall be supported 50%; cost of consultancy service on copy right, intellectual property shall be supported 100%;

b) The establishment of an information system, communication, networking the innovative start-up entities, luring investment from investment fund for innovative start-up entities shall be supported;

c) Companies involving in forest products production and trade shall be supported with 50% of costs for participation of trade fair, trade promotion events in international markets.

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