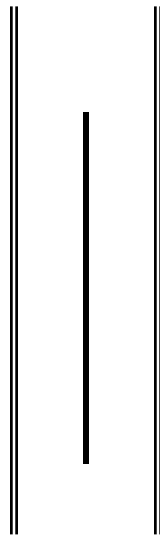


(Unofficial translation)

Leasehold Forest Policy, 2002

[Approved by His Majesty's Government (council of Minister on 2002 May 27)]



His Majesty's Government
Ministry of Forest and Soil Conservation
Singhdurbar, Kathmandu
Nepal

Concept Paper for Leasehold Forest Policy and its Implementation process:

1. **Background**

In the process of forest management, His Majesty's Government has been handing-over some part of the national forest as a leasehold forest to the individuals or group of the people or to the corporate bodies for the: production and sale of forest products; production of raw materials for the forest based industries; protection and development of forest for the eco-tourism business; agro-forestry purposes as well as for insect or wild life farming; over a time bound period of time with the charge of royalty. Leasehold forest management programme has been implemented since the last few years with the objective of uplifting the quality of the livelihoods of people living below the poverty line through sustainable and wise use of the forest resources. The programme has been further enhanced by guaranteeing the acquisition of raw material from forest products for accelerating industrial development and promotion of the concept of eco-tourism. Some policy related and legal frameworks have been already built up.

In spite of legal provision regarding leasehold forestry in chapter six of Forest Act, 1993 and chapter five of Forest Regulation, 1995, leasehold forest have not been able to be transferred substantially for other purpose except under the program of poverty alleviation for the family living below poverty line. At the present only twenty-five applications requesting forests on lease basis are under the consideration in the Ministry. The quality of shrub land have also not been able to be upgraded. Dense forests are being degraded due to encroachment and other reasons. Government efforts alone are in appropriate for making improvements. It is possible to increase the participation of the private sector in a transparent way according to the

legal provision of Forest Act and Regulation for the management of forests and natural resources in areas wherever the forests are degraded, rehabilitated forest areas destroyed by natural disaster & forest returned from encroacher. It will help to increase the base of productive area and accelerate economic activities & should help to enhance the broad based economic growth rate as well as assist other sector through conservation of watershed area & environment.

In this regard, following provisions have been incorporated in the Tenth Plan approach paper as guidelines:

- a.** Making provision to handover shrub land forest area as long-term leasehold forests with view to develop forest; as well as for the production of appropriate forest product and for eco-tourism promotion purposes.
- b.** By amending necessary laws, encourage private sector participation in areas of business of herbs, high value deer, musk deer, sambar deer, wild boar and birds like wildlife farming.

2. Existing Policy

His Majesty's Government's policy related provision about the leasehold forest are enshrined in following plan & policy paper:

A. Master Plan for the forestry Sector, 1989

Master Plan for the forestry sector, 1989 acknowledged that any part of national forest shall be managed and developed through leasehold forests by providing to private sector. In the Master Plan, leasehold forestry is on second priority under National and Leasehold Forestry Program among the six main programs.

B. Agriculture Perspective Plan, 1995

Likewise, the Agriculture Perspective Plan has emphasized the role of private sector for the development of forest sector by placing the private & leasehold forestry program on the same program among the four main activities of the forest sector. It is obvious that contribution made by leasehold forestry for the poor has been greatly recognised to meet the target set by the Agricultural Perspective Plan, especially to increase the agro-based production & livestock development.

C. The Ninth Plan

The Ninth Plan (1997-2002) has declared that natural environment and development are the foundations of the overall development system. The objectives are to increase the forestry sector productivity through mobilization, conservation and management of forest resources by creating balance between demand and supply; creation of employment & income-oriented opportunities for the poor and marginal families and enhancing peoples participation . Likewise, to achieve those objectives, goals have been set to provide forest on leased basis to forest industries, institutions and to develop industrial forest. To promote leasehold forest management program, it should be combined with poverty alleviation program through the identification of existing policy related and legal problem seen in this sector and adoption of problem solving measures. Policy to encourage Private sector participation shall be adopted by providing opportunities for the commercial forest management of government owned & managed forest according to their potentiality. In the Ninth Plan, particular quantitative targets for leasehold forests have not been specified. Though the Eight Plan target was to involve twenty five thousand families in leasehold forest management but only about twenty four hundred families were involved till the end of the Plan.

Most of the existing forestlands (excluding a number of private forest) are under the national forest. Basically, private sector has been involved for the promotion of tourism business activity, therefore it is feasible to make a public private partnership model through eco-tourism development for uplifting national economic development of the country. Eco-tourism promotion policy of the Ninth Plan has also confirmed this concept.

D. The Tenth Plan (2003-2007)- Approach Paper

The Tenth Plan (2003-2007) approach paper has declared that the private sector would be motivated for the commercial management of the forests and also emphasizes leasehold forestry program to increase opportunities for the livelihoods of communities living below the poverty line.

The above mentioned policy papers, Forest Act, 1993 and Forest Regulation, 1995 clearly specifies about the leasehold forest, even though the management of leased forest has not lived up to its expectations due to procedural complexity seen in the implementation stage and lack of clear-cut commitment of His Majesty's Government. It has specially been felt that the integrated program should be introduced for implementation to dedicate the upliftment of people living below the poverty line to break out of the vicious cycle of poverty through leasehold forest.

It is necessary to simplify the procedural complexity in transparent manner; which is seen in leasehold forest handing process for the institution or industry. Likewise, forest area could be utilized for eco-tourism purpose but most applications have been pending for the same reason for lack of transparent procedural clarity.

On the basis of problems and solutions suggested by the District Forest Officer's seminar, various study reports and progress report of leasehold

forestry programme, the need for reform and simplification of the process has been realized.

3. Existing Process

Chapter six of Forest Act, 1993 and chapter five of Forest Regulation 1995 have specified the provision to hand-over any part of national forest as leasehold forest.

Existing provision of giving up the forest as leasehold is initiated within a particular area which should be taken as leased rather than making the specific area available. Present application filing process is – interested corporate bodies or industry or community shall file application in District Forest Office with details information of the existing resources of the proposed leasehold forest area, proposed time period for the leasing and general environmental impact assessment report.

In this regard, Regional Forest Director should forward the application to the Ministry through the Department of Forest including the detail forest operational plan, existing forest product's type, quality, quantity and other necessary description, if feels appropriate to handover the forest as lease basis.

Provided that after examination of the application, the Ministry shall finally decide within thirty days whether to handover or not. Leasehold forest can be handover upto forty years and next forty years can be added if necessary. According to schedule twenty of Forest Regulation, 1995, community, industry and corporate bodies shall pay yearly royalty in different rate for mountain, hilly and terai area. According to the regulation the community should pay Rs. Two hundred, five hundred and one thousand in the mountain, hill and terrain area respectively. Industry should pay Rs. Two hundred, six hundred and twelve hundred accordingly.

And corporate bodies should pay Rs. four hundred, eight hundred and fifteen hundred royalty as above. Ten percent yearly increment on above mentioned royalty rate is also prescribed in regulation. Provided that royalty charge is exempted for forest taken on lease by communities living below poverty line.

4. Current Problems regarding Leasehold Forestry

A. Problems related with handing over to marginally poor & small farmer:

Around seven thousand hectare degraded forest and shrub land is already handed to one thousand six hundred and sixty groups and approximately eleven thousand families have been benefited from it.

It has been experienced from the leasehold forestry programme that plenty of grasses have been producing from degraded lands and greenery is regenerated within a two years period resulting in increased incomes of the poor families, increase in women's participation and also a decreased rate of forest encroachment & shifting cultivation. In spite of these positive impacts and achievements, some following challenges have been existed:

1. Authority for Leasehold forest group registration, forest handing and returning are not vested to the District Forest Officer. To date, leasehold forest group registration authority is under the Small Farmer Development Project and the decision-making authority to grant the leasehold forest is vested in the Ministry. Subsequently the people living below poverty line who are interested to manage the leasehold forest are compelled to visit more several agencies for the same reason; side by side action plan approval, forest handing & returning authority are more centralized.
2. The people living below poverty line are deprived from getting the leasehold forest due to procedural reason and a uniform process

(like economic feasibility study report submission) which is universally applicable to everyone such as corporate bodies and industry.

3. The basis of identification of the community living below poverty line should be practical, obvious and transparent.
4. Leasehold forest program could not be by itself a means of employment and quick income generation. Therefore this program should be combined with other agency's program, for example animal husbandry, small farmer development program, cottage industry etc. and program should be operated jointly.
5. The potential forest area for leasehold forest is not identified

B. While providing to corporate bodies and industries:

1. Working procedure about the availability of leasehold forest to the industry, corporate bodies and institution have not been explicitly arranged.
2. Due to the lack of fair competition system in leasehold forestry handing process, it has been difficult to make the decision in time by reason particularly when demands are made by people with influence to acquire the dense & consolidated forest as leasehold forest
3. Currently bare land and degraded forest have been usually given as community forest. Reforestation, encroached & shrub land area could be handed to the private sector. However private sector is not paying attention to maintain such forest area due to lack of such land utilizing specific leasehold forestry program and precise policy.
4. In spite of the provision of transferring any part of national forest as leasehold forest, the transfer and management function of leasehold forestry has not particularly been able to make any advancement due to the lack of explicit policy and

procedural provision regarding which type of forest and for what purpose the leasehold forest should be released.

C. While providing for eco-tourism:

1. Some land is required inside the forest area for infrastructure development purpose for eco-tourism, however due to the lack of clear provision and guidelines on building infrastructures in such area, the investors are not obviously informed about the comprehensive policy and modus operandi.
2. Due to the lack of clearly defined processes and extension promotional activities could not be undertaken.

5. Approved Policy and Implementation Process

Notwithstanding the fact that His Majesty's Government articulated policy intent and legal provisions are not fully implemented and positive aspect of it too remain obsolete due to procedural ambiguity and pressure from some high-ranking people or groups to exert monopoly on national assets and creating rent seeking behavior. Total ten percent land of the country is shrub land but this land is not utilized due to fears of the possibility of misusing the dense forest and other land in good condition. Thus it is better to provide the following condition of land for the production and management of forest under the leasehold except those well-maintained areas of national forest:

- Shrub land
- The land returned from encroacher
- Rehabilitated forest areas destroyed by natural disaster
- Forest area having less than twenty percent crown coverage

- Sensitive area with the viewpoint of soil conservation, etc.

In order to provide such forestland as leasehold, separate procedure shall be made for the community living below poverty line; while for the eco-tourism purpose focus would be given on forest protection and tourism development rather than forest production. Likewise, industry and institution shall be involved in forest products production and enhancement for the environment protection.

5.1 Providing leasehold forest to family living below poverty line:

- A.** The purpose and nature of providing leasehold forest to industry, institution and community living below poverty line is quite different. Though the same legal process have followed by both parties and due to the decision making authority vested to the Regional and Ministry level agency, decision making process is time consuming and lengthy. To end the said condition, Ministry level decision making authority to handover leasehold forest to the industry and institution shall remain unchanged. However for the handover of the leasehold forest for community living below poverty line the full authority will be provided to the concerned District Forest Officer. For this purpose, concerned District Forest Officer shall be given responsibility to approve operational plan, hand over the forest, renew leasing license, return the leasehold forest, monitor, etc act as one window policy where the leasehold forestry program is executed for marginally poor family & the program combined with agriculture, livestock, cottage industry & other income generation oriented programs. Regional Forest Directorate shall accomplish the monitoring task of the said responsibility.
- B.** If the community living below poverty line demand the leasehold forest, the integrated programme will be implemented jointly with

other agency, but the policy shall be adopted to avoid economic feasibility report preparation for forest sector only.

- C.** The basis of identification of the families living below poverty line shall be clearly specified after the coordination with National Planning Commission and other related agencies
- D.** The policy shall be adopted to provide some part of the income, which is generated from the old trees to the leasehold forest group in return for safeguarding the existing trees within the leasehold forest area.

5.2 Providing leasehold forest to the industry and institutional organization:

- A.** Shrub land area, encroached land, land returned from encroacher & areas having less than twenty percent crown coverage, rehabilitated areas damaged by natural disaster and sensitive area by view point of soil conservation shall be provided on leasing basis for the protection, development and management the forest.
- B.** The description of proposed leasehold forest areas shall be determined by concerned District Forest Office & should be forward to Regional Forest Office. While forwarding the detail description of such forest, District Forest Office shall also furnish their own opinion regarding appropriateness for community forest, according to section 30 of Forest Act, 1993. Every District Forest Office shall prepare the detail information about the different types of leasehold forest existing in the district with area as well as the potential areas for the different types of leasehold forest and should also regularly update the said details. Such detail information shall be forwarded yearly to the Regional Forest Office.
- C.** Following criteria shall be taken as guideline by the concerned District Forest Office while identifying the forest area to handover as leasehold forest: -

- Leasehold forest shall not be given from big chunk of the consolidated forest
- Proposed forest area should be degraded land or having less than twenty percent crown coverage,
- The priority would be given for such areas which are far from the settlement and it should not be the big and dense forest,
- Priority shall be given to the sensitive area with the view of soil conservation through the plantation,
- If any publicly important monuments like trust, temple, estuary of drinking water etc. exists in the proposed forest area, arrangements should be made to continue traditional practices since ancient times.

D. After the identification of potential forest area to handover as leasehold forest, according to above clause (c) District Forest Office shall forward to the Regional Forest Office for approval with details of information and maps with the opinion of which forest or shrub land area should be provided & the reason behind it.

E. Regional Forest Office shall publicly call the proposal from the interested corporate bodies or industry for the sustainable management of aforesaid forest to maintain the forest, environment and eco-system with the following prohibited terms and condition:

- Within the forest, blocking of flowing river and river estuary without the prior approval of Department of Forest,
- Interruption in the development of forest and vegetation, deprivation of the habitat of wildlife, natural or physical structure damaging and giving negative effect on ecological situation of the wet land,
- Supply of stone, road metal, sand and operation of mines, to carry out the disturbing activities against the social tradition of access to road and river,

F. The proposal submitter should clearly mention about the following subject according to the proposal notice of aforementioned clause (e):

- Location and surrounding details of the proposed forest area which shall be taken as lease
- Area measurement of the proposed forest,
- Outline of forest development action plan especially types of forest products would like to produce and its sustainable utilisation mechanism,
- If physical infra-structure (house, cottage etc) are needed in the lease land its description,
- Description of proposed yearly royalty and tax paying pattern to the His Majesty's Government,
- Future forest structure estimation of the leasehold forest while handover back to the His Majesty's Government and status of forest products which shall not less than the leasing starting period. In not so, penalty shall be sanctioned,
- Other required matters.

G. Such submitted proposals shall be forwarded to the Ministry through the Department of Forest after the technical and financial evaluation according to the section 32(2) of the Act. For the technical and financial evaluation of the proposals, the committee shall be formed under the chairmanship of Director General of Department of Forest and other members includes Regional Forest Director, Chief Financial Officer of the Ministry of Forest and Soil Conservation and Legal Officer of the Department of Forest. Said committee shall recommend to the Ministry after the appraisal & evaluation. To evaluate the proposals, following criteria shall be weighted while assessing:

- Conservation of bio-diversity and environment protection to develop the forest

- Amount of payment of revenue and tax to the His Majesty's Government,
- Generation of direct employment opportunities to the people near by the proposed leasehold forest,
- Soil erosion and natural disaster controlling measures,
- Other income oriented programs to boost up the industrial activities, etc.

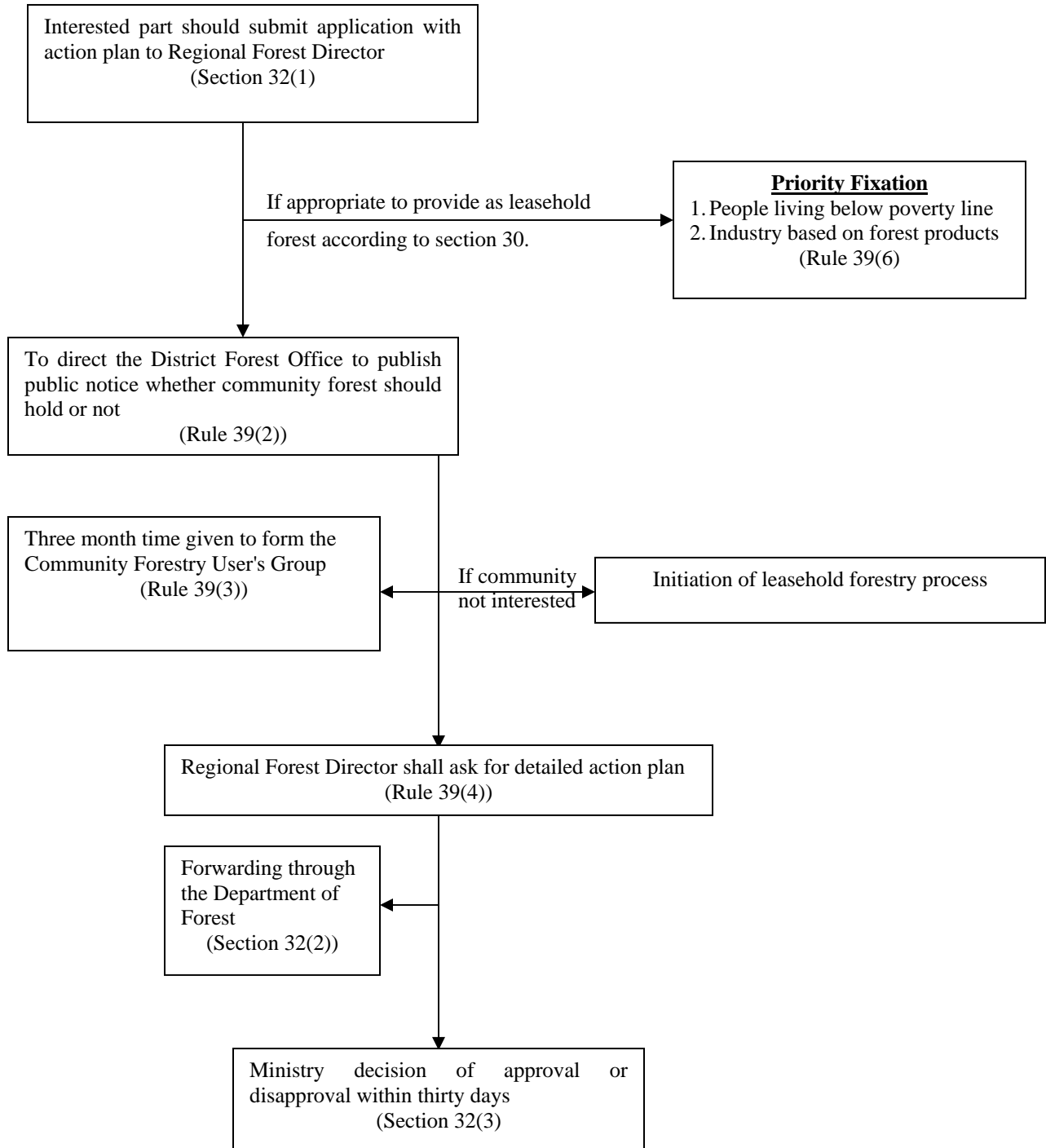
5.3 Providing Leasehold forest for the eco-tourism:

The forest, which shall be provided as leasehold for the eco-tourism including the above norms of clause 5.2, following special implementation strategy shall also be taken into consideration:

- A.** Following conditions shall be applied while providing the leasehold forest for the eco-tourism:
- For the hotel and resort purpose, either maximum twenty percent areas of the lease land or five hectares which will be less, can be used to build up the house, swimming pool, cottage, parking garage, etc.
 - Before operating the hotel or resorts, according to Environment Protection Act and Regulation, environment impact assessment shall be done. Negative impact reduction measures according to the assessment report shall be made compulsorily enforceable/
 - The terms bio-diversity conservation and forest development shall be compulsory.
 - The matters regarding the eco-tourism within the territory of national parks and wildlife conservation, shall be determined by the parks and tourism plan of the area and National Parks and Wild Life Conservation Act, 1972 and its Regulations.

- B.** The application should be submitted in District Forest Office with following description including the required forest area for the tourism industry and the action plan for it:
- Type of tourism business & yearly tourist number,
 - Need of permanent building structure & its type, covered areas, purpose of the structure,
 - Required total area,
 - Forest product protection and type of plant for additional plantation,
 - The proposed amount of royalty and revenue payment to His Majesty's Government,
 - Complete action plan of tourism business, cost estimation, output assessment, etc. and other plans,
 - Area measurement and the distance of the trekking route under the eco-tourism plan, if any.
- C.** The proposal forwarded by the Regional Forest Director to the Ministry through the Department after the investigation and evaluation, shall be finally evaluated by the committee of above-mentioned clause 5.2 (G). If the evaluation committee feels necessary, it may invite concerned specialist too or request for explanation form concerned agency.
- D.** On the basis of the committee recommendation, the forest shall be provided as leasehold for the eco-tourism after the decision made by His Majesty's Government according to above clause 5.2 modus operandi.

Existing Provision of Leasehold Forestry



Proposed Provision (For Industry)

