

No: 135 /CV – SPERI

*Hà nội June 15 2025*

*Sub: Contributing comments regarding Report of  
Draft Decree on forest carbon absorption and  
storage services from Ministry of Agriculture and  
Environment*

**To:** Prime Minister – Pham Minh Chinh,

**Cc:** Ministry of Agriculture and Environment  
Ministry of Finance  
Ministry of Industry and Trade

Pursuant to Article 3. Clause 4, Article 10. Clause 1. Point d, and Article 102. Clause 4 of Forest Law 16/2017/QH14 dated 15 November 2017 of the Vietnam National Assembly;

Pursuant to Decree 107/2022/NĐ-CP dated 28 December 2022 of the Government of Vietnam on “Experimental transfer of emissions reductions and financial management under greenhouse gas emissions reduction payment agreement in North Central Vietnam”;

The Social Policy Ecology Research Institute (hereinafter referred to as SPERI) would like to contribute its comments on the Draft Decree regulating forest carbon absorption and storage services as follows:

## **Article 2. Interpretation of terms**

In **Clause 2**, the following terms have not been clarified:

What is a carbon credit?

Why is the carbon element stipulated by the term “carbon credit” in transactions?

How much weight of CO<sub>2</sub> is equivalent to one carbon credit?

Therefore, SPERI would like to clarify the Clause 2 of Article 2 as follows:

2. Forest carbon credit represents the amount of CO<sub>2</sub> absorbed by natural forests converted into one ton of CO<sub>2</sub> equivalent and is called "one carbon credit" once it has been legally validated for trading on an exchange. Natural forest carbon credits are supervised and legally certified by the Ministry of Agriculture and Environment on behalf of the Government of Vietnam on the basis of respecting, verifying and assessing the current international carbon credit standards applicable to the carbon sinks of Vietnam's tropical natural forests.

## **Article 3. Principles for providing forest carbon absorption and storage**

4. Revenue derived from the exchange and transfer of emission reductions and forest carbon credits shall constitute a source of income for forest owners, to be utilized for activities aimed at forest protection and development.

## RECOMMENDATION:

SPERI proposes to supplement Clause 4 as follows to ensure the equality among entities participating in carbon credit transactions.

4. Revenue derived from the exchange and transfer of emission reductions and forest carbon credits shall constitute a source of income for forest owners, to be utilized for activities aimed at forest protection and development.

This revenue includes obligatory contributions of various taxes and fees of forest owners once providing services. These taxes and fees are: 1) Carbon resource tax from natural forests managed by forest owners holding 50-year Land Use Rights Certificates that include natural forest areas; 2) Annual carbon credit business tax derived from accumulated carbon stocks within forested land areas held by forest owners with 50-year Land Use Rights Certificates, which are converted into annual carbon credits; 3) Co-governance fees for administrative procedures paid for technical and legal expert processes to obtain a legal carbon credit before it is listed on an exchange.

### **Article 4: Service provider and service user**

The Article 4 mentioned in the Report of Draft Decree presents an inadequacy, specifically:

With only two clauses stated in Article 4, it is insufficient to create an incentive mechanism in terms of supply and demand. Consequently, the Decree's enactment will lead to inadequacies and difficulties in forming a carbon credit market for natural forest sinks. The detailed inadequacies are analyzed as follows:

- The Decree exclusively uses the Forest Law as a basis for governing and monitoring the principles of carbon credit transactions from forests, without referencing, interacting with, or aligning with the Enterprise Law, Investment Law, and Land Law. Consequently, enterprises lack the legal basis to implement their action plans, strategic plans, and vision plans, especially those enterprises with their philosophy and behaviors towards a harmonious economic, social, and environmental development. This applies before such enterprises make their decisions on investment plans, capital mobilization, and investment project formulation to cooperate, and more deeply, to co-govern with the forest owners who demonstrate practical indicators for long-term commitments for joint development of strategies to sustainably enrich natural forests, enabling the forests to generate carbon credits. (Given the socialist-oriented market economy, the carbon resource attribute of tropical rainforests in Vietnam must be converted into an asset attribute, and is being legalized into a commodity through equivalent carbon credits that are traded on the exchange in line with the market economy principle. This is very critical).
- The provision stated in Clause 2 will not encourage the demanding party (i.e. carbon credit buyers) to proactively collaborate with forest owners in creating innovative forms of cooperation to promote forest development, fostering a co-responsible, co-beneficial interaction (referred to as co-governance) to ensure natural forests are cared for, protected, and enriched by forest owners. This enrichment of forest resources is the source of long-term, cumulative carbon credit volumes and provides stable annual economic and livelihood contributions from the carbon credit trading mechanism. In reality, many enterprises are quite dynamic, proactive, innovative, and willing to invest in forest enrichment projects with the

forest owners whom they foresee clearly demonstrate their ethics and philosophy of nurturing forest not just for purely economic purposes! Carbon credits should be recognized by enterprises (emitters) as a benefaction from forest owners to enterprises. Many enterprises in various countries have been and are partnering with forest owners, achieving far greater effectiveness and impact on livelihoods, economy, society, and the environment for both forest owners and enterprises, compared to less innovative enterprises that merely await allocations from the State.

#### RECOMMENDATION:

We propose to add to the Clause 2 a legal provision for enterprises, specifically regarding: 1) A co-responsible investment cooperation strategy with forest owners, based on the Enterprise Law and Investment Law; 2) Permission to buy, sell, and exchange credits and quotas through a strict monitoring mechanism by state representative agencies, as stipulated in the Article 2 of Decision 232/QĐ-TTg/24/01/2025.

This approach will stimulate supply and demand, creating a market for natural forest carbon credits (a special type of commodity). It will also promote a sustainable development model that benefits not only enterprises and forest owners but also ultimately the farmers living in the surrounding natural forest watersheds, local authorities, and state management agencies.

### **Article 5. Conditions for providing forest carbon absorption and storage services**

1. Service provider must meet the following conditions:

d) Only the volume of verified emission reductions or forest carbon credits, as determined by a competent state agency in accordance with legal regulations, may be exchanged or transferred.

SPERI would like to contribute its comments and clarify the practical implications of (d) as below:

Point d. Clause 1. Article 5 is inconsistent with Clause 2. Article 2 "Interpretation of terms". Specifically: Clause 2 of Article 2 in this Decree states: "Forest carbon credits are carbon credits issued by the Ministry of Agriculture and Rural Development or an international standard management agency for emission reductions from forests."

Meanwhile, Point d. Clause 1. Article 5 states: "May only be exchanged or transferred when a competent state agency determines the volume of emission reductions." In this case, if the forest owner already possesses international legal validity, how will this be handled under the principles of fairness, transparency, and harmony among entities participating in natural forest carbon credit transactions?

#### RECOMMENDATION:

SPERI proposes to amend Point d. Clause 1. Article 5 of the Decree as follows:

*d) When the technical and legal conditions are certified as eligible for market listing by the Vietnamese Ministry of Agriculture and Environment or an independent international legal entity, the forest owners will have their full legal status and domestic and international legal qualifications to list their natural forest carbon credits on the exchange, and fulfill all their tax obligations, as proposed above by SPERI regarding the Clause 4. Article 3 in this letter.*

#### ADDITIONAL RECOMMENDATION:

SPERI proposes to add an additional Article "Independent Monitoring and Evaluation" to the Draft Decree, which outlines functions of independent monitoring and evaluation within the market principles, provided by an independent consultant distinct from state supervisory

agencies. The aim is to enhance transparency, fairness, and market reliability<sup>1</sup> in the process of transforming the carbon element and the carbon accumulation capacity from natural forest biomass into equivalent carbon credits, treated as a special commodity. This process involves: 1) Commodification of the carbon element; 2) Commercialization of carbon credits through exchange; 3) Pricing; 4) Financialization leading to the ultimate target of the Green Circular Economy (which, by nature, is a process of 5) capitalization of the carbon element) through its conversion into equivalent carbon credits.

Therefore, an independent arbitrator with expertise in bio-geo-chemical processes and ecological thresholds of Vietnam's tropical natural forest carbon sinks, which are considered as unique creation of tropical rainforests, a special gift bestowed by the universe that few nations on the planet possess, is crucial. Above all, humanity is facing the ecological economic threshold, when CO2 concentrations are approaching the breathing limit of 424 PPM.

Ultimately, it is the responsibility of all of us: 1) Forest owners, 2) Emitters, 3) Government, 4) Media and Education, and 5) Independent Arbitrators to collectively embark on the journey to achieve the Net-Zero 2050 commitment made by Vietnam at COP26.

SPERI respectfully presents its opinion to the agencies currently drafting and gathering opinion regarding the “[Report of Draft Decree on forest carbon absorption and storage services](#)” of the Ministry of Agriculture and Environment with the duty of a forest owner with the function of Research, Application and Analysis of actual shortcomings in the field of tropical rainforest carbon credits in the watershed (the cradle of nearly 14 million ethnic minorities living as the forest owners) in terms of carbon credit trading mechanism, where their proactive engagement is significantly limited.

Thank you!

**SPERI FOUNDING PRESIDENT**

**Recipients:**

- *As above*
- *SPERI office for filling*

**Signed & Stamped**

**Tran Thi Lanh**

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<sup>1</sup> Decree 107/ND-TTg-2022/12/28 has faced obstacles regarding its transparency, violating forest owners' right to participate and forestry operating principles, as well as the transparency of the natural forest carbon stock calculation formula in six North Central provinces. This is where forest owners have not been respected by the World Bank's engagement process.