



Forest Land Allocation in the Context of Forestry Sector Restructuring: Opportunities for Forestry Development and Upland Livelihood Improvement

To Xuan Phuc & Tran Huu Nghi



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List of acronyms

| | |
|-------|---|
| 5MHRP | 5 Million Hectare Rehabilitation Programme |
| CPC | Commune People's Committee |
| DFID | Department for International Development |
| DPC | District People's Committee |
| FC | Forest Companies |
| FLA | Forest Land Allocation |
| FLEGT | Forest Law Enforcement Governance and Trade |
| FMB | Forest Management Board |
| LURC | Land Use Right Certificate |
| MARD | Ministry of Agriculture and Rural Development |
| MONRE | Ministry of Natural Resources and Environment |
| NORAD | Norwegian Agency for Development Cooperation |
| PES | Payments for Environmental Services |
| PPC | Provincial People's Committee |
| SFE | State Forest Enterprises |
| TLAS | Timber Legality Assurance System |



Abstract

Forest land allocation (FLA), in implementation since the 1990s, is a vital policy of Vietnam's forestry sector. Forest land has been allocated to state groups (i.e. state forest enterprises [SFE], now known as forest companies [FC]) and non-state groups (i.e. households and communities) with the aim of improving forest land management as well as local livelihoods. FLA is expected to bring about increased forest cover, improved forest quality, and also contribute to hunger eradication and poverty reduction in impoverished upland areas.

The report "Forest Land Allocation in the Context of Forestry Sector Restructuring: Opportunities for Forestry Development and Uplands Livelihood Improvement," aims to evaluate the results of FLA policy by synthesizing previous research on the subject. This report was finalized in the context of the final evaluation of Decree 28/NQ-TW 2003, release of Decree 30-NQ/TW dated 12 March 2014 by the Political Bureau of Vietnam, and the implementation of the 2013 Master Plan for re-structuring the forestry sector by the Ministry of Agriculture and Rural Development (MARD). Together, these policies outline a road map for the continued renovation of Vietnam's agricultural and forestry companies. Furthermore, this report investigates how Vietnam's forestry sector has been vigorously integrating into international programmes regarding climate change and sustainable forest product trade.

Though the term 'forest land allocation' has been commonly used in papers produced by state-management agencies or mass-media organizations as well as in daily language, it is interpreted differently by various groups depending on whom forest land is allocated to and which mechanism/policies are applied at the central and local levels. This report analyses three main forms of FLA: (i) forest land allocation to state organizations, mainly forest companies; (ii) forest land allocation to households, individuals, and communities; and (iii) contract-based allocation of forest land to households and individuals.

There is a key difference between standard forest land allocation and contract-based allocation of forest land to households and individuals: forest and forest land allocation typically occurs between the state and local people – regulated by administrative law, with the state acting as the representative of the land owners. On the other hand, contract-based allocation of forest and forest land occurs between forest companies (FC) and local people and is based on civil law; the state develops the legal framework and regulations regarding FC, which are allocated forest and forest land by the state. Local people then receive forest and forest land based on a contract arranged with the FC.

This report indicates that expansion of SFE and FC rights to allocated forest land has greatly affected the forest land stock. Vietnam's government has increasingly sought to decentralize forest management by allocating forest land to households and individuals to improve livelihoods and increase forest cover. However, priority for allocation has generally been given to state forest organizations. This is clearly shown in distribution figures: 148 forest companies have been allocated 2,2 million ha of forest land, 82% of which is production forest land; 1,2 million households have been allocated 4,46 million ha, 70% of which is production forest land; and forest management boards (FMB) have been allocated 4,5 million ha, of which 0,8 million ha is production forest land, protection forest land 2 million ha, and special-use forest land 1,8 million ha.

This report argues that allocation of forest land to households and individuals has had positive impacts on household livelihoods as well as enhancing forest cover through plantation expansion. Still, the National Assembly's official evaluation states that a shortage of agro-forestry production land – with some 300,000 households lacking sufficient land – is the leading cause of high poverty rates in mountainous areas. The current state-centric forest management system that prioritizes forest companies' interests and sets aside forest land for them has its shortcomings: ineffective land management or excessive land clearance for collection of land lease fees, for example. Forest companies have been allocated a large area of land but fail to use it effectively even as local people lack sufficient land for subsistence cultivation. This has led to land conflicts between local people and forest companies and degradation of natural forest, especially in the Central Highlands. This inequality of land access and its consequences are indicated in the final report on implementation of Decree 28 and in Decree 30/NQ-TW of the Political Bureau of Vietnam.

Forest land allocated to households has typically been in effective use while land allocation to forest companies has failed to offer positive results. Problems such as excessive land clearance for collection of land leasing fees or land conflict between forest companies and local people due to land scarcity put forth crucial questions for policy makers: (i) why should we maintain the state-run forest management system while its capacity for land use and forest protection is so low? (ii) state-run forest management has created an enabling environment for excessive land clearance, so why doesn't the state carry out forest allocation directly to households instead? Direct forest land allocation from the state (as opposed to contract-based allocation from FC) offers households reduced transaction fees and creates incentives for them to develop alternative livelihoods which may bring about higher economic impacts. The contract-based allocation mechanism can maximize its impacts if forest companies have funds, technology and infrastructure to complement abundant labour from local

households. However, a majority of Vietnams' forest companies lack the capital to maximize the relationship, leading to inefficient forest management and development.

The MARD master plan and Decree 30 have created a new opportunity for "renovation, restructuring, and boosting performance effectiveness" that aims to deal with the current constraints of state-run forest-management. Important developments in the master plan and Decree 30 include: "the privatization of forest companies which solely manage production plantations, conversion of forest companies which manage natural forests into forest management boards (FMB)" operating in the form of public welfare organizations, and dissolving forest companies which suffer continual business losses. This new policy orientation, together with "renovation, restructuring, and improving performance" should be carried out in a way that creates positive change in management. This means shifting away from state-run management, in which forest companies and forest management boards are given priority, towards household and community-centred management. This effort requires that the Government of Vietnam proceed with decentralization of forest land management, with land currently owned by forest companies and forest management boards allocated to households and communities instead. Furthermore, strong political commitments must be made at both central and local levels and essential resources must be mobilized for effective implementation of these policies on the ground.





Introduction

Vietnam has approximately 15,4 million ha of forest land, of which 13 million ha is forested land. Vietnam's constitution stipulates that land and natural resources including forest resources are the common property of people and under the government's management.

Forest use and management have been carried out based on the Land Law and Forest Protection and Development Law. The Land Law describes the allocation of special-use, protection, and production forest land to various land owners, including state-run agencies such as Forest Management Boards and forest companies as well as non-state organizations such as households and individuals. In addition, the Land Law states that forest is attached to land in the allocation process, with forest regarded as connected property. Meanwhile, the Forest Protection and Development Law details forest allocation, stressing the importance of productive forestry lands.

FLA, which has been implemented since the 1990s, is a vital policy of Vietnam's forest sector. Forest land has been allocated to state groups (i.e. state forest enterprises [SFE], currently known as forest companies [FC]) and non-state groups (i.e. households and communities). FLA policy is expected to bring about increased forest cover, improved forest quality, and also contribute to hunger eradication and poverty reduction in impoverished upland areas.

There is a key difference between forest land allocation and contract-based allocation of forest land to households and individuals. Forest and forest land allocation occurs between the state and local people and is regulated by administrative law, with the state acting as the representative of the land owners. Contract-based allocation of forest and forest land occurs between forest companies and local people based on civil law. The state develops the legal framework for the relationship between forest companies – which are allocated forest and forest land by the state – and the local people who receive forest land based on a contract with the FC. This report analyses the three main iterations of FLA: (i) forest land allocation to state organizations, mainly forest companies, (ii) forest land allocation to households, individuals, and communities, and (iii) contract-based allocation of forest land to households and individuals, whereby FC or FMB allocate part of their forest land to households and individuals.

The report shows that forest land allocated to households has been in effective use while land allocation to FC fails to generate positive outcomes. Common problems are excessive land clearance for collection of land leasing fees, land conflicts between FC and local people, and

local people lacking sufficient agro-forestry land to meet livelihood needs. Preference for the land use rights of SFE or FC has negatively influenced forest land stocks for households and individuals. Maintaining state-run forest management has thus hampered efforts to improve upland livelihoods, reduce poverty, and increase forest cover and quality.

Though FLA has been carried out for more than a decade, a systematic assessment of FLA impacts on forest resources and the livelihoods of forest-dependent communities has never been made. "Forest Land Allocation in the Context of Forestry Sector Restructuring: Opportunities for Forestry Development and Uplands Livelihood Improvement," by Tropenbos International Vietnam and Forest Trends has been prepared even as the forest sector is undergoing fundamental changes as Vietnam aligns with global initiatives such as FLEGT and REDD+. Domestically, new legislation is changing the landscape: Resolution 30-NQ/TW by the Political Bureau of Vietnam dated 12 March 2014 regards the continued arrangement, renovation, and improved effectiveness of agricultural and forestry companies. As stipulated by Decision 1565/QD-BNN-TCLN by the Ministry of Agriculture and Rural Development (MARD) dated 8 July 2013, the forest sector will restructure itself to improve effectiveness, standards, and competitiveness. Rearrangement of ineffective forest companies is a prerequisite for restructuring the forest sector at large.

Forest land allocation has a major role to play in this restructuring. In order to maximize this potential, FLA policy must be thoroughly evaluated from on-the-ground implementation to broad-scale policy outcomes. This report has been compiled with key attention to previous FLA research and aims to address the aforementioned conflicts and challenges. It seeks to fully assess FLA's potential for reaching new national targets for forestry sector restructure.

This full report elaborated mainly from the FLA info-brief that Tropenbos Viet Nam issued last few months. Additionally, there are new components related to the role of FLA to the forestry sector restructuring process. The full report has also served well in the process of sector restructuring of the Ministry of Agriculture and Rural Development of Viet Nam. This report is divided into eight parts. Part 1 offers an overview of forest and forest land use and management. Part 2 briefly presents key forestry policies implemented since the founding of modern Vietnam, including FLA policies and related changes over time. Part 3 focuses on FLA policy, highlighting the differences between forest land allocation and contract-based forest land allocation. Part 4 deals with the policy implementation process in different regions, noting key gaps between policy and practice. Part 5 analyses the impacts of FLA on household livelihoods, forest cover, and forest quality. Part 6 will address the significance of FLA for FLEGT and REDD+. The potential of FLA for restructuring the forest sector is presented in Part 7, which will discuss sectoral restructure, rearrangement of forest companies, and



potential for community forestry. The conclusion (Part 8) summarizes the main arguments of the report and offers policy recommendations for reaching the targets set by the forestry sector.

1 Overview of forest land in Vietnam

1.1. Current status of forest land

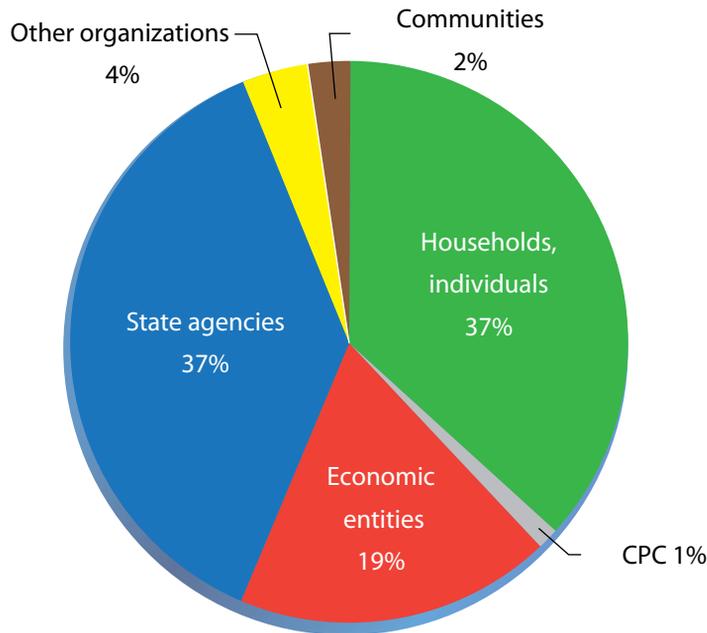
Pursuant to Decision 1482/QĐ-BTNMT by the Ministry of Natural Resources and the Environment (MONRE) dated 10 September 2012⁽¹⁾, as of 1 January 2012 Vietnam had around 15,4 million ha of forest land, categorised into three types: production forest land, protection forest land, and special-use forest land.⁽²⁾ Table 1 details the area of each. According to the Decision, approximately 79% (12,1 million ha) of national forest land has been allocated to various groups for use; the remainder (21%, 3,2 million ha) has not yet been allocated and is currently managed by communities and CPC.

12,1 million ha of forestry land has been allocated to 8 different groups, including::

- Households and individuals
- Commune People's Committees (CPC)
- Economic entities
- State-owned organizations
- Other types of organizations
- Joint-venture companies
- Foreign companies
- Communities

⁽¹⁾ MONRE Decision 1482/QĐ-BTNMT dated 10 September 2012 on approving and declaring the land inventory results of 2011.

⁽²⁾ According to Circular 34 by MARD dated 10 June 2009 on criteria for identifying and categorizing forest: (i) protection forest is mainly used for protecting watersheds, protecting high-value land, preventing soil erosion, combatting desertification, mitigating natural disasters, and regulating local climate; (ii) special-use forest is mainly used for nature conservation, national ecology standards, maintaining biodiversity, scientific research, and protecting historical/cultural sites for tourism; (iii) production forest is mainly used for production, timber trade, and collecting non-timber forest products. Apart from forest categorization based on forest yield, Circular 34 categorizes forest based on origin (natural forest, plantation), physical conditions (mountainous, rocky mountainous, mangrove, sandy soil), tree species (timber, bamboo, palm, mixed bamboo), or forest yield. The circular also indicates regulations on non-forested land, including not-yet established plantation land, bare land with or without rehabilitated trees, and rocky land without trees.

Figure 1. Percentage (%) of forest land allocated among different groups

Source: Decision 1482 by MONRE

Of the allocated land area, households, individuals, state agencies, and economic entities have been allocated large portions of land while joint-venture and foreign companies and communities are typically allocated smaller portions. Figure 1 (see more details in Table 1) indicates the percentage of land allocated among different groups.

Of the 12,1 million ha of forestry land allocated to various different groups, land area allocated to households and individuals occupies the highest percentage (37%; 4,5 million ha). About 70% of the forestry land allocated to households and individuals is production forest land and the remainder (about 30%) is protection forest land; special-use forest land makes up a very small percentage.

State-owned organizations – mainly protection forest and special-use forest management boards – have been allocated about 4,5 million ha, occupying 37% of total allocated forest land (Table 1). However, unlike the land area usually allocated to households and individuals, land allocated to FMB is mainly protection forest (44%) and special-use forest (39%), with protection forest around 17%. In other words, almost all protection and special-use forest land is currently managed by state agencies.

Until now, forest companies have managed 2,2 million ha of forest land, making up 19% of total forest land nationwide. Approximately 81% of the 2,2 million ha of land allocated to forest companies is production forest land; the remainder (19%) is alternate protection and production forest land.

Table 1. Nationwide forest land use as of 1 January 2012 (ha)

| No. | Land use purpose | Total | Land area categorized according to recipient groups | | | | | | | | | Land area categorized according to management groups ⁽³⁾ | | |
|-----|-------------------------|----------|---|-------------------------|--------|-------------------|----------------|--------------------|-------------------------|-------------------|-------------|---|-------------|---------|
| | | | Total | Households, individuals | CPC | Economic Entities | State agencies | Other organization | Joint-venture companies | Foreign companies | Communities | Total | Communities | CPC |
| 1 | Forest land | 15373063 | 12134259 | 4463214 | 142449 | 2234577 | 4536056 | 457645 | 51 | 19238 | 281002 | 3238804 | 524713 | 2714091 |
| 1.2 | Production forest land | 7406558 | 5967676 | 3120377 | 92157 | 1813968 | 779930 | 84912 | 32 | 18592 | 57708 | 1438882 | 186580 | 1252301 |
| 1.2 | Protection forest land | 5827314 | 4174140 | 1331487 | 48588 | 399447 | 1981469 | 189209 | 0 | 645 | 223294 | 1653174 | 327048 | 1326126 |
| 1.3 | Special-use forest land | 2139191 | 1992443 | 11377 | 1704 | 21162 | 1774657 | 183523 | 20 | 0 | 0 | 146748 | 11085 | 135663 |

Source: Decision 1482 by MONRE.

⁽³⁾ In Table 1, land area allocated to different groups for use counts only area actually allocated; land area designated for management purposes but not yet allocated in reality remains in the custody of communities and CPC.

3,2 million ha of forest land has not yet been allocated and remains under the management of CPC (2,7 million ha) and communities (0,5 million ha). Around 51% of this not-yet allocated land (1,25 million ha) is protection forest land; the remainder is production forest (44%) and special-use forest (5%).

MONRE is the state agency managing land, while MARD is in charge of forestry. Unfortunately, the data released by these two agencies regarding land is inconsistent since each agency applies different criteria for categorizing forestry land and forest (Forest Sector Support Partnership, 2010).⁽⁴⁾

1.2. Real status of forest resources

Decision 1739 by MARD dated 31 July 2013⁽⁵⁾ indicated that by end of 2012 Vietnam had around 13,8 million ha of forest, divided into two types: natural forest (10,4 million ha) and plantations (3,4 million ha). Typically, Vietnam's forest is divided into three groups for legal and management purposes: (ii) special-use forest (2 million ha), protection forest (4,68 million ha), and production forest (6,96 million ha). Table 2 describes the area of each in Vietnam:

Table 2. Real status of forest resources in Vietnam (ha)

| Forest type | Total | According to three-type forest categorization | | | Not belonging to forestry land categorization |
|----------------|-----------------|---|----------------|----------------|---|
| | | Special-use | Protection | Production | |
| Forested land | 15373063 | 2021995 | 4675404 | 6964415 | 200230 |
| Natural forest | 10423844 | 1940309 | 4023040 | 4415855 | 44641 |
| Plantations | 3438200 | 81686 | 652364 | 2548561 | 155589 |

Source: Decision 1739 by MARD

Of the 10,4 million ha of natural forest, protection and special-use forest constitute 56,7%, with the remaining 43,3% being production forest. Concerning vegetation, timber-bamboo forest occupies 81,6% of the total forest land area, while the remainder is of other types (bamboo forest, mixed forest, and mangrove forest). Vietnam has around 3,4 million ha of plantations, of which 2,5 million ha are production plantations (73,5% of total plantation area); the remaining 26,5% is plantations for protection and special-use purposes. During

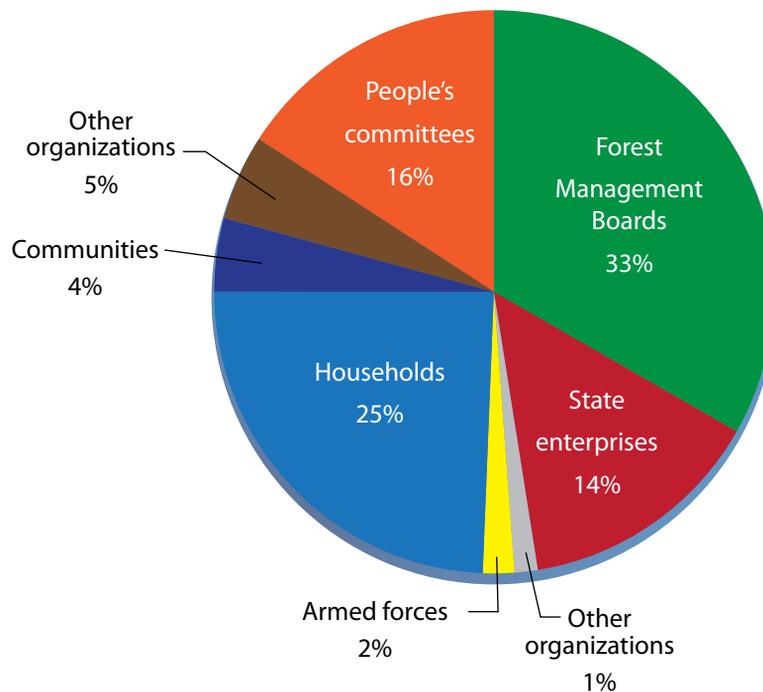
⁽⁴⁾ Forest Sector Support Partnership. 2010. Vietnam Forestry Development Strategy: Progress Report 2006-2010. Hanoi.

⁽⁵⁾ Decision 1739/QĐ-BNN-TCLN by MARD, dated 31 July 2013 on declaring the status of forest nationwide 2012.

recent years, forest area has witnessed a remarkable increase of 150,000-200,000 ha (FSSP, 2014).⁽⁶⁾ This increase in forest cover has laid the foundation for raw-material development serving the future timber processing industry.⁽⁷⁾

Forest has been allocated to several different groups, namely protection and special-use forest management boards (currently managing some 4,6 million ha, or 33% of total forest area), households (3.4 million, or 25%), and state-owned enterprises (14%). Forest allocated to communities is almost 600.000 ha. Though the Forest Protection and Management Law (revised version) issued in 2004 did not recognize Communal People's Committees as a forest owner, a huge area of forest has been allocated to CPC: about 2,19 million ha, 81,7% of which was natural forest and the remaining 18,3% was plantations. Figure 2 illustrates forest area allocated to forest owners by 2012.

Figure 2. Forest owners and forest area managed (%)



Source: Decision 1739 by MARD

According to Decision 1739, Vietnam has seen more than 30.000 ha of its natural forest converted to agricultural and non-agricultural purposes per year. Approximately 57.000 ha of plantations have been harvested on an annual basis. The question remains as to why forest and forest land are being used and managed ineffectively. The answer requires a deeper study of forestry institutions and the history of forestry in Vietnam.

⁽⁶⁾ Forest Sector Support Partnership, 2014. Report 'Forest Sector Development 2013' for FSSP's annual meeting, dated 21 January 2014. Hanoi.

⁽⁷⁾ According to Decision 1739 by MARD, plantations with significant timber volume occupy about 52%, the remainder is forest with extremely low timber volume.



2

Key forestry institutions from 1950 until now ⁽⁸⁾

Since national liberation, the forest sector has undergone fundamental changes, especially in forest resource management. The Government nationalized forest resources early on: Decree 596/TTg by the Government issued 3 October 1955 indicated that “forests are national property...forest harvesting should be accompanied with protection...strictly punishing those who destroy forest.” Instruction 15 on 15 March 1961 stressed that “forests are the property of all people and to be under state management.” In August 1957, Vietnam’s Government issued a decree aiming to reduce the expansion of slash-and burn cultivation. Instruction 38/CP dated 12 March 1968 by the Government encouraged people to settle for agriculture development and establish cooperatives. From 1955 to 1975 (the American War), forest management in North Vietnam was based on a state-centred approach. In an effort to manage some 9 million ha of forest of the Northern region, Vietnam’s Government established the Ministry of Agriculture and Forestry while setting up agriculture companies in 10 provinces. By 1961, there were 23 agriculture companies nationwide. During the two decade war (1955-1975), it was the responsibility of the forest sector to exploit timber for the war effort and reconstruction. SFE were set up to harvest timber. In regions where there were no SFE, forest protection units were be set up for the assignment. By 1975, there were approximately 200 SFE nationwide. Any private timber-processing enterprises set up before 1955 were completely prohibited. In 1972, the Ordinance on Forest Protection was released, publicly promoting the importance of forest protection. A People’s Forest Protection Force was formed based on Decree 101/CP on 21 May 1973. By the end of 1974, the forest protection system was structured from the national down to the district level. Still, there were overlaps in forest management between SFE and forest protection forces. At the commune level, commune staff were nominally in charge of forest management, though limited resources and personnel incompetence hindered local authorities from fulfilling their functions.

From 1955-1975, agricultural production operated in cooperatives (Kerkvliet, 2005).⁽⁹⁾ Though the key role of cooperatives was in agricultural activities, they also played a vital role in harvesting timber in mountainous areas. During the high period of timber harvest (1978-1979), some 30.000 labourers from cooperatives directly took part in timber exploitation for

⁽⁸⁾ Information is mainly from “Vietnam’s forest sector 1945-2000” by Nguyen Van Dang (2001).

⁽⁹⁾ Kerkvliet B., 2005. *The Power of Everyday Politics: How Vietnamese Peasants Transformed National Policy*. Ithaca and London: Cornell University Press.

SFE. Cooperatives provided some 17.000 buffaloes to pull timber and contributed around 80-85% of the total timber exploited nationwide. By 1989, 431 SFE were established, 18% of which were under direct management of the Ministry of Forestry, 48% were managed by Provincial People's Committees (PPC), and the remaining 38% were managed by District People's Committees (DPC). From 1981-1985, approximately 7 million m³ of timber were exploited for rebuilding the war-wracked nation and for export.

Forest inventories have been carried out since 1960, forming the basis for developing the statistical database of forest resources and informing on-going FLA activities. The government's resettlement policy was implemented in the late 1960s, aiming to settle mountainous communities practicing shifting swidden cultivation. The program also established new cooperatives and brought citizens from crowded lowlands to the upland regions to develop new economic zones. These policies, together with SFE activities, created great changes in forest use and management nationwide. From 1976 to 1990 thousands of people were involved in the establishment of new economic zones in mountainous areas and some 1,4 million ha of forest land were converted for agricultural use.

State-forest management attached importance to exploitation while paying inadequate attention to forest protection, thus leading to exhausted forest stocks (Sikor, 1997; McElwee, 2004) ⁽¹⁰⁾. By the early 1980s, there was very little timber in Vietnam's forests left to log. This period was marked by downward trends in the forest sector (Sikor, 1997). The state budget in general and budget for forestry activities in particular faced extreme cuts due to low revenue from timber trade and the loss of aid from Soviet satellites in Eastern Europe as the Iron Curtain fell.

In 1986, thanks to the new đổi mới ("renovation") policy, Vietnam underwent major economic changes. Central-planning was abandoned in favour of a market-oriented approach to deal with constraints to the economic development process (Gainsborough, 2010). ⁽¹¹⁾ In mountainous areas, the changes came in three main forms. First, cooperatives were dissolved and land allocated to local people. Second, investment was increased for mountainous areas through resettlement programmes and forest rehabilitation on bare land. Third, the government promoted markets for exchange between uplands and lowlands areas and encouraged private enterprises to invest in upland regions (Sowerwine, 2004).⁽¹²⁾

⁽¹⁰⁾ Sikor, T. 1997. Stewardship of the Vietnamese uplands; McElwee, P. 2004. Become a socialist man or become a Kinh.

⁽¹¹⁾ Gainsborough, M. 2010. Vietnam: Rethinking the State. London and New York: Zed Books; Chiangmai: Silkworm Books.

⁽¹²⁾ Sowerwine, J. 2004. Territorialisation and the politics of highland landscapes in Vietnam: Negotiating property relations in policy, meaning and practice. *Conservation & Society*, 2(1): 97-136.

These positive policy changes helped motivate development in mountainous areas (Sikor et al., 2010).⁽¹³⁾ In some areas, local authorities conducted forest inventories, made maps, and divided land into smaller plots for allocation or contract-based allocation, aiming to increase forest cover and improve the livelihoods of local people. Since the late 1990s, the value of forest and forest land have been increasingly acknowledged as forest conservation efforts continue. With international support, the government established the current special-use and protection forest systems in order to better conserve Vietnam's forests and significant biodiversity (Zingerli, 2005; To Xuan Phuc, 2011).⁽¹⁴⁾ Special-use forest now covers more than 2 million ha and protection forest some 4,6 million ha (See Table 2).

The Land Law of 1993 indicated essential steps for allocating land to foreign and domestic organizations including households and individuals.⁽¹⁵⁾ The law stressed that land – including forest land – is the common property of the people and under state management. It also stated that the state would begin allocating land and land rights to various groups, forest-dependent communities included. The Forest Protection and Development Law of 1991 outlined the rules for managing the three types of forest (special-use, protection, and production forests).⁽¹⁶⁾ Thanks to these policies, state organizations such as Forest Management Boards were entitled to manage almost all of Vietnam's protection and special-use forests with their abundant biodiversity while FSE mostly managed natural plantations with high timber volume. Forest allocated to households was typically in poor condition. According to the Ministry of Natural Resources and the Environment (MONRE), by December 2011 a total of 2,6 million land user rights certificates (LURC) had been awarded.⁽¹⁷⁾ These LURC were issued for a total area of 10,4 million ha, equivalent to 86.3% of the total forest land area. Table 3 categorizes LURC according to ecological regions.

⁽¹³⁾ Sikor, T., Nghiem P.T., J. Sowerwine and Romm, J. 2011. (eds.) Upland transformation in Vietnam. Singapore: NUS Press.

⁽¹⁴⁾ Zingerli, C. 2005. Colliding understandings of biodiversity conservation in Vietnam: global claims, national interests, and local struggles. *Society & Natural Resources*, 18(8): 733-747.

Phuc Xuan To. 2011. Why did the forest conservation policy fail in the Vietnamese uplands? Forest conflicts in Ba Vi national park in northern region. *International Journal of Environmental Studies*, 66(1): 59-68.

⁽¹⁵⁾ The initial Land Law was passed on 14 July 1993. Since then, the Law has been revised several times.

⁽¹⁶⁾ The Forest Protection and Development Law was passed for the first time on 12 August 1991. The law has been revised many times.

⁽¹⁷⁾ This according to the official page of the Department of Land Administration, at http://www.gdla.gov.vn/index.php?option=com_tailieu&task=detail&id=66.

Table 3. LURC issued by December 2011

| Location | Issued LURC (certificate) | Land area allocated (ha) | Percentage of land area allocated/ area to be allocated (%) |
|----------------------|---------------------------|--------------------------|---|
| Nationwide | 2.688.668 | 10.465.481 | 86,3 |
| Mountainous Northern | 1.068.558 | 4.312.110 | 79,3 |
| Northern Delta | 10.912 | 25.923 | 23,0 |
| North Central | 267.552 | 1.829.507 | 75,9 |
| South Central | 323.433 | 1.207.999 | 82,1 |
| Central Highlands | 810.323 | 2.066.411 | 71,6 |
| South-eastern | 153.898 | 720.056 | 87,3 |
| South-western | 53.992 | 303.476 | 82,3 |

Source: MONRE 2012 (http://www.gdla.gov.vn/index.php?option=com_tailieu&task=detail&id=66)

Among the eight ecological regions, the Northern Delta, Central Highlands, and North Central regions contain the lowest percentage of LURC allocated. Though distributing LURC is a top priority for natural resource and environment agencies, progress has been remarkably slow.⁽¹⁸⁾

In spite of the fact that households have played an increasingly important role in improving forest resources and reducing poverty in upland areas, forest management is still dominated by the state. State forest management has largely proved ineffective, with notable failures in land management and natural forest cover in uninterrupted decline (MARD and UN-REDD, 2010; R-PP, 2011; To Xuan Phuc et al., 2013).⁽¹⁹⁾ Resolution 28 by the Political Bureau of Vietnam in 2003 stated that “land use by agro-forestry enterprises is of low effectiveness, unused land area is high; ineffective forest and forest land management; encroached land as well as disputed land between households and SFE happened in several places...”⁽²⁰⁾ In

⁽¹⁸⁾ Details can be seen in Instruction 05/CT-TTg by the Prime Minister dated 4 April 2013 on strengthened guidance and solutions for complete issuance of certificates for land use rights and property on land in 2013.

⁽¹⁹⁾ MARD, UNREDD. 2010. Design of a REDD compliant benefit distribution system for Vietnam. Hanoi; ii) The Government of Vietnam. 2010. Readiness preparation proposal (R-PP); iii) To Xuan Phuc, Phan Dinh Nha, Pham Quang Tu and Do Duy Khoi. 2013. Land Conflicts between forest companies and local people. Hanoi: Forest Trends and CODE.

⁽²⁰⁾ Resolution 28-NQ/TW by Political Bureau dated 16 June 2003 on continued renovation of agro-forestry enterprises.

order to address these problems, Resolution 28 sought to improve the effectiveness of forest and land management. Land managed by SFE which was not used as planned would be taken back by the Provincial People's Committee (PPC) for reallocation to organizations, households, and individuals. Decree 200 of 2004 which guided the implementation of Resolution 28 indicated that the state alone should invest in and manage critical special-use and protection forests in remote areas, especially natural forests. Remaining areas would be allocated to organizations and households for investment and attaining forest benefits. In an attempt to carry out Resolution 200, SFE assessed land areas and transferred ineffectively-managed land to local people.⁽²¹⁾

Vietnam's Forest Development Strategy for the period 2006-2020 listed vital programmes and priorities:

- Sustainable forest management and development: by 2020 around 30% of production forest will be FSC certified, forest cover is to be on the rise, and a stable supply of raw material ensured for the timber-processing industry;
- Forest protection: biodiversity conservation and environmental service development, promoting FLEGT, maintaining the area of protection and special-use forest, and fostering the markets for forest ecological services;
- Improved forestry institution and policies: focusing on forest decentralization, creating mechanisms for encouraging the private sector to invest in forest development and protection, strengthening forest governance, and improving the effectiveness of forest use and protection by SFE.

According to Vietnam's Forest Development Strategy, building a market for forest ecological services is an essential approach to mobilize non-state funds for forest protection. Specifically, Decision 380 in 2008 was followed-up by a pilot project on payments for environmental services (PES) in Son La and Lam Dong provinces, which boast the largest areas of protection forest nationwide.⁽²²⁾ Those using environmental services (water purification, avoided erosion/sedimentation) must pay service providers, including people living near the forest and directly involved in forest protection. Successful piloting of the policy paved the way for Decree 99 of 2012 which called for up-scaling implementation of PES nationwide.⁽²³⁾ By the end of 2012, total revenue from PES was about 1,782 billion VND (Vietnam Forest

⁽²¹⁾ Decree 200/2004/ND-CP by the Prime Minister dated 3 December 2004 on renovation and development of SFE.

⁽²²⁾ Decision 380/QD-TTg by the Prime Minister dated 10 April 2008 on Piloting PES policy.

⁽²³⁾ Decree 99/2010/ND-CP by the Prime Minister dated 24 September 2010 on PES policy.

Administration, 2013);⁽²⁴⁾ this money was distributed to forest owners, including organizations, households, individuals, and communities to protect 2,3 million ha of forest (Vietnam Forest Administration, 2013). Annual revenue from PES is already equal to the state budget for forest protection and development nationwide (Vietnam Forest Administration, 2013).

Carbon absorption/storage is a forest service that can potentially offer huge financial benefits for Vietnam. With this in mind, the Government issued Decision 799 in 2012, approving a national action programme on REDD+ for 2011-2020.⁽²⁵⁾ According to this programme, from 2011-2015 the government will develop and implement national policies as well as enhance capacity through pilot projects in at least eight provinces of Vietnam. It is hoped that necessary schemes, policies, arrangements, and capacities will be finalized during the period 2016-2020 to ensure effective management, coordination, and operation of REDD+ programmes and projects nationwide. Vietnam currently has some 35 projects with REDD+ related activities and total funds committed by donors exceed 85 USD million.⁽²⁶⁾

Vietnam's forestry sector has been integrating into global markets, including timber markets. Under the Forest Law Enforcement Governance and Trade (FLEGT) framework initiated by the European Union (EU), the Government of Vietnam has been negotiating with the EU towards signing a Voluntary Partnership Agreement (VPA). The aim of the VPA is to exclude illegal timber from the EU market. Signing will lead to significant changes in policy pertaining to forest use and management, contributing to enhanced forest governance and management in Vietnam.

The government has been actively restructuring the forest sector to enhance the effectiveness of land use and forest protection. In the future, there may be important changes for forestry, especially on land currently managed by forest companies. Resolution 30 of the Political Bureau issued in March 2014 stresses the need to renovate the forest sector for improved performance of forest companies.⁽²⁷⁾ The Resolution lists targets for action:

- Land and forest are to be allocated to specific owners for effective use and management; benefits and responsibilities are to be linked to each other in land use and management as

⁽²⁴⁾ Representative of the Vietnam Forest Administration, from a speech made at the opening of the workshop 'Payments for Environmental Services in Vietnam – Practice and Solutions.' Hanoi, 20 August 2013.

⁽²⁵⁾ Decision 799/QD-TTg by the Prime Minister dated 27 June 2012 on approval of the national action programme "Reducing emissions from deforestation and forest degradation, sustainable forest management, conservation and improved carbon stocks," 2011-2020.

⁽²⁶⁾ Data synthesized from field survey by Forest Trends in 2013.

⁽²⁷⁾ Resolution 30-NQ/TW by the Political Bureau dated 12 March 2014 on continued renovation, development, and enhancement of work performance by agro-forestry companies.

well as in forest protection and development.

- Coping with constraints relating to land, especially homestead land and production land for ethnic minority peoples, ensuring social stability and effective renovation in land use and management, forest protection, and development as regulated by law.

In order to reach the set targets, the Resolution suggests the following actions:

- Maintaining totally state-funded forest companies or shifting them into forest management boards: forest companies mainly managing natural forest for production purposes – whose sustainable forest management plan has not been approved – should run as public welfare companies.
- Privatization of seedling nurseries and forest companies which mainly manage plantations.
- Forest companies which are transformed into joint ventures should lease land as regulated, organize trading activities in line with land use planning and socio-economic development plan of the region, and ensure the benefits of people who receive forest land based on contract.
- Establishing joint-stock limited companies with at least two stock members to connect raw material suppliers (the company and local people) with the greater forest product processing industry and related markets.
- Dissolving forest companies suffering continual losses: companies allocated land on contract but failing to manage land and products effectively as well as inefficient small-scale companies. The dissolving of companies will allow local authorities to manage the land, ensure the benefits of people receiving land on contract, stabilize local society, and strictly punish those violating regulations.

In short, the institutions of the forestry sector have seen a great deal of development and change since 1950, specifically in three aspects: (i) state-run forest management, (ii) forest business and service, and (iii) mechanisms and policies for each specific period. Fundamental changes are summarized in Table 4.

Table 4. Fundamental changes in forest institutions since 1950

| Period | Management system | Business and service system | Key mechanisms and policies |
|----------------|--|--|--|
| 1955-1975 | <ul style="list-style-type: none"> • Establishment of Ministry of Agriculture • Establishment of agriculture companies and SFE at local level • Establishment of People's Forest Protection Forces (1973) • Local forest management, especially in poor communes. | <ul style="list-style-type: none"> • Forest product exploitation (mainly timber) serving war and national construction efforts • Private enterprises excluded from involvement in timber processing • Cooperatives worked closely with SFE to harvest timber. | <ul style="list-style-type: none"> • Nationalization of forest resources • Swidden cultivation minimize • Resettlement programmes combined with establishment of cooperatives • Late in the period, a shift from forest exploitation to protection. |
| 1976-1986 | <ul style="list-style-type: none"> • Establishment of Ministry of Forestry • Reinforced forest protection forces • Ministry of Forestry and PPC manage SFE • Overlaps in management and performance between SFE and forest protection forces • The forest sector faced a crisis; numerous SFE failed to operate, funds from forestry and the state declined sharply due to decreased revenue. | <ul style="list-style-type: none"> • Timber exploitation continued for export and national restructuring • Timber was over-exploited, leading to exhausted forests • Forest land was converted into agricultural land and new special economic zones. | <ul style="list-style-type: none"> • Continued resettlement programmes • Emigration from lowlands to mountainous areas, building up new economic zones • Continued shift from forest exploitation to protection. |
| 1986 until now | <ul style="list-style-type: none"> • MARD manages forestry issues • Establishment of FMB to manage protection and special-use forests • SFE (FC) manage production forest • Households, individuals, and communities are involved in production forest use and management | <ul style="list-style-type: none"> • New emphasis on the importance of forest environmental services and biodiversity • Forest value is not just economic (i.e. land for production) but also tied to environmental services | <ul style="list-style-type: none"> • Priority has been given to forest protection and biodiversity conservation through policies/mechanisms on protection and special-use forest management. Applying market-oriented mechanisms for full exploitation of forest environmental services (PES, REDD+). • Decentralization has proceeded through improved land access for households, individuals, and communities (Land Law/Forest Protection and Development Law). |

The next part of the report will focus on three issues concerning forest land allocation and contract-based allocation, including: (i) land allocation to state organizations; (ii) land allocation to households and individuals, and (iii) contract-based allocation to households and individuals.



3 Forest land allocation to households and individuals

3.1. Policies on forest land allocation and contract-based allocation

Standard FLA is a process in which the state as the land owner allocates land to state agencies and non-state organizations such as households and individuals to use land based on a plan approved by the state. Within this mechanism, the relationship between the state and land recipient groups is regulated by administrative law, indicating the rights and responsibilities of the state and land recipients based on the Land Law. Meanwhile, contract-based allocation is a process in which state agencies such as FC or FMB carry out allocation to households and individuals of production forest land for commercial purposes or of protection forest land for conservation purposes. The state develops the legal framework for allocation and assists parties in adjusting their relationship.

Key policies on forest land allocation

GFLA policy was developed at the beginning of 1980s, with the Communist Secretariat issuing Instruction 29 dated 12 November 1983 for promotion of FLA. The document stressed that it was urgent to “allocate land/forest land and hills to specific owners.” Since then, the government has issued a number of policies to realize the targets set by the Instruction. As mentioned above, FLA policies as follows: ⁽²⁸⁾

- Decree 02 dated 15 January 1994 by the Government indicated FLA rules for organizations, households, and individuals for long-term use. The Decree’s Article 3 states that the government shall allocate land with natural forest and plantations set up by the state budget to organizations, households, and individuals for long-term forest protection, development, and stabilization. Article 3 also stipulates that non-forested land allocation will be accompanied by subsidies for organizations, households, and individuals. Articles 7 and 8 state specific regulations on allocation of protection and special-use forest land to state FMB for protection. The Decree encourages organizations, households, and individuals to request land to plant trees and develop agro-forestry activities on bare land.
- Decree 163 dated 16 November 1999 by the Government concerned allocating forest land

⁽²⁸⁾ Further details on related FLA policies can be seen in “Overview of FLA policy in Vietnam: status and orientations for the future.” This report was presented at the workshop “Forest Land Allocation: Policy and Practice” organised by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi.

to organizations, households, and individuals for long-term use without land use or land lease fees, including land with natural and plantation forests, as well as bare land for planting trees and rehabilitating natural forest. The state would allocate forest land without collecting land use fees from households whose livelihoods mainly depended on direct land use. However, should the forest land area of each household exceed 30 ha, they must pay land-leasing fees, with a maximum leasing period of 50 years. The state leases to domestic organizations belonging to every economic sector, along with foreign individuals and organizations.

- Decree 181/2004/ND-CP dated 29 October 2004 by the Government on carrying out the land law (substituting for Decree 163) described specific regulations on forest land allocation for organizations, households, and individuals.

- Apart from the above-mentioned policies, there are typically localized FLA policies developed either by local authorities. Moreover, a host of projects focus on enhanced access to forestry land for households and communities. The following are some typical policies: Resolution 30a dated 27 December 2008 by the Government on rapid and sustainable poverty reduction programme for 61 poor districts involved subsidizing policies for poor households to receive land for forest maintenance, protection, and development of production forest. Specifically, households which receive land on contract for maintaining protection forest (including special-use forest/rich and medium natural forest classified as production forest though under the closure period) would be given allowances for caring for and protecting forest. For those receiving production forest not for protection purposes, subsidies would help develop forest on allocated land through support for seedling purchase and low-interest loans.

Key policies on contract-based allocation

- Decree 01 dated 1 January 1995 by the Government indicated regulations on forest land allocation based on contract to state enterprises for agricultural, forestry, or aquaculture development purposes. Specifically, SFE and protection/special-use Forest Management Boards (known as allocating agents) would be allocated land for forestry purposes by the State. The allocating agents would then allocate forest land (including protection, special-use, and production forest land/bare land slated for forest planting) to land recipients such as households, labourers, civil servants working for allocating agents, local residents, and households and organizations from other regions seeking to develop production forest. The Decree pointed out responsibilities and benefits for each party. The allocation period is about 50 years for protection and special-use forest, while production forest periods are based on the tree's business cycle.

- Decree 135 dated 8 November 2005 by the Government on contract-based allocation

of agricultural land and production forest land among SFE indicated that SFE (allocating agents) were allowed to allocate natural forest, plantations, and production forest land to land recipients, including households seeking to receive land. Priority would be given to poor ethnic minority groups in mountainous areas. Depending on the capacity of allocating agents and land recipients, the forest land contract could be varied, either based on tree life cycles or business cycles, with a maximum period of about 50 years. Allocating agents may share a role in forest development on allocated land with land recipients, with benefits respectively divided between the two parties.

- Decision 304 dated 23 November 2005 by the Government regarded piloting forest allocation and contract-based allocation of forest for protection for ethnic households and communities in the Central Highlands. Under this Decision, natural forest (as production, special-use, and protection forest) was allocated to poor households on contract. This enabled poor local people to participate in forest protection and improve their livelihoods. Based upon the land availability, poor households meeting selection criteria could receive a maximum 30 ha of production forest and/or 15-20 ha of protection and special-use forest. In addition, land and forest land recipients also received allowances for effective forest protection and development.

Standard allocation and contract-based allocation are rather different, as the relationship between allocating agents and land recipients differs from that between state and allocation recipient. However, contract-based allocation is overseen by various regulations and it is always the state that is the ultimate representative of land owners. In accordance with land law, the state must:

- Designate land characteristics including purpose, use planning, area to be allocated, use period, allocation timeline, land lease, land withdrawal, and issuance of the land user rights certificate (LURC);
- Offer LURC to land users through land allocation, land lease, recognition of land use rights for those currently using land, and ensuring on-going regulation of rights and responsibilities of users.
- Conduct general management: issuing legal documents regarding use and management; setting field demarcations and producing administrative maps; conducting surveys to measure, evaluate, and rank land for planning maps; and managing plan implementation, conducting forest land allocation, lease, withdrawal, or altering use purposes.
- Supervise land monitoring and inventory; managing and developing land markets; managing and supervising performance of users; inspecting and monitoring implementation of land

regulations; and solving land violations.

- Resolve land conflicts and disputes, as well as violations concerning land use and management.

Concerning production forest land, land recipients are permitted to convert, transfer, lease, inherit, and mortgage their land holdings. Land recipients may hold land rights for a 50-year period; these land rights can be extended if recipients comply with regulations. However, in case land users violate land regulations, the state may withdraw land and all associated rights. Decree 02 regulates land allocation for long-term production among households, while Decree 01 delineates terms for contract-based allocation of land and forest for households. Table 6 shows key differences between standard allocation (according to Decree 02) and contract-based allocation (according to Decree 01) among households.

Table 5. Differences between standard allocation and contract-based allocation

| Type | Standard Allocation | Contract-based allocation |
|---------------------------------------|--|---|
| Type of forest | The state allocates protection forest and special-use forest to state organizations for protection and management. The state allocates natural forest as high-volume production forest to SFE/FC for use and management and allocates poor forest and bare land as production forest to state agencies, households, and individuals for use. | Management boards of protection and special-use forest allocate forest based on contract to households and individuals for protection purposes. SFE/FC allocate land which slated for production forest to households and individuals on contract to plant forest for economic development. |
| Law regulating the relationship | Administrative law, with the state acting as the representative of land owners. | Civil law, through a form of transaction between allocating parties and receiving parties. |
| Scope of rights given to local people | The state allocates protection and special-use forest land to FMB for management purposes. Forest land rights are limited. The rights over natural forest as high-volume production forest given to FC are limited. The state allocates five rights (transfer, sale, lease, inheritance, and mortgage) to households/individuals in the case of poor forest/non-forested land. | Rights are indicated in the contract between allocating agents and land recipients. Normally, fewer rights are offered than in standard, direct allocation. |
| Period for holding rights | Normally 50 years for production forest land | Depends on the contract |

Source: Land Law, Forest Protection and Development, Decree 01, Decree 02

Types and scope of rights for allocating parties and land recipients vary greatly between allocation and contract-based allocation. Rights depend on the specific category of forest. Table 6 shows the scope of rights for households for each type of forest.

Table 6. Scope of household rights for each type of forest

| Rights | Protection | Special-use forest | Production (Natural) | Production (Plantation) |
|-----------------------------------|---|---|---|--|
| Right to exploit forest | Limited to thinning/ selective exploitation | Not allowed | Limited, but laxer compared to protection forest | Allowed |
| Management rights | Limited (retained by forest management board) | Limited (retained by forest management board) | Limited (retained by forest companies) | Limited if forest was planted using state funds. Unlimited if forest was planted by household funds. |
| Collection of forest products | Limited, but more flexible than special-use forest | Most limited | Allowed | Allowed |
| Land Use Right Certificate (LURC) | Not given, a contract is made with the forest management board | Not given, a contract is made with the forest management board | Given only in certain cases; rights of households to forest are limited | Certificate given with five land rights as regulated by Land Law |
| Rights period | According to contract | According to contract | Indicated in the certificate; normally from 20-50 years | 50 years |
| Right to transfer | Limited: contract can be transferred if allocating agents and local authorities agree | Limited: contract can be transferred if allocating agents and local authorities agree | Limited: contract can be transferred if allocating agents and local authorities agree | Allowed |
| Right to exchange | Limited: allowed only among households in the area | Limited: allowed only among households in the area | Limited: allowed only among households in the area | Limited: allowed only among households in the area |
| Right to lease | Not allowed | Not allowed | Not allowed | Allowed after three years |
| Right to give | Not allowed | Not allowed | Not allowed | Limited: may be given only to state organizations and communities |
| Right to mortgage | Not allowed | Not allowed | Allowed only with increased volume of timber due to effective forest protection by households | Allowed |

| Rights | Protection | Special-use forest | Production (Natural) | Production (Plantation) |
|----------------------|---|---|---|-------------------------|
| Right to inheritance | Limited: contract can be transferred if allocating agents and local authorities agree | Limited: contract can be transferred if allocating agents and local authorities agree | Allowed | Allowed |
| Investment rights | Not allowed | Not allowed | Allowed only where increased volume of timber will result | Allowed |

Source: Revised papers by Dang Kim Phung et al., 2012. ⁽²⁹⁾

3.2. Forest land allocation to forest companies and forest management boards

As mentioned above, SFE are the representatives of state-run forest agencies. SFE history and development have been closely linked to timber exploitation on forest land allocated by the state, typically leading to situations where exploitation proceeded until forest exhaustion. In cases of cut-off timber revenue, the government has assigned SFE with carrying out forest protection and development programmes such as the 327 and 661 Programmes. In accordance with such programmes, SFE planted and protected forest through a budget allocated for programme activities. Some SFE conducted contract-based allocation of parts of their land holdings to local people so they might participate in protection and new plantation development. Some SFE have been involved in the current forest protection and development plan (2011-2020). SFE situated in areas with hydropower plants are allowed to generate income from PES schemes. ⁽³⁰⁾

Resolution 28/NQ-TW by Vietnam's Political Bureau in 2003 and Decree 200 by Vietnam's Government in 2004 regulated the shift of SFE towards FC. As a result, 256 SFE have been shifted into 148 FC, 3 joint-stock companies, and 91 forest management boards; 14 ineffective SFE were dissolved entirely. Merely 10 of the 148 FC are under central management, while the 138 remaining SFE are managed by their respective PPC. Table 7 shows changes in land use under SFE.

⁽²⁹⁾ T.K.D. Dang, E. Turnhout, and B. Arts. 2012. Changing Forestry Discourses in Vietnam in the past 20 years. *Forest Policy and Economics*, 25: 31-41.

⁽³⁰⁾ According to Decree 99/2010/ND-CP by the Prime Minister dated 24 September 2010 on PES policy, regulating environmental services (i.e. water supply, sediment control), users should pay organizations and individuals protecting forest.

Table 7. Changes in forest land area managed by FC (ha)

| Target | Pre-arrangement (2005) | 2011 |
|--|------------------------|-----------|
| Total forest land area | 3.828.000 | 1.904.700 |
| Production forest land | 2.111.000 | 1.529.262 |
| Protection forest land | 1.685.000 | 362.221 |
| Special forest land | 32.000 | 13.217 |
| Land to be returned to local authorities | | 585.167 |

Source: Report 595 by the Vietnam Forest Administration, 2012⁽³¹⁾

Currently, 148 forest companies manage 1,9 million ha of forest land, mainly production forest land; prior to FC rearrangement, this figure was some 3,8 million ha. Still, FC continue to receive priority in attaining land access. Though 600.000 ha of land have been withdrawn for re-allocation to local people, some experts note that most of this land is not suitable for cultivation as it lies in remote, impoverished areas.

Report 595 by the Vietnam Forest Administration states that average land area received by a SFE was about 14.000 ha. On average, each SFE worker was allocated 80 ha of natural forest and 20 ha of plantation forest. As these areas were too vast, SFE failed to use the land effectively. This resulted in ineffective land use and excessive land clearance for collecting land leasing fees. The problem would be further exacerbated by inefficient contract-based allocation to households. Land use by SFE/FC is shown in Table 8.

⁽³¹⁾ Report 595/BC-TCLN-BCS dated 17 May 2012 by the Vietnam Forest Administration on implementation of Decree 28-NQ/TW by the Political Bureau on renovation of SFE.

Table 8. Changes in land used by SFE/FC (ha)

| No. | Target | Unit | Pre-arrangement (2005) | 2011 | Change |
|-----|---|------|------------------------|-----------|------------|
| 1 | Total land area | ha | 4.091.000 | 2.064.690 | -2.026.310 |
| 1 | Self-production and management | ha | 3.287.000 | 1.868.383 | -1.418.617 |
| 2 | Allocation and contract-based allocation | ha | 667.500 | 667.500 | 0 |
| 3 | Joint venture | ha | 33.690 | 23.102 | -10.588 |
| 4 | Lease and borrow | ha | 3.836 | 810 | -3.026 |
| 5 | Conflict and encroachment/ appropriation of land | ha | 47.637 | 7.684 | -39.953 |
| 6 | Unclear land use status | ha | 50.920 | 50.920 | 0 |

Source: Report 595 of the Vietnam Forest Administration, 2012.

Resolution 28 by the Political Bureau and Decree 200 by the Government created sweeping changes in natural forest management among state forest agencies, resulting in 91 SFE managing large areas of protection forest becoming forest management boards. Table 9 shows land used by forest management boards nationwide, divided according to geographical regions. Table 10 illustrates land use following land conversion by forest management boards.

Table 9. Land used by protection forest management boards

| No. | Region | Number of FMB | Forest land (ha) | | | |
|--------------|-------------------|---------------|------------------|------------|-------------|------------|
| | | | Total | Protection | Special-use | Production |
| 1 | Northwest | 30 | 511.317 | 409.692 | 4.964 | 96.611 |
| 2 | Northeast | 41 | 585.875 | 542.311 | 2.672 | 40.892 |
| 3 | Red River Delta | 9 | 22.435 | 16.297 | 1.530 | 4.608 |
| 4 | North Central | 47 | 917.618 | 798.125 | 628 | 118.865 |
| 5 | Coastal | 59 | 892.933 | 636.439 | 31.588 | 224.906 |
| 6 | Central Highlands | 53 | 951.192 | 601.219 | 1.869 | 348.104 |
| 7 | South-eastern | 14 | 142.708 | 97.105 | 28.873 | 16.730 |
| 8 | South-western | 23 | 148.452 | 111.119 | 5.167 | 32.166 |
| TOTAL | | 276 | 4.229.544 | 3.249.600 | 77.291 | 902.652 |

Source: Final report pertaining to protection forest management boards by the Vietnam Forest Administration, 2012.

Table 10. Land use after land conversion by forest management boards

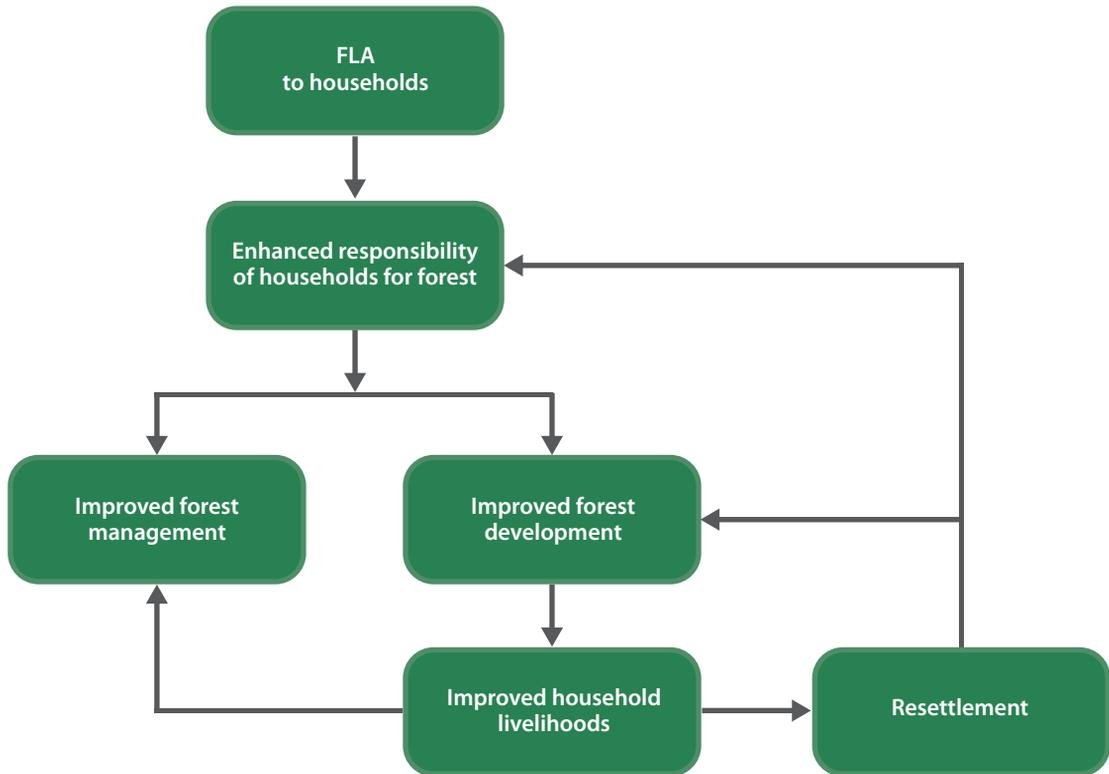
| No. | Types of land use | Before conversion (ha) | Right after conversion (ha) | Area by end of 2011 (ha) |
|-----|--|------------------------|-----------------------------|--------------------------|
| A | Division based on land use | | | 1.521.522 |
| 1 | Self-protection and management | 222.552 | 269.136 | 257.565 |
| 2 | Joint venture | 892 | 3.546 | 2.380 |
| 3 | Allocation and contract-based allocation | 0 | 6.885 | 1.198.400 |
| 4 | Lease and borrow | 484 | 42 | 50 |
| 5 | In dispute/encroachment | 23.107 | 3.427 | 23.886 |
| 6 | Unclear Purpose | 34.440 | 29.717 | 39.240 |
| B | Issued with LURC | 95.686 | 231.616 | 414.503 |
| C | Already reviewed | 82.591 | 300.992 | 319.144 |
| D | Allocated to local people | 14.865 | 43.878 | 13.095 |
| E | Not reviewed for LURC | | | 720.522 |

Source: Final report pertaining to protection forest management boards by the Vietnam Forest Administration, 2012.

3.3. Forest land allocation to households and individuals

From the state's viewpoint, forest land allocation to households and individuals has the power to improve civil access to land. Households allocated land and long-term land use rights will also have more incentive to invest in forest protection and development, leading to improved livelihoods and ability to move beyond swidden cultivation. With improved livelihoods, households will be able to invest more time and effort in forest protection and enrichment. Figure 3 illustrates the targets of forest land allocation to households.

Figure 3. FLA policy objectives



Source: Revised chart from Castella et al., 2006. ⁽³²⁾

The data in Table 11 shows that as of 1 January 2012, total forest land area allocated to households and individuals was 4,46 million ha, of which protection forest land occupied 69,5% (3,1 million ha) and protection forest land 29,8% (1,33 million ha), with the remainder being special-use forest land (11.377 ha). According to Decision 1739 by MARD on announcement of national forest status in 2012, total forest land area allocated to households were approximately 3,4 million ha, of which 1,8 million ha was natural forest, the remainder plantation. Table 11 illustrates the characteristics of each type of forest allocated to households.

⁽³²⁾ Castella, S. Boissau, Nguyen H. T., P. Novosad. 2006. Impact of forestland allocation on land use in a mountainous province of Vietnam. *Land Use Policy*, 26: 147-160.

Table 11. Forest allocated to households by late 2012

| Type of land and forest | Area (ha) |
|---------------------------------|------------------|
| Forested land | 3.388.948 |
| Natural forest (A), includes: | 1.809.976 |
| • Timber forest | 1.391.169 |
| • Bamboo forest | 131.933 |
| • Mixed- species forest | 72.373 |
| • Mangrove forest | 2.132 |
| • Forest on rocky land | 212.369 |
| Plantation forest (B), includes | 1.578.972 |
| • High-yield forest | 811.747 |
| • Low-yield forest | 563.663 |
| • Bamboo | 71.268 |
| • Perennial forest, specialty | 97.819 |
| • Mangroves/ acidic soils | 34.475 |

Source: Decision 1739 by MARD, 2013

The area of natural forest allocated to households was relatively high, making up 53% of total forest land area allocated to households. Nonetheless, almost all of these households have yet to receive substantial benefits from the forest they received. Vu Long and Do Dinh Sam (2009) state that more than 70% of the natural forest allocated to households was poor, thus reducing possible economic benefits. In addition, household rights regarding natural forest are extremely limited, less than half the rights available with agricultural or plantation land. Indeed, there are two mechanisms applied to households receiving land with natural forest designated as production forest. First, legal documents thoroughly control the relationship between the allocating party (the state) and land recipients (households), with the Forest Protection and Development Law detailing key concerns for natural forest and production forest holdings. The Land Law allows land-receiving households to sell land and transfer their LURC – even allowing it to be used as collateral, a guarantee, or a financial contribution. However, when natural forest is concerned – which is considered physical property separate

from land – the Forest Protection and Development Law does not allow households the right to sale, lease, or transfer their LURC. Additionally, rights related to donating or using LURC as collateral seem very limited regarding forest in general and natural forest in particular. Table 12 compares household rights regarding land and production forest, including natural forest and plantations.

Table 12. Scope of rights for production forest land, natural forest, and production plantations ⁽³³⁾

| Production forest land | Natural forest | Plantation forest |
|---|---|---|
| Common rights and responsibilities indicated in Articles 105 and 107 of Land Law | Common rights and responsibilities indicated in Article 70 of Forest Protection and Development Law | Common rights and responsibilities indicated in Article 70 of Forest Protection and Development Law |
| Transfer of land user rights to other households and individuals within the commune, precinct, and town allowed | Transfer of land user rights to other local households allowed | Transfer of land user rights to other local households allowed |
| Sale of LURC allowed | Sale of LURC not allowed | Sale of LURC not allowed |
| Leasing out of user rights allowed | Leasing out of user rights not allowed | Leasing out of user rights allowed |
| Inheritance allowed | Inheritance allowed | Inheritance allowed |
| Donation of land user rights allowed | Donation of land user rights not allowed | Donation of land user rights allowed only to the state and communities |
| Land user rights may be used as collateral, guarantee, or financial contribution | Allowed to use added value of land user rights as collateral | Land user rights may be used as collateral |

Source: Vu Long and Do Dinh Sam, 2009

The differences in legal documents regulating rights and responsibilities towards production forest land and natural production forest have kept households from fully enjoying or exercising their rights. The complexity of management and use of natural production forest remains a challenge in Vietnam.

⁽³³⁾ Household rights to production forest land were indicated in the Land Law of 2003 and elaborated further – to include natural forest and plantations – in Article 32, Chapter IV of Decree 23/2006/ND-CP dated 3 March 2006 on carrying out the Forest Protection and Development Law.

By the end of 2012 total plantation forest area was around 3,4 million ha, of which production plantations occupied 2,5 million ha.⁽³⁴⁾ According to Table 11, total plantation area managed by households was almost 1,6 million ha, of which 51% was of yield; the remainder (49%) had no yield. Table 1 showed that the total protection forest land allocated to households was 3,1 million ha. To date, there is no reliable data concerning forest land area of each type (production, protection, and special-use) mixed with natural forest and plantations allocated to households. Ultimately, restricted rights to natural forest (1,8 million ha, see Table 11) and limited area of plantation forest (a total of 1,5 million ha) have resulted in limited benefits for households receiving forest land, which now number more than one million. On average, each household has received 2-3 ha of production forest, a somewhat limited figure. In practice, the state has given much greater priority to distribution to state agencies such as FC and FMB, especially in access to lucrative production forest. According to the Central Committee for Ethnic Minority Affairs, lack of production land was the leading cause of hunger and poverty, especially in the poorer Central Highlands and Northeast regions.⁽³⁵⁾ Land conflicts between FC, FMB, and local people have flared up in many areas (To Xuan Phuc et al., 2013). The 7.600 ha of disputed land area indicated in Report 595 by Vietnam's Forest Administration only considers certain aspects of forest land conflict on the ground. The bigger picture is one of inequality in land access among FC, FMB, and households. Though allocated with a large area of forest and forest land, FC and FMB have failed to use land and protect forest effectively. As a result, they have increasingly conducted contract-based allocation of parts of their forest land holdings to local households.

3.4. Contract-based allocation of forest and forest land to households

As indicated in Table 8, among the 2 million ha of forest land allocated to FC for use and management by the government, forest land area currently under FC management was 1,8 million ha at the end of 2011 (93% of total area). Land area under contract-based allocation was 667.500 ha. It's important to note that the main labour source for FC-managed land comes from locals living near the forest. Depending on the type of work, local people may be needed only on a seasonal basis, for instance for planting or harvest. Local people will not receive any benefits beyond daily labour compensation during select periods of the year.

FC have developed a variety of contract-based allocation methods depending on the recipients, land area, and investment mode. Table 13 shows three types of contract-based

⁽³⁴⁾ Decision 1739 by MARD, 2013

⁽³⁵⁾ Report by the Committee for Ethnic Minority Groups to the National Assembly concerning FLA to ethnic minority peoples, 25 April 2014.

allocation used by the Dong Bac Forest Company (Lang Son province) for households in Cot Cot village of Huu Lung district for plantation development.

Table 13. Three forms of contract-based forest land allocation, Dong Bac FC

| Type | Company investment | Timber volume (m ³) contributed by households to company after harvest |
|--|--|--|
| Contract-based allocation of post-harvest land to households | Not provided | 24 m ³ of timber, four-year cycle from acquisition of land |
| Contract-based allocation of 1,5 ha or less/household | Fertilizer, seedlings, technical support | 26 m ³ of timber, five-year cycle from acquisition of land |
| Contract-based allocation of more than 1,5 ha/household | Fertilizer, seedlings, technical support | 32 m ³ of timber, five-year cycle from acquisition of land |

Source: To Xuan Phuc et al., 2013

Many experts point out that contract-based allocation encourages excessive land clearance for collection of land leasing fees. If FC fail to manage their land effectively, they typically choose to lease out the land for quick cash through contracts with local people. This does not lead to sustainable management outcomes.

On-going inequality in land access has led to conflicts between FC and local people, occurring almost everywhere FC have appropriated land (To Xuan Phuc et al., 2013). Conflict tends to exceed the scale indicated by data released by management agencies. According to Report 595 by Vietnam's Forest Administration, the total area of land in dispute between FC and local people was around 7.600 ha. Actual figures were much higher: the area in conflict between local people and Dong Bac FC alone amounted to 19.000 ha (To Xuan Phuc et al., 2013).

A large area of forest land has been allocated to households through contracts with protection forest management boards. According to the final report on protection forest management boards by the Vietnam Forest Administration (2012), land area previously managed by SFE that has been transferred to FMB as required by Decree 200 is approximately 1,2 million ha. This is equivalent to 78.8% of the total area received by protection forest management boards to be allocated to 1.248 communities and 18.582 households. In many places, encroachment into protection forest land by local people is institutional. 90% of the Bu Dang protection forest of Binh Phuoc province – under the management of a FMB – has been encroached upon.

Though it has been demonstrated that household forest land allocation offers considerable benefits in terms of effective land use, improved livelihoods, increased forest cover, and poverty reduction, the state has allocated a majority of land to FC that fail to effectively use it. This situation has deprived households of access to production land even as FC abuse their privilege by clearing land to collect leasing fees. Why doesn't the state allocate land and forest directly to households instead of unproductive FC and FMB? With the contract-based allocation system, it is certain that households must share part of their benefits with FC and FMB. Contract-based allocation can be effective only if FC and FMB have the funds and technology to complement the labour of local people and the two parties cooperate to invest in the land. However, almost all FC lack sufficient capacity to make such a programme possible. As a consequence, contract-based allocation will almost always lead to excessive land clearance for leasing fees.

The next part of this report describes the FLA process, focusing on FLA for households. Implementation of FLA depends greatly on local human resources and budget availability. Almost all of Vietnam's regions cannot afford all the recommended implementation steps, leading to inevitable shortcuts. As a result, the policy has been implemented quite differently across the nation.⁽³⁶⁾ Modifications may derive from the local context, for instance human resources, budget availability, technical capacity, or the commitment level of local leaders. For instance, FLA in Bac Kan province can be divided into two stages: (i) prior to 2000, forest land allocation was the charge of local forest protection forces, with forest land allocated using a forest record 'white book' from 1985-1989 and 'green book' from 1994-1998; (ii) since 2000, FLA has been assigned to natural resources and environment staff thanks to Resolution 163; this system uses a 'red book' (Center for Forestry and Natural Resources of FIPI, 2012).⁽³⁷⁾ Understanding the impacts of this ever-changing system requires an in-depth look at how FLA is implemented in various regions.

⁽³⁶⁾ Information on implementation of FLA policy in the provinces of Hoa Binh, Phu Tho, and Ha Tay (currently known as Hanoi) may be accessed in the report by To Xuan Phuc (2007).

⁽³⁷⁾ Presentation at the workshop "Forest Land Allocation: Policy and Practice," organized by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi.



4

Forest Land Allocation Process: From Theory to Practice

The FLA process, as regulated by Resolution 02, often begins with a land request form prepared by households and sent to the relevant District People's Committee. The form regards land area, location, and vegetation status and is certified by the CPC chairman before proceeding to the DPC. A land use plan should be attached to the land request form, clearly stating how the land is to be used in the coming five years. Like the land request form, the land use plan should be certified by village leaders and the CPC chairman. In some cases, the CPC may create a commune-level FLA working team, comprised of representatives from commune socio-political organizations such as farmers' unions and veterans groups. Based on the land request form and land use plan, the DPC chairman will make a decision on allocation. The decision document will state household rights and responsibilities over the allocated land. Immediately after decision issuance, the DPC sets up a district FLA working team, including representatives of the district's forest protection section and land registration division. The district FLA working team also involves the CPC where FLA will actually occur. FLA in the field is witnessed by a designated village observer. Prior to actual FLA field implementation, the district FLA working team organises meetings at the village and commune levels to inform local people. The required FLA steps are as follows (Tran Thi Thu Ha, 2012; Pham Hong Giang, 2012):⁽³⁸⁾

- Step 1. Preparation, including establishment of a steering committee, District FLA working team, and commune FLA Board
- Step 2. Evaluation of forest and forest land status
- Step 3. Development of forest land use plan and communal land allocation options
- Step 4. Preparation of land allocation options in the field
- Step 5. Forest land allocation in the field
- Step 6. Revision and updating of cadastral documents
- Step 7. Approval and issuance of LURC

⁽³⁸⁾Tran Thi Thu Ha. "FLA with the involvement of local people in Bac Kan: The success of 3 PAD project." Presentation at the workshop "Forest Land Allocation: Policy and Practice," organized by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi.

Pham Hong Giang. "Ideas relating to forest allocation combined with forestry land in Ham Yen district, Tuyen Quang province." Presentation at the workshop "Forest Land Allocation: Policy and Practice," organized by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi.

Research shows that FLA has been conducted in certain regions in ways that vastly differ from national regulations. It is very common for the commune FLA working team to skip certain steps to save money and time. Specifically, village and commune meetings were not always organized. In many places, such meetings did not involve representatives as recommended. Land allocation may not be based on official maps or if such maps are available, they are rarely fully updated with forest and forest land status at the time of allocation. Some field activities are skipped entirely.⁽³⁹⁾ Clement and Amezaga (2009) note crucial differences between policy and implementation in the field.⁽⁴⁰⁾ In the viewpoints of the researchers, implementation and outcomes of FLA policy greatly depend on the policy interpretation, human resources, and budget availability of local authorities. Other researchers indicate that regional socio-economic context plays the decisive role in policy implementation, and thus affects the outcomes of policy implementation (To Xuan Phuc, 2007 & 2009).⁽⁴¹⁾ According to researchers Dinh Huu Hoang and Dang Kim Son, national policy itself provides numerous constraints, notably the lack of a national FLA database or updated maps. Indeed, boundaries on national maps are not in line with those in the field and both are rarely clearly defined.⁽⁴²⁾ Author Scott (2000) observes that FLA has been conducted in a very diverse manner in Thai Nguyen province due to fractured implementation at commune to district levels.⁽⁴³⁾ According to Scott, forest land area was sometimes allocated to households and sometimes to communities which would then decide whether or not to allocate land to households. Research by Castella et al. (2006, 151) also indicated the same trend; the authors stress that: "FLA was conducted using a top-down approach... it's not difficult to identify that management rules in a village were duplicated from those of neighbouring villages, with slight changes in the village's names and representatives."⁽⁴⁴⁾ Even some MARD staff agree that FLA in some areas has not been carefully conducted, with some important steps

⁽³⁹⁾To, X.P. "Forest property in the Vietnamese Uplands: ethnography of forest relations in three villages." Berlin: LIT Verlag, 2007.

⁽⁴⁰⁾Clement, F.; J. Amezaga. "Afforestation and forestry land allocation in Northern Vietnam: Analysing the gap between policy intentions and outcomes." *Land Use Policy* 26(2009) 458-470.

⁽⁴¹⁾To, X.P. "Forest property in the Vietnamese Uplands: ethnography of forest relations in three villages." Berlin: LIT Verlag, 2007.

To, X.P. "Why did the forest conservation policy fail in the Vietnamese uplands? Forest conflicts in Ba Vi National Park in Northern region." *International Journal of Environmental Studies* 66 (2009): 59-68.

⁽⁴²⁾Dinh H.H. and Dang.K.S. "Forest Land Allocation in Vietnam: Policy and Practice." Hanoi.

⁽⁴³⁾Scott, S. "Changing rules of the game: local responses to decollectivisation in Thai Nguyen, Vietnam." *Asia Pacific Viewpoint* 41(2000): 69-84.

⁽⁴⁴⁾Castella, J-C, S. Boissau, Nguyen H.T., P. Novosad. 2006. "Impact of forestland allocation on land use in a mountainous province of Vietnam." *Land Use Policy*, 23 (2) 147-160.

skipped.⁽⁴⁵⁾ Due to the fact that FLA policy has been implemented differently indifferent regions, coherent evaluation of policy impacts is a difficult task, but general policy gaps and obstacles to implementation include:

- Laws have not yet clarified which organizations/agencies should manage FLA. Prior to 1996, the Forest Protection Department was in charge of FLA, issuing forest record books based on the Forest Protection and Development Law. After 1996, the Land Registration Office was responsible for FLA, issuing LURC based on the national Land Law. This situation has slowed the progress of forest land allocation in some places.
- Inconsistencies between the Forest Protection and Development Law and the Land Law have led to considerable differences in FLA implementation and problem-solving.
- The FLA process has not been closely monitored, producing a high risk of corruption.
- Ineffective application of technology (remote sensing, GPS) in FLA has prevented designation of clear boundaries and provoked land conflict.
- Inefficient FLA implementation has engendered considerable expense. In 2005 MONRE began producing national administrative maps, yet even when maps were distributed to provincial governments in 2011 they were not used for land registration or LURC issuance.⁽⁴⁶⁾

Part V of this report will synthesize outcomes and impacts of FLA, with special attention towards household economics, forest quality, land markets, and forest governance. Information comes from secondary data such as articles and relevant presentations. Most referenced publications are local case studies and their conclusions not fully applicable elsewhere in Vietnam. The authors would like to note that this report should be seen as a useful reference, but may not fully reflect FLA as implemented nationwide.

⁽⁴⁵⁾ Informal discussion with a staff member of the Department of Legal Affairs.

⁽⁴⁶⁾ Informal discussion with Prof. Dang Hung Vo, April 2014.



5 The impacts of forest land allocation

5.1. Forest land allocation and household livelihoods

One of the ultimate objectives of FLA is to improve household livelihoods. This report analyses three main aspects of household livelihoods: (i) household income from allocated forest land, household access to land, and rights to forest and forest land; (ii) equality in income generation between households within a community and among communities of various ethnic groups; (iii) implementation of land rights; and (iv) land conflicts.

Household income and access to land

MARD's master plan for forest lease and allocation (2007: 5) states that: "land allocation makes forests officially owned, attaching rights to responsibilities, and offering favourable conditions for local people to protect forest, who find it secure to manage, invest, and develop allocated forest." The end goal of this effort is improved household income. The evaluation report of the 5 Million Hectare Rehabilitation Programme (5MHRP) by the National Assembly's Committee for Science, Technology, and Environment stressed that: "5MHRP [including forest land allocation] has created jobs, income and contributed to improved household livelihoods of mountainous rural areas. 470.874 households have been involved in contract-based allocation of 2.268.249 ha of plantations for protection and new plantations of 1.321.999 ha. On average, each household earned VND 5,55 million per annum..." (2011: 9). The final report of the 5MHRP and the government's forest protection and development plan for the period 2011-2020 note that: "The State provided seedlings, some of the pesticides for households planting forest for raw material purposes... giving from VND 1,5-5 million per hectare for production plantation depending on each region; providing forest extension activities of VND 100.000 /ha of production forest; giving financial aid to preparation of FLA documents with an amount of VND 200.000 per ha... carrying out [Resolution 30a/2008/NQ-CP] the State Bank of Vietnam released a circular instructing that poor households to have access to loans with a 50% discount on the interest rate to develop plantations in 62 poor communes" (2011:7). Households which were allocated land and enjoyed access to favourable loans often found it more feasible to invest in production forest and were able to improve their income and livelihoods. In research regarding the impacts of FLA on the livelihoods of local people in two communes of Thua Thien Hue province, Hoang Lien Son (2012) found that FLA has helped recognition of households' legal rights to their former shifting cultivation

fields. This security in legal and long-term rights to former swidden fields would encourage households, especially better-off households, to mobilize funds for planting perennial and cash crop trees. This has helped bring about new forest income sources for households. Dinh Huu Hoang and Dang Kim Son share the opinion that FLA has offered households better access to forest land and increased their income. According to the two authors, household income post-FLA is often at least six times higher than without allocation. Apart from boosting income, FLA also contributes to reduced rates of unemployment in rural mountainous areas (Sunderlin and Huynh Thu Ba, 2005). In Dien Bien province, FLA has created an enabling environment for households and communities to get involved in forest management and attain forest benefits – all contributing to improved livelihoods and poverty reduction (Tran Xuan Dao, 2012). In some areas in the Central Highlands, FLA has brought new income from natural forest timber as well as from production forest investment (Nguyen Quang Tan, 2006). Authors Meyfroidt and Lambin (2008) observe that post-FLA households living near major roads – convenient for transportation of forest products – often shifted their swidden cultivation land to organized plantations.

Equality in forest land allocation

However, other research points out that benefits from FLA have not always been equally divided among various households and groups within a community or among adjacent communities. Research by To Xuan Phuc conducted in Dao ethnic villages in Hoa Binh and Phu Tho provinces shows that FLA depends a great deal on communal power structures (To Xuan Phuc, 2007). Specifically, ‘governmental’ households were more alert to FLA-related information before FLA was actually carried out and were therefore allocated with more accessible land plots. Land allocation has often been conducted based on ‘household resource availability:’ the number of active labourers per household at the time of allocation. This means that households with more labourers have a higher chance of receiving large land plots. This method of land allocation has put newly set-up households, often poorer, at a disadvantage. Consequently, poor households were allocated less land than wealthier neighbours. This is supported by the research of many scientists: Sunderlin and Huynh Thu Ba (2005); Jorgensen (2006); Hirakuri (2007); Nguyen Quang Tan (2006); Clement and Amezaga (2009); and Tran Ngoc Thanh and Sikor (2006) to name a few.

It is likely that FLA has brought about more benefits for Vietnam’s Kinh majority ethnic group than it has for ethnic minorities (Pham Duc Tuan, from Sunderlin and Huynh Thu Ba, 2005; Nguyen Quang Tan 2006; Tran Ngoc Thanh and Sikor, 2006). Research by To Xuan Phuc (2009) in former Ha Tay province (now known as Hanoi) noted that local staff – mainly Kinh – abused their power during a forest-allocation contract for protection purposes with a national park.

While they collected significant funds each year, they did not spend much time or effort on tangible forest protection. In spite of protest by dissatisfied locals, the staff prevented local households from receiving their own contracts or land.

FLA has created concerning profit motives among civil servants as well as better-off households able to invest in land accumulation (Clement and Amezaga, 2009). Taking advantage of their role in policymaking and implementation, SFE, SFE staff, and local officials have sought to accumulate land, leading to ill consequences for poorer households. A MARD report (referenced in Sunderlin and Huynh Thu Ba, 2005) shared this viewpoint, stressing that “FLA may create disadvantages for marginalized individuals and groups.” In Bac Kan province, FLA was carried out in a very hasty manner, resulting in a situation where better-off households received a large area of land while poorer households found it hard to attain any access to land (Tran Thi Thu Ha, 2012).

Inequality in land access has not only happened between households within a community but also among communities. Research by Sikor and Tran Ngoc Thanh (2007) and Nguyen Quang Tan (2006) in Dak Lak province indicates that some communities were allocated forest land with higher timber volume compared to that of neighbouring communities, leading to a major gap in income possibilities.

Executing rights to allocated land

FLA is expected to create positive changes in the economy, environment, and society in the uplands, especially among the rural poor. However, in many places households cannot afford the investment required for production forest land, thus failing to receive any benefits from FLA. In other words, rights allocated to households have not been mirrored in tangible economic effects. Following observation in the Central Highlands, Tran Ngoc Thanh and Sikor (2006: 403) realized that: “after a three-year period implementation of decentralization [in forest land allocation] the rights allocated to households over their land were still in severe discussion among communities. The arguments occurred in the context of available power structures of the communities and the outcomes of the arguments were influenced by economic values attached to specific rights, local history, and traditional cultural rules of the communities.” In a village of the Dao ethnic minority in Phu Tho province, due to the limited resources for forest investment, poor households sold part or all of their allocated land to better-off households within the community, or to other people outside the community. This created a new, unregulated land market and made poor households landless (To Xuan Phuc, 2007).⁽⁴⁷⁾ Through research conducted in the Central Highlands, Nguyen Quang Tan (2006)

demonstrates that lack of resources was one of the main reasons that numerous households failed to invest in their new forest land.

FLA, which aimed to generate clarity in land tenure, has occasionally influenced communal traditions in a negative manner. To Xuan Phuc (2007) observes that in some Dao villages in Hoa Binh and Phu Tho provinces, FLA has completely changed traditional forest management. For instance, former grassland, swidden-cultivation fields, and common forest from which communities formerly gathered timber and palm leaves for house construction have been broken into small parcels of land, causing newly set-up households to lose access to such forest products forever. FLA is expected to restrict shifting-cultivation practices entirely while also promoting resettlement. However, research on the impacts of FLA on local people's livelihoods in Que village, Con Cuong district, Nghe An province by Jakobsen et al. (2007) indicates that FLA has restricted access to land previously cultivated by households, leading to negative impacts on food security and livelihoods.

Forest land allocation and land conflicts

FLA has created land conflicts in many places. The priority given to FC and FMB means that households have been deprived of access to production forest land. Lack of land was the leading cause of land conflicts between local people and FC/FMB in many places (To Xuan Phu et al., 2013). In addition, FLA has created conflicts among households. Research on the impacts of FLA conducted in Hoa Binh and Phu Tho provinces by To Xuan Phuc (2007) indicates that most conflicts derived from unclear boundaries between household plots and general institutional inequality in FLA, especially between 'governmental' households and other households. In many places, FLA was carried out without adequate field work, leading to a situation where several households were given LURC for the same land plot.

Breaking swidden cultivation land into smaller land plots has negatively influenced traditional ownership schemes, provoking conflicts among rural households (Clement and Amezaga, 2009). Prior to FLA, swidden cultivation land was used under a communal, with households allowed to slash-and burn land for cultivation in unused areas; during the fallow period, fields would become grassland for community use and collection of firewood, vegetables, and herbs (To Xuan Phuc, 2013). FLA in Bac Kan province has triggered social issues, widened the gap between poor and rich households, and created considerable land conflicts (Nguyen Thi Thu Ha, 2012). FLA has also encouraged schisms between different ethnic groups, one of the leading reasons for conflicts in the Central Highlands (Tran Ngoc Thanh and Sikor, 2006). While researching land use in Bac Kan province, Castella et al. (2006) found that FLA legally recognized traditional land use rights over households' former fields. Newly-arrived

households which did not have traditional rights to land and forest were prevented from having access to such resources (Tran Ngoc Thanh and Sikor, 2006; Sikor and Tran Ngoc Thanh, 2007). This implies that the outcomes of FLA depend on numerous factors, including existing power structures within a community and traditional rules regarding forest/land use and management.

The above analysis indicates that FLA has influenced household livelihoods in complex ways. In some areas, FLA has contributed to improved household livelihoods. Still, FLA has created serious disadvantages for poor households due to a lack of labour or exclusionary rules created by traditional communities for newly-arrived households. The local economic, cultural, and political context greatly affects the way that FLA works in a region. The next section will discuss the impacts of FLA on forest cover and quality.

5.2. Impacts of FLA on forest cover and quality

Forest land allocation and forest cover

As indicated by Decision 1739/QĐ-BNN-TCLN in 2013, by the end of December 2012, national forest cover reached 39,9%. This was an impressive achievement considering that in 1995 forest cover was just 28,2% of total land area (Nguyen Van Dang, 2001). Numerous reports produced by the Vietnamese government affirm that FLA has made significant contributions to improved forest cover (MARD, from Sunderlin and Huynh Thu Ba, 2005; MARD, 2014; Government, 2011). This was further affirmed by Jakobsen et al., (2007), Hoang Lien Son (2012), and Tran Xuan Dao (2012).⁽⁴⁸⁾ In recent years, plantation area has been growing at a rate of 100.000-200.000 ha/year (MARD, 2014). By the end of 2012 the total plantation area of the nation reached 3,4 million ha, of which production plantation occupied 2,5 million ha, 73,5% of total plantation area. Many consider that this increase in plantation area, especially the sharp increase in production plantation, is thanks to incentives created by FLA. Research by Castella et al. (2006) points out that FLA has reduced household interest in swidden-cultivation, thus contributing to rehabilitation of forest and increased forest cover.

However, some research indicates a merely tenuous connection between FLA and forest cover increase. Meyfroid and Lambin (2009) attempt to clarify the misunderstanding over forest cover increase, explaining that the increase in forest cover did not come from forest

⁽⁴⁸⁾ Further information can be seen in workshop proceedings from "Forest Land Allocation: Policy and Practice" organized by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi.

protection and development law, but from the fact that Vietnam has successfully exported forest loss to neighbouring countries by importing timber. In other research, Meyfroid and Lambin (2008) illustrate a complicated picture of forest change in Vietnam: “forest growth in Vietnam was not the outcome of a process or a policy, but it was a combination of socio-political factors concerning forest resources, levels of land rarity, economic development, and market integration at the national level.”⁽⁴⁹⁾ The authors note that areas with adverse conditions, shortage of cultivation land, rapid population growth, or poor land quality together with state-led restriction on swidden cultivation land faced a severe reduction in cultivation land availability as swidden fields were shifted into plantations. Additionally, the expansion of agricultural product markets and services have contributed to plantation development as households can use income from agricultural products to invest in plantations. The authors observed that during the mid-1990s Vietnam’s forest cover began to increase thanks to rehabilitation of natural forest and increase in plantation area. However, the trend did not occur in the same manner across the board. According to the authors, forest was rehabilitated thanks to socio-political changes created by decentralization in resource management along with the development of agricultural product markets. Still, natural forest rehabilitation only happened in the mountainous areas of the North and Central provinces, especially in regions with steep slopes not suitable for agricultural development or far from residential areas. In urban or delta areas not ideal for agricultural development – and also in the Central Highlands – natural rehabilitation occurred at a slower pace or forest loss and degradation continued. The authors further indicate that plantation area increased mostly in central and coastal areas where transportation is better developed. However, according to the authors, the increase in national plantation area implies that natural forest area has been reduced. In other words, the expansion of plantation area has put pressure on natural forest due to considerable land scarcity.

Research conducted in northern Vietnam by Sikor (2001) notes an increase in forest area post-FLA. However, the expansion in forest area was not due to FLA policy, but the result of effective maize production combined with a developing market for agricultural products. As a result, local forest was rehabilitated and expanded. On the other hand, Sikor and Tran Ngoc Thanh (2007) remark that FLA has reduced forest cover in some areas of the Central Highlands due to weak rule of law. Consequently, local people took advantage of the circumstances to convert forest land into agricultural land.

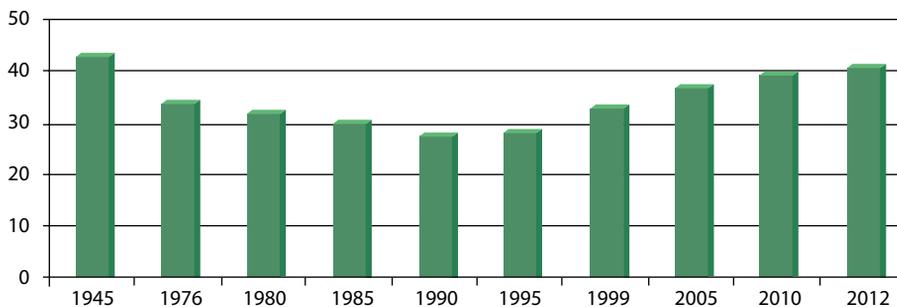
Contradicting research results regarding the relationship between FLA and forest cover

⁽⁴⁹⁾ Meyfroid and Lambin (2008), 194.

suggest that FLA has led to improved forest cover only in certain cases. However, it seems clear that FLA has encouraged an increase in plantation area, especially household plantations, thus leading to increased forest cover. Figure 4 illustrates changes in forest cover from 1945 to 2013. Data released by MARD (2013) indicates that provinces with the largest area of plantation are those with the greatest land area allocated to households.⁽⁵⁰⁾

The increase in forest cover has varied regionally (MARD, 2011). Specifically, forest cover in the Northeast and North Central regions increased by 1,4% per year. The increase in plantation area mainly came from forest planted by households on allocated land. However, in some places in the Central Highlands, forest loss has been on the rise, at a rate of -0,2% annually. Forest has been reduced both in area and quality. During the period 1998-2011, 297.000 ha of natural forest were lost (MARD, 2011). One of the main reasons for forest loss in the Central Highlands was a state forest management system in which priority was given to FC and FMB; consequently, households did not feel encouraged to participate in forest protection (To Xuan Phuc and Tran Huu Nghi, 2013; To Xuan Phuc and Sikor, 2013). In Lao Cai, Son La, and Lai Chau provinces, though FLA was started in 1990s, a great deal of land remains bare because many households cannot afford investment for afforestation. In addition, access to the area is quite restricted, negatively affecting transportation of goods such as plantation timber.

Figure 4. Forest cover in Vietnam (%)



Source: Decision 1739 by MARD (2013); kiemlam.org.vn

Forest land allocation and forest quality

As previously mentioned, the state has rarely allocated high-yield forest to households, instead leaving them for FC and FMB. In other words, it has been almost impossible for local people to enjoy access to high-yield natural forest – unless they sign a contract for forest protection with a FMB. This has created a common opinion among local people that

⁽⁵⁰⁾ Further details on plantation area can be seen on the website of the Forest Protection Department: http://www.kiemlam.org.vn/Desktop.aspx/List/So-lieu-dien-bien-rung-hang-nam/NAM_2012/.

“the forest is the state’s property” (see more in Hoang Cam, 2012; McElwee, 2004; Sikor and Phuc, 2011). In reality, such opinions have been reflected in legal documents (see Table 7). This has greatly influenced forest protection outcomes in many places, including instances of illegal logging. It also partly explains why natural forest remains in continual risk of decline and degradation. According to MARD, approximately 75% of Vietnam’s remaining natural forest is poor and is mainly classified as mixed or rehabilitated forest; the remaining 25% is medium quality and rich forest (MARD, 2011).

Research by Meyfroid and Lambin (2008, 2009) points out that though forest cover in Vietnam has increased, forest quality is declining. This is due to illegal logging and conversion of natural forest into agricultural land and other land use purposes (MARD, UNREDD, and MARD, 2010; To Xuan Phuc and Tran Huu Nghi, 2013). In other words, in some places, FLA has not contributed to improved forest quality. Forest land allocation has brought about plantation development, but often at the cost of natural forest area (Meyfroidt and Lambin, 2009). There has not been firm scientific evidence to assert that FLA has improved the quality and cover of natural forest. To the contrary, research has pointed out that in areas where natural forest are of high yield, limitation of benefits and rights to forest have not encouraged households and communities living near forest to protect their forest, thus leading to reduced forest quality.

Forest land allocation and the development of land markets

Total forest area allocated to households by the end of 2012 was almost 3,4 million ha, of which 1,6 million ha was plantation (MARD, 2013). On average, each household was allocated less than 3 ha of forest land, in 2 to 3 land plots. The scattering of the land plots has increased transaction costs while minimizing the chance of creating big plots of land. In the context of an ever-expanding timber industry and high demand for raw material (Nguyen Ton Quyen and Tran Huu Nghi, 2011), scattered land holdings have had negative impacts on timber industry development. There have been numerous discussions about how to merge small land plots for plantation development, reducing transaction costs and easing timber industry development. One of the key hopes of the government has been that a forest land market would be created, allowing timber processing enterprises with sufficient capital to buy land from households unable to afford investment for plantation development. Legally, households are indeed allowed to convert, sell, and lease out their allocated land. Should a household lack the resources for (or not wish to participate in) land investment, they can sell part or all of their land to individuals or organizations capable of developing plantations. Additionally, joint-ventures between households and companies, can bring land and capital

together in cooperative partnership. The joint-venture scheme is of great potential for the future as there remains a great deal of land that has not yet used by households and afforestation does not require a great deal of investment.⁽⁵¹⁾

Forest land rights sales have been occurring across the country (Dinh Huu Hoang and Dang Kim Son, 2005; Sunderlin and Huynh Thu Ba, 2005). In Phu Tho province, local people did not have sufficient funds to invest and thus chose to sell their allocated land to other households within and outside the community (To Xuan Phuc, 2007). In areas with good transportation systems such as Quang Ninh, Phu Tho, Lang Son, and Quang Binh provinces, thousands of hectares have been purchased by companies for plantation development. Comparative research in 16 communes spread across 5 provinces (Phu Tho, Tuyen Quang, Yen Bai, Nghe An, and Binh Dinh) by Le Trong Hung (2008) shows that there has been a tendency for land exchange both between households in a given community and with outsiders. In a survey of 804 households in the 16 communes, the author found out that 42 households had rented out 189 ha of land and 89 households had purchased 718 ha of land. Most of the buyers and renters were medium and high-income households. In addition, 127 households became involved in joint-ventures with FC. Among surveyed households, the author observed that land sales occurred among both poor and rich households. However, their motivations were generally not the same. While poor households sold their land due to lack of resources, better-off households sold their land because they wanted to focus their investment towards other, pre-existing ventures such as tea cultivation.

In recent research, To Xuan Phuc and Tran Huu Nghi (2013) indicate that some 18.000 households – mainly poor ethnic minority households in the provinces of Dien Bien, Lai Chau, and Son La – have recently used their land as a contribution to establish joint-ventures with a rubber company. It is thanks to FLA and new land rights that joint-venture business has been possible for households and companies. However, land transactions have also been carried out in under-the-table deals, with buyers and sellers seeking to avoid taxes and paperwork. In some cases, the agreement between parties is oral only, without written record, making it difficult to assess the true scale and scope of the new land market. In the past decade,

⁽⁵¹⁾Some evaluation indicates that only 20-30% of forest land allocated to households is in effective use ("An overview of FLA policy in Vietnam. Real status and orientations for the future." Vu Long, 2012; "Some ideas about forest land allocation to households." Presentation made at the workshop 'Forest land allocation: Policy and Practice' organised by Tropenbos International Vietnam and FIPI, 10 April 2012 in Hanoi). Figures also quoted in: "An overview of forest land allocation in Vietnam" by Tran Manh Long; the report "Forest land allocation, real situation, impacts, and lessons-learned" by To Dinh Mai; and "Issues relating to forestry land allocation of forest in Vietnam" by Vo Dinh Tuyen. The three latter reports were presented at the workshop "Forest land allocation in Vietnam: Policy and Practice" organised by the Center for Rural Development of the North Central region, 7-8 June 2013 in Hue city.

forest land transactions have been wildly popular in the countryside surrounding Hanoi. Research by To Xuan Phuc (2012, 2013) points out that allocation of land to households has paved the way for land market establishment in these areas. We now turn to discussion of the significance of FLA for implementation of FLEGT and REDD+ in Vietnam.



6

Forest land allocation and its significance for FLEGT and REDD+

Vietnam is one of the main countries pioneering international initiatives FLEGT and REDD+. FLA has an important relationship with the implementation of both programmes.

6.1. Forest allocation and FLEGT

The FLEGT initiative seeks to prevent illegal timber products from entering the EU market. As a first step, the EU negotiates a comprehensive bilateral Voluntary Partnership Agreement (VPA), building the foundation for state oversight mechanisms that will guarantee the legality of forest products exported to the EU market. VPA negotiations in Vietnam will provide comprehensive definitions of timber legality and promote a Timber Legality Assurance System (TLAS).

In principle, legal timber products are those that completely follow all regulations of Vietnam's government, starting with legal right to the forest land where timber is logged and continuing through the transportation, processing, and trading processes. Environmental and social regulations will be built into the supply chain as well. Ultimately, the government of Vietnam will operate a common national TLAS to oversee exported timber along with domestic products.

How does FLA relate to domestic timber logging? In Vietnam, timber has long been logged from natural forest managed by state agencies and from the plantations of individuals and households. So far, logging in natural forest has mainly been done by forest companies.⁽⁵²⁾ Forest land conflicts between FC and local people have unfortunately become quite common in some areas (To Xuan Phuc et al., 2013); the most common cause is asymmetry between the traditional land rights enjoyed by local people pre-FLA and the new legal land rights generated by FLA implementation. Timber logged from disputed forest or land of unclear legality will fail to meet the requirements of FLEGT/VPA. Similarly, once the TLAS has been put into operation, timber products originating from disputed forest will not be accepted in the domestic market. This means that in order for natural forest timber to meet the legal requirements of the finished VPA, the Vietnamese government should make a conflict-

⁽⁵²⁾ Currently, the government has issued policy on natural forest closure nationwide. Only those organizations/units which have received a FSC certificate are allowed to exploit forest based on an approved plan; all other organizations/units are prohibited from exploiting timber from land under their management.

resolution mechanism available.

In theory, the closure of natural forest may reduce illegal timber logging. However, in the context of weak performance of law and policy, especially in rural areas, it is uncertain whether or not natural forest closure is enough to control illegal logging. Indeed, illegal logging may remain in the supply chain whatever the government does to close natural forest. Should enhanced forest law enforcement effectively exclude loggers from natural forest, there will be a shortage of timber. With the domestic timber industry in continual expansion, demand for raw material inputs will lead to higher prices and/or import of questionable timber from neighbour states (see more in: McElwee, 2004; Sikor and To Xuan Phuc, 2011).

Regarding plantation timber, legality is easier to ensure because FLA has built a strong legal foundation for landed property. However, important issues remain to be considered. First, under the framework of FLEGT/VPA, legal timber requires proof of origin. In the case of plantation timber, the LURC should serve this purpose. However, an estimated 13,7% of allocated forest land has been disbursed without a LURC (see Table 4). This may put households with plantations set up on land without a LURC in a difficult situation. Second, as mentioned in the introduction of the report, some areas have skipped important steps in FLA implementation, thus leading to overlapping boundaries for forest land ownership. Additionally, LURC may have inaccuracies that contradict the real on-the-ground situation. All this has made the identification of plantation timber legality difficult. In short, though FLA was designed to generate legible land rights to allocated land, the implementation process as well as extant historical and socio-cultural elements have made it difficult to identify the legality of allocated land (and property such as plantation timber).

6.2. Forest land allocation and its significance for REDD+

REDD+ offers payments based on results: only when there is sufficient evidence that interventions have contributed to reduced emissions. FLA seeks to set up clear boundaries between forest and forest land in the field, including rights to land and forest allocated to households. Indeed, FLA has brought some transparency in land tenure as well as forest use, making it easier to identify beneficiaries in PES schemes such as REDD+. Security in land use and improved land benefits are the ideal outcomes of the FLA process. However, the current land tenure mechanism may produce obstacles to REDD+ payments in the future. This has been demonstrated in the extant PES system in Vietnam (Pham Thu Thuy et al., 2013; To Xuan Phuc et al., 2012).

FLA in its traditional manner will not offer households long-term access to REDD+ benefits. Only a limited area of forest has been allocated to households (3,4 million ha/1,2 million

households), occupying less than 30% of total forest land area nationwide. Thus, if REDD+ is to be applied nationwide, potential benefits from REDD+ received by each household will not be significant. Consequently it may be difficult to create strong motivation for people to participate in forest protection.

Households have been allocated two types of forest – natural and production – with equivalent area of each type. At this time, under the framework of REDD+ plantations are not subject to emissions reductions payments. Household rights to natural production forest remain quite legally limited, minimizing chances for households to access the potential benefits of REDD+.

Households might benefit from REDD+ through forest-protection contracts developed by FC and FMB. However, contracts are currently only short-term (one year), not long enough to factor into REDD+ timescales. In addition, unless some mechanism can effectively promote contract-based allocation at the local level, households may face high risk if FC/FMB continue to pursue their own interests without full consent of households.⁽⁵³⁾ Nonetheless, if conducted properly, FLA may bring about appreciable REDD+ benefits for households (see details in Part VII).

Vietnam has experienced increasing integration with regional and global markets, especially for timber and food products; the forestry sector has undergone remarkable changes as a result. Part VII will discuss related opportunities and challenges, focusing on how FLA relates to such changes.

⁽⁵³⁾A great deal of research indicates such concerns in the context of rehabilitation and contract-based forest allocation projects such as Programme 661, 327 (To Xuan Phuc, 2007; UNREDD and MARD, 2010).





7

Potential changes from forest land allocation

7.1. Restructuring the forest sector

In July 2013 MARD officially approved a new master plan for restructuring the forest sector.⁽⁵⁴⁾ The objective of the master plan is to “achieve sustainable development of economy, society, and environment and gradually promote growth for better quality, effectiveness, and competitiveness.” The three main objectives of the master plan include:

- Improving the added values of environmental products and services; increasing average annual values of production by 4-4,5%.
- Meeting timber and forest product demand nationally as well as promoting exportables.
- Contributing to hunger eradication and poverty reduction, livelihood improvement, and ecological protection for sustainable development.

Efforts to reach these targets include re-organizing forest designations, fostering the forest sector’s competitiveness, adjusting the economic components of the forest sector, effectively mobilizing and using funding, and promoting development according to forestry economic/ecological regions. The Decision also put forward more specific solutions. Table 14 illustrates the master plan’s orientations and their specific criteria. Table 8 shows FLA potential as a major tool for restructuring the forest sector.

⁽⁵⁴⁾ Decision 1565/QĐ-BNN-TCLN by MARD dated 8 July 2013 on approving the “Master Plan for Restructuring the Forest Sector.”

Table 14. FLA potential for realization of forest sector restructure

| Master Plan orientations | Specific criteria | FLA potential for realization |
|---|--|---|
| Regarding specific forest type | <ul style="list-style-type: none"> • Forest area by 2020 is to be about 16,2-16,5 million ha (15,4 million ha currently), a 5-7% increase. • Protection forest: 5,8 million ha (4,7 million ha currently), a 23% increase. • Special-use forest: 2,14 million ha (2 million ha currently). • Production forest: 8,13 million ha (6,96 million currently), a 7,1% increase. | <ul style="list-style-type: none"> • FLA plays a vital role in meeting these targets. Specifically, FLA to households and communities has great potential for expansion of production forest area through investment of households and communities on allocated land. In addition, if households and communities receive benefits equitably they can contribute a great deal to protection and enrichment of protection and special use forest. |
| Added value from the forestry sector | <ul style="list-style-type: none"> • Increase the yield of natural production forest by 25% compared to current yield through protection, maintenance, rehabilitation, enrichment of poor quality forest. • By 2015, natural production forest which can be used for selective exploitation is to be about 50.000 ha, by 2020 about 117.000 ha, by 2030 around 215.000 ha. • Plantations: improve average productivity of plantations by 15 m3/ha/year by 2020. Plantation area will reach 3,84 million ha (from 2,5 million currently) | <ul style="list-style-type: none"> • Despite the increase in forest cover nationwide, natural forest quality has decreased due to illegal logging for domestic use and income generation among households. Current regulations have prevented local people from receiving benefits from natural forest equitably and adequately. If the benefits of natural forest are shared equitably and adequately, FLA will encourage local people to become involved in forest protection, thus increasing the quality of natural forest. • In December 2013, the Prime Minister decided to stop exploiting timber from natural forests nationwide, except in two areas with approved sustainable forest management operations.⁽⁵⁵⁾ The main reason for natural forest closure is illegal logging. If FLA is conducted in a way that can bring about equitable benefits for local people, it is of great potential to reduce illegal logging and land conflicts between local people and FC while also contributing to sustainable forest management. • FLA to households contributes to increased plantation area. However, in order for households to use land effectively, suitable mechanisms must be made available, especially policies that provide access to low-interest loans, seedlings, and technical guidance. It's essential to improve policies/mechanisms to create links between households that own land but lack funds and private sector partners with capital that wish to invest in land. |
| Economic actions within the forestry sector | <ul style="list-style-type: none"> • Restructuring of forest management organizations/agencies, whereby state agencies will manage 50% of total forest land area nationwide (100% of special-use forest, 65% of protection forest, and 30% of production forest). | <ul style="list-style-type: none"> • Until now, no mechanism for attaining benefits from protection and special-use forest is available. If FLA offers such benefits to local people, it may contribute to more effective protection of special-use and protection forest. Production forest currently managed by FC should be allocated to communities and households for management. Equitable benefit-sharing mechanisms may foster motivation for communities to be more actively involved in forest protection. |

| | | |
|--|--|---|
| | <ul style="list-style-type: none"> • Establishment of forest sector cooperatives, increasing the number of cooperatives by 200% by 2020 compared to 2011 numbers. • Institutional development support that encourages households with land to participate in plantation joint-ventures, producing raw-material inputs for the timber industry. | <ul style="list-style-type: none"> • Cooperatives and joint-ventures, in which households contribute their land, may bring about economic benefits for households, contributing to increased forest cover. However, national policies must be improved, especially those relating to credit sources and minimization of risk to households in joint ventures. |
| <p>Development according to ecological region (selected areas)</p> | <ul style="list-style-type: none"> • Northwest: Reinforce watershed forest system, ensuring income sources from PES. • Northeast: Establishment of raw material supply from plantations. • North Central: Create raw material for the timber industry. • Central Highlands: reinforce watershed forest, maintain natural forest cover. | <ul style="list-style-type: none"> • The Northwest contains most of the forest that has been allocated to households and communities. This has helped households access new income sources, especially from PES. However, a lot of constraints remain in the implementation process, including inaccurate FLA data (i.e. land area indicated on maps are not in line with land area allocated in field, numerous changes in land tenure due to recent infrastructure works that have not been updated on maps). In addition, some land has not yet been allocated and remains under the management of CPC. FLA outcomes in the Northwest should be revised to ensure accuracy. Lastly, land area currently under the management of CPC should be allocated to households and communities for management. • The Northeast contains a large area of plantations (about 1,3 million ha), the majority of which was developed by households. FLA has motivated households to develop plantations on allocated land. Expansion of household plantations requires adequate policies/mechanisms, especially those relating to low-interest loans/technical solutions that help households access necessary resources. Low-income households should also be encouraged to participate in joint-ventures. • The North Central region contains a large area of natural and plantation forest (1,77 million ha of natural forest and 712.000 ha of plantation). Until now, most natural forest has been managed by FC and FMB. Households and communities get almost nothing from such forest. In the future, FLA should be carried out in a way that households and communities may receive long-term benefits, motivating them to participate in forest protection. In addition, it's essential to have policies encouraging local people to develop plantation on allocated land. • The Central Highlands boast a large area of natural forest (2,6 million ha), most of it managed by FC and FMB. It is in this area that forest loss and declining forest quality are most rampant, with illegal logging one of the main issues. Local people are not currently receiving sufficient forest benefits, believing forest to be "state property" only. FLA has great potential for reducing forest loss if forest-dependent households and communities can be assured long-term forest benefits. |

Vietnam's government has prepared solutions for restructuring the forestry sector, including fundamental interventions concerning FLA:

- By 2015, finalization of re-evaluation of forest inventory, maintaining an appropriate area of watershed forest, special-use forest (national forest stands), and converting the remaining area of forest into concentrated forest for material supply.
- Revising and identifying the current status of forest land use by various owners, adjusting and withdrawing land area used ineffectively and improperly by individuals and organizations.
- Rearranging forest management agencies based upon evaluation results of forest inventory; clear identification of national forest stands and forest area for material supply purposes.
- Renovating current forest management mechanisms in a way that the autonomy of households, forest management boards, and enterprises can be enhanced.
- Revising land area, setting boundaries and issuing LURC with finalisation by 2015.
- Revising and handing over land to local authorities with finalisation by 2014.
- Continuing contract-based allocation and piloting forest co-management.

In addition, the master plan also mentions specific mechanisms/policies to reach the set targets:

- Attracting, managing, and using ODA, loans with low interest rates, and other international support for the forest sector period 2013-2020.
- Developing policies supporting initial investment, providing loans with low interest rates for establishment of plantations with appropriate tree species, and loan repayment after harvesting major forest products.
- Piloting models for incorporating private-public investments into forest protection.
- Developing cooperation policies between timber business owners, forest companies, and timber processing units to encourage enterprises to further invest in forest using a vertically-integrated model of production, processing, and consumption. Local people may be encouraged to contribute their LURC and become companies' shareholders, more efficiently sharing profits.

⁽⁵⁵⁾ Announcement No. 456/TB-VPCP dated 25 December 2013 regarding Prime Minister Nguyen Tan Dung's conclusion of strengthened management of natural forest timber exploitation for 2013-2020.

FLA has great potential for furthering the objectives of the master plan on forest sector restructure. FLA can create a foundation for finalising targets by boosting raw material supply for the timber industry, creating jobs, reducing poverty, diversifying livelihoods, and protecting the local environment. The impacts of FLA will be tremendous with expansion of policies that ease access to low-interest loans, technical support, and seedlings. This will help poor households that lack resources invest in plantation development and convert their land rights into economic benefits. Once equitable and long-term benefits can be ensured for local people, FLA will motivate households to be more involved in forest protection, thus minimizing extraction pressure on natural forest.

7.2. Rearrangement of forest companies

During the past decade, the forest sector has issued several policies for sectoral renovation, most notably Resolution 28/NQ by the Political Bureau in 2003 and Decree 200 by the Government in 2004 on SFE renovation.

As mentioned above, there are currently 148 forest companies, allocated with some 1,9 million ha, of which 1,5 million ha is production forest land. In other words, most forest land allocated to FC has been used for economic purposes, afforestation, or timber exploitation. FC have personally managed 90% (1,8 million ha) of their allocated forest land; the remainder (10%; 667.500 ha) has been managed through contract-based allocation to households or joint ventures.

Data released by the Vietnam Forest Administration shows that conflict, encroachment, and appropriated land area currently managed by FC is about 7.600 ha. However, some research indicates that this figures does not reflect the true extent of the problem and that the actual land area in conflict is much larger (To Xuan Phuc et al., 2013).

According to Evaluation Report 595 prepared by the Vietnam Forest Administration on 17 May 2012 regarding implementation of Resolution 28, SFE which were previously the main managers of protection and special-use forest have been increasingly converted into forest management boards. By the end of 2011, 91 SFE had been converted into FMB, affecting an area of 1,3 million ha. 14 unprofitable SFE have been dissolved and the remaining 148 have been converted into FC. Some land has also been allocated to local authorities for management (585.167 ha).⁽⁵⁶⁾ Staffing has been significantly reduced: in 2005, prior to the arrangement, SFE employed 68.578 people; this figure has been reduced to 16.651 people,

⁽⁵⁶⁾ As stated in the report "Vietnam's forest sector development in 2014" by the FSFP, the land area given back to local authorities equalled some 415.125 ha.

most of whom are on short-term contracts (13.564). On average, the natural forest area per staffer is 80,2 ha.

However, there remain constraints to renovation as envisioned by the original Resolution: "... land and on-land property have not been revised, measured, or land marks set up in the field. Administrative maps are unavailable and LURC have not been disbursed. It is common to see land conflicts, land encroachment, and land leasing which does not follow the law, as well as forest destruction, with no effective solution yet found. The main reason is the fact that FLA to FC/SFE has not been transparently carried out, i.e., FLA was mainly done on paper. In some cases, allocated land overlapped with the land area of households, individuals, and organizations. Lack of clarity in land rights has led to misinterpretation of responsibilities and rights to land under the management of SFE/FC, thus failing to build motivation for development. Revision and clear identification of area, boundaries, and status of each type of forest on maps and in the fields; identification of forest use values for the case of natural production forest, and ownership values of plantation have not been done properly for development of SFE rearrangement options. Consequently there are constraints in the implementation process. The land area planned for allocation to SFE/FC has been under constant pressure of being withdrawn for rubber plantation, planting of perennial trees, resettlement programmes, and other socio-economic demands at the local level. In various key areas, forest land under the management of SFE has been encroached on by local people, especially in the Central Highlands" (Report 595: 12).

On 12 March, the Political Bureau issued Resolution 30-NQ/TW on continued renovation and improved performance of agro-forestry companies. The Resolution pointed out the constraints on Vietnam's forest sector in general and FC in particular, including: "unfinished finalization of boundaries and demarcations in the field, incomplete issuance of LURC and conversion of ineffectively used land into leasable land. Unused and barren land is still widespread. It has taken a long time to deal with land violations. In some companies, disciplined land management has been absent; contract-based allocation was carried out for the wrong reasons and forest land sold improperly. Forest companies which mainly managed natural production forest have not been active enough...low limited effectiveness of land use... jobs were not created..." Resolution 30 also pointed out some fundamental issues with FC, noting that they "have not yet realized... the necessity of re-arrangement and renovation of state agro-forestry enterprises. A segment of management staff members in SFE failed to realize the situation, and have not been active enough in dealing with obstacles and reorganizing business activities according to improved mechanisms."

To deal with these ongoing constraints to the state-run forest management system – FC weaknesses in particular – Resolution 30 put forward new goals:

- Maintain FC serving public affairs relying 100% on state budgeting or convert them into FMB.
- Privatize FC producing seedlings or mainly managing plantation.
- Dissolving FC suffering continual losses entirely

In order to carry out these orientations, Resolution 30 proposed the following key tasks:

- Revising and adjusting land use planning which to match the production and trade assignments of FC. By 2015, complete transfer of land which has been unused, ineffectively used, or barren to local authorities for use and management. Withdrawal of land for reallocation to local authorities if SFE do not wish to use it or are using it improperly.
- By 2015, finalization of field survey, production of administrative maps, issuance of LURC, and lease of land as regulated by current law.
- Lease of land allocated to FC for business purposes; land improperly managed by households and individuals will be allocated to local authorities for management.
- After receiving land, local authorities must revise land records; allocation priority is to be given to ethnic minority groups lacking production land. Households and individuals are allowed to continue using land without paying fees.
- Dealing with violations in land lending, leasing, encroachment, and conflicts, especially concerning joint ventures and contract-based land allocation.
- FC which are improperly lending and leasing land should return their land to local authorities.

In the future, the government will issue a final resolution guiding implementation of Resolution 30 by the Political Bureau.

Because FLA has been carried out based on an inefficient state-run forest management system and due to limited human, financial, technical resources (poor maps, unclear land registration records) it has not lived up to its full potential and original goals. In addition, asymmetry between traditional land/forest use schemes and land rights given to FC has led to ongoing land conflicts among parties.⁽⁵⁷⁾ The current state-centric forest management system, which gives priority to FC, will continue to face difficulties in improving forest governance – reforming FC shortcomings in particular. However, if the government adjusts FLA implementation with cross-cutting policies, the program’s potential for overcoming current obstacles is considerable. Table 9 analysed three major points identified by MARD and

the Political Bureau in their master plan for restructuring forest sector while further analysis in Table 14 showed constraints in the state-led forest management system. In addition, Table 14 also pointed out potential benefits that FLA may bring about for forest protection and improved livelihoods for local people.

Table 15. Action targets for renovation of forest companies and potential role of FLA

| Action targets ⁽⁵⁸⁾ | Constraints | Potential role of FLA |
|--|--|--|
| Privatization, with the state retaining key shares | Much research indicates that FC are constrained by ineffective land use and frequent land conflicts between FC and locals. The main reasons for conflict are scarce production land available for locals, FC land accumulation, and expanding agricultural markets (i.e. timber, cassava, and rubber) – land is critical for income generation. Privatization, especially with the state retaining key shares, will play a vital role in reducing FC monopolistic tendencies. However, it is not a panacea because: (i) privatization does not offer chances for local people to be directly involved. Numerous households, especially those in land conflicts, are poor and unable to contribute resources for joint-ventures; (ii) state-run management forestry has fundamental weaknesses in organization and use/management. State retention of key shares cannot fully ensure the changes necessary. | Land conflicts between FC and local people are widespread: the estimated 7,000 ha of land in conflict referenced by state agencies is an underestimation of the true situation. ⁽⁵⁹⁾ According to Resolution 30 and the master plan for forestry sector restructuring, there's great need to enhance household autonomy, review land stocks, demarcate boundaries in the field, and issue LURC. It's also important to offer chances for local people with newly allocated land to access low-interest loans for forestry development. FLA has great potential for creating change in the state-run forest management system. Specifically, the state needs to reevaluate minimum household land demands. Based upon available FC resources, the state may reassess current FC land use effects and demands. The state should withdraw land held by FC that exceed their capacity for proper management. Some of this withdrawn land should be allocated to local authorities for reallocation to local households. The remaining land area, (if any) will be tendered for land use by various state and non-state organizations. |

⁽⁵⁷⁾ Many reports have indicated such constraints, including: Report 595 in 2012 by the Vietnam Forest Administration; the Master Plan for re-arranging SFE by MARD in 2013; To Xuan Phuc et al., (2013); and "Vietnam's forest sector development in 2013" by the FSSP.

Table 15. Action targets for renovation of forest companies and potential role of FLA

| Action targets ⁽⁵⁸⁾ | Constraints | Potential role of FLA |
|--------------------------------|---|--|
| Reorganization into FMB | <p>By 2011, the government had created 91 FMB, whose funds completely rely on the state budget. The continued shifting of FC, especially companies managing natural forest and production forest of yield (mainly in the Central Highlands), will help maintain better management. However, forest loss remains a problem in the Central Highlands due to illegal logging and household subsistence. Transforming FC into FMB but failing to change the relationship between FC/FMB and local people will not result in positive impacts local livelihoods, nor will it change the opinion that “forests are the state’s property.” Presently, a great area of forest land has been allocated to households and individuals for protection. This has increased transaction fees compared to contract-based allocation, carried out between FC and households/communities. Shifting FC into FMB will allow FMB to conduct contract-based allocation with households/individuals, thus reducing the costs of forest protection.</p> | <p>Land conflicts between FC and local people are widespread: the estimated 7,000 ha of land in conflict referenced by state agencies is an underestimation of the true situation.⁽⁵⁹⁾ According to Resolution 30 and the master plan for forestry sector restructuring, there’s great need to enhance household autonomy, review land stocks, demarcate boundaries in the field, and issue LURC. It’s also important to offer chances for local people with newly allocated land to access low-interest loans for forestry development. FLA has great potential for creating change in the state-run forest management system. Specifically, the state needs to reevaluate minimum household land demands. Based upon available FC resources, the state may reassess current FC land use effects and demands. The state should withdraw land held by FC that exceed their capacity for proper management. Some of this withdrawn land should be allocated to local authorities for reallocation to local households. The remaining land area, (if any) will be tendered for land use by various state and non-state organizations.</p> |

⁽⁵⁸⁾ According to the master plan for forest sector restructuring, Resolution 30 by the Political Bureau.

⁽⁵⁹⁾ This conclusion has been made in many reports. Detailed information can be seen in: To Xuan Phuc et al., (2003); papers produced for the workshop ‘Real status and solutions to land use and management between SFE and local people’ organized by CIRUM, CODE, CRD, and PDPR on 15 May 2012 in Hanoi; papers produced for the workshop ‘Real status of forest land use and management post implementation of Resolution 28/NQ-TW by the Political Bureau by Vietnam’s Forest Administration,’ VUSTA, the Quang Binh PPC, Oxfam, CIDR, and PDPR on 23 December 2013 in Quang Binh province; and papers from the workshop “Forest land allocation in Kon Tum province” organized by Kon Tum DARD and CODE on 5 December 2013 in Kon Tum.

| Action targets ⁽⁵⁸⁾ | Constraints | Potential role of FLA |
|---|--|--|
| Dissolving or shifting FC into other entities | Between 2005 and 2011, the State dissolved 14 FC, about 10% of the current total. With numerous ineffective FC still operating, it's important to continue dissolving FC or reorganizing them into other entities. | Changing the nature of the relationship between FMB and forest-dependent people may have great potential for improving household livelihoods, thus contributing to protection of remaining natural forest. One major point is to develop an equitable, long-term benefit-sharing mechanism. Contract-based allocation, in which long-term, fair benefits can be ensured for communities through community-based forest management, has a vital role in improving the relationship between MFB and local people. Funding for FMB may come from PES and REDD+, with rewards equitably shared among communities. Once FLA is implemented in such a way, illegal logging will be reduced, and locals will view themselves as stewards of the forest, rather than the abstract "state." |

Indeed, FLA has great potential for reforming state forest governance, contributing to socialization of forest activities, and carrying out general targets set out by the Communist Party. Changing policies as well as the manner of their implementation – especially re-arranging FC – may bring about essential changes in the relationship between FC and local people, thus changing the paradigm that “where there is forest, people are poor” ⁽⁶⁰⁾ and offering opportunities for local people to enjoy equitable and long-term benefits from forest. Low land productivity, declining forest quality and rampant land conflict are all visible issues with the current state-centric forest management system. In the coming integration process, the state has the opportunity to renovate its role in forestry, better enhancing living standards of the upland poor and stabilizing land conflicts. However, such change will not come easily and require increased awareness and action. With proper oversight, standard forest land allocation and contract-based allocation will each be essential in revamping the forest sector by improving FC operations and enhancing access to land and forest for local people. In addition, encouraging community-based forest management may generate further important changes in forest governance. Part 7.3 will discuss the potential role of communities.

⁽⁶⁰⁾ Ideas put forth by Vice-Chairman of a Commune People's Committee in charge of land registration in Huu Lung district, Lang Son province. From an informal discussion with To Xuan Phuc in 2012.

7.3. The role of communities in forest governance

The Forest Protection and Management Law of 2004 regulates the allocation of forest to local communities, their responsibilities and rights (Section 3, Chapter 2), and indicates conditions for FLA, including:

- Local communities should have common practices and traditions regarding use of forest, are able to manage the forest, and have demand for forest products.
- Allocation of forest to local communities should be in line with approved forest protection and development plans and be suitable with forest stocks of the particular region.

Local communities are allocated forest as follows:

- Forest which is currently used and effectively managed by communities;
- Forest regulating water sources for communities cannot be allocated to outside households, individuals, or organizations;
- Forest adjacent to villages, communes, and districts cannot be allocated to any outside organizations, households, or individuals.

Clause 30 of Section 3 outlines the rights that local communities have to their allocated forest:

- Forest user rights should be certified by authorized state agencies for long-term use in line with allocation duration.
- To harvest and use forest products and derive other benefits for communal and household use; to carry out fishing; and to develop agro-forestry production in line with regulations and forest management rules.
- To enjoy the products and revenue produced from allocated forest.
- To be supported with technical training and funding as regulated by the law on forest protection and management and enjoy benefits from forest protection and development.
- To be compensated for their labour and investment should the state withdraw allocated forest.

According to Section 3, local communities which are allocated forest have the following responsibilities:

- To develop rules for forest protection and development based on the law as well as other

related regulations, submitting as such to People's Committees at the commune and district levels for approval.

- To protect and develop forest, prepare periodical reports on forest changes as well as other forest-related activities, all based on the guidance from People's Committees at the precinct, commune, and district levels.
- To perform financial responsibilities and other tasks as regulated by law.
- To return forest to the state should there be a decision regarding forest withdrawal or should the period of forest allocation expire.
- To not allow subdivision of forest for community members, nor conversion, sale, or donation of land or use forest land/LURC as a collateral, guarantee, or financial contribution.

By the end of 2012 total forest area managed by communities was some 588.253 ha, 99% of which was natural forest (Decision 1739 by MARD, 2013). However, according to MONRE, as of 1 January 2012 total forest land allocated to communities for use was 281.002 ha while total forest land allocated to communities for management was 524.713, the majority of which was protection forest land (Decision 1482 by MARD, 2012). Concerning production land area allocated to communities for management, the Forest Protection and Development Law allows local communities to exploit forest products as well as other forest benefits for communal use and household domestic subsistence. The law also allows local communities to benefit from labour invested in allocated lands. For protection forest land currently managed by communities, the Forest Protection and Management Law prohibits exploitation of forest products, stating that: (i) in natural forest local communities are allowed to collect dead trees, diseased trees, and trees in high-density forest, though not endangered or rare species; and (ii) in plantation forest, communities are allowed to exploit supplemental trees and to thin trees high-density stands. However, with the exception of some projects piloting community-based forest management, ⁽⁶¹⁾ most of the communities receiving forest – including production and protection forest – have not yet received forest benefits. This has discouraged communities from active forest management. Box 1 illustrates limitations faced by communities in accessing forest benefits in Vi Chring village, Hieu commune, Konplong district, Kon Tum province.

⁽⁶¹⁾ This includes community-based forest management models such as projects financed by the Government of Vietnam and Germany in the Central Highlands or models financed by KfW in the Central Coastal provinces.

Box 1. Communities “hold” forest for benefits

In Hieu commune, 808 ha of forest were allocated to local communities in Vi Chring village, where there were almost 40 households of the Xo Dang ethnic group. 50% of households were poor. Community-based forest management has generated huge benefits for local households. In 2008, thanks to the support of the JICA project, a model of community-based forest management was established. Vi Chring village was given a LURC for a period of 50 years. The District People’s Committee also approved a sustainable natural resource management plan for the area allocated to the village. According to the approved plan, communities were allowed to harvest around 5m³ timber/ha annually from 300 ha of forest with yield. The plan also indicated that about 70% of the income earned from timber sale would belong to the communities. Another 20% would be used to pay for taxes on natural resource use and the remaining 10% would go to the commune budget. If timber was exploited as planned, based on timber prices in 2008 (when the plan was approved), on average each household would receive VND 2,3 million/month. This amount of income would be sufficient to lift households in Vi Chring village out of poverty and generate motivation for them to protect forest effectively. However, communities have not yet allowed timber exploitation. According to a provincial management agency, this is because provincial agencies have not yet reached a common agreement on forest exploitation regulations. In addition, the central government has not assigned a quota for forest exploitation for provinces, a situation complicated by the outright closure of natural forest. Local people have lost their trust in FLA, and this has negatively influenced local forest health. For instance, some local households have started to convert parts of their forest situated near streets into cassava fields for income generation. The total converted land area 2011-2012 was about 6 ha.

Source: To Xuan Phuc, field survey in December 2013.

The case study in Box 1 and legal documents concerning benefits received by communities from community-based forest management models shows that there are still a number of limitations both concerning regulations and implementation at the local level. This has prevented communities from participating in forest protection. A great deal of research points to huge potential for community-based forest management as a means of forest protection (UNREDD and MARD 2010; Sikor and To Xuan Phuc, 2014) and according to MARD (2014, 16) “community-based forest management has become one of important and effective ways of forest protection in Vietnam.” MARD also stresses the importance of FLA in terms of offering forest benefits for communities, specifically: “forest land allocation is a precondition for communities to protect forest effectively, derive forest benefits and become actively involved in decision-making processes. However, it is not sufficient to give rights alone. Giving rights will create positive impacts only if communities can use their rights as regulated by law. The involvement of local communities in conservation of natural reserves and in decision-making processes regarding forest governance is of great importance.” (MARD, 2014: 17).

Under the framework of the Community Forest Project financed by the Trust Fund for Forest, community-based forest management models have been set up in 10 provinces, directly including 64 communities in project activities. Currently, the project has been finalizing a draft framework for community forest use and management policies. The main contents of the draft frame include:

- Allocating 2 million ha of protection and production forest currently managed by CPC to communities.
- Allowing communities to exploit timber to serve community demands, with attention to sustainable forest management.
- Building capacity for communities through a government training course for farmers.
- Funds from PES activities and REDD+ related projects/programmes should first be given to communities.

Allocation of forest to communities – especially forest in watershed areas, in locations with hydro power plants, water supply companies, or areas with high carbon storage potential – offers valuable opportunity for communities to receive financial benefit for conservation efforts. However, options proposed by the draft law have not yet completely solved problems faced by local communities. Specifically, in spite of increased land access among communities (thanks to receiving 2 million ha of forest currently managed by CPC), not all allocated land has substantial potential for income generation. Additionally, current policies do not allow communities to derive benefits from protection forest. If the draft law is approved, local communities will be allowed to exploit timber for their use. Even in that case, there will likely be no improvement as many households have already illegally logged timber for subsistence use in many areas – all with scarce redress by local authorities. In other words, if there are no improvements to FLA schemes for communities, allocation of forest land alone is merely a way of assigning forest protection to local communities, without fully ensuring ecological conservation or improving community livelihoods.

FLA is an active process. Changes to FLA policy itself as well as local implementation – with priority given to forest-dependent communities – may yet create positive impacts in the current state-run forest management system, contributing to more effective forest use and protection and leading to a shift from state-centrism towards a cooperative household/community-centred system. Part VIII presents the report's conclusions.



8

Conclusion

FLA has been a vital policy for Vietnam's forest sector during recent decades. FC were allocated land rights to forest with the goal of making FC more active in production, increasing the outputs of land use, and promoting effective forest protection. Allocation of forests along with land rights may encourage households to invest in allocated land for improved land benefits, improved livelihoods, and poverty alleviation.

Forest land allocation to households has proved to be effective for land use and forest protection. Numerous households have planted forest post-FLA, contributing to improved income and increased forest cover. However, land area allocated to households remains limited, with approximately 2-3 ha/household. In addition, a number of smallholders still lack sufficient production land: almost 300.000 households according to figures recently released by the Committee for Ethnic Peoples' Affairs, indicating the main reason of poverty in mountainous areas.

Indeed, forest land allocation to state agencies has not yet created positive impacts for land use and forest management. Allocation of land to FMB and FC has offered them advantages and allowed excessive accumulation of land. This situation has made general forest land stock dwindle, an issue brought up at the meeting of the National Assembly's Committee for Ethnic Peoples' Affairs in April 2014. The way that FC have appropriated land has prevented equitable land access among households, especially poorer ones. FC have conducted excessive land clearance in hopes of collecting land leasing fees from local people who choose to participate in contract-based allocation. With all these problems readily visible, why has the government hesitated to allocate land currently managed inefficiently by FC to households instead? The contract-based allocation system on the other hand merely generates increased transaction fees and reduced revenue since households have to share part of their income with FC. This inequality in land access is a key problem with both standard direct allocation and FC-run contract-based allocation and has led almost inexorably to land conflicts between FC and local people nationwide.

During the decentralization process, the forest sector has had many chances for renovation. Integration will offer valuable chances for the forest sector to improve its position in the international market through exporting timber and non-timber products. Integration also brings opportunities for the forest sector to be involved in initiatives such as REDD+ and FLEGT for sustainable income sources that serve forest protection and development.

However, this reform process also presents huge challenges, requiring the forest sector to make deep changes in both management and governance. The Communist Party and government of Vietnam have worked to improve national policies that restructure and streamline the forest sector; the aim is to shift away from a state-run forest management system. The current system in which FC are given priority and free reign should be replaced by a system in which households and communities govern their own forests. In order to realize this vision, proactive steps must be taken to decentralize natural resource use and management towards household and community actors by affording them better access to forest land. Decentralization should not be present in policy only but through direct on-the-ground mechanisms that reach civil beneficiaries and subsidize them in building new livelihoods. It's essential that resources such as investment funds, technical guidance, and market development are available so that households and communities can manage their land to its full potential, thereby motivating households and communities to develop and protect their forest resources.

9

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