



The distribution of powers and responsibilities affecting forests, land use, and REDD+ across levels and sectors in Vietnam

A legal study

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Small holder farming in Luc Da commune, Nghe An province, Vietnam

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Contents

| | |
|---|-----------|
| Abbreviations | v |
| Acknowledgement | vi |
| Introduction | vii |
| 1 Overview of the different levels of government | 1 |
| 1.1 The Vietnamese government system | 2 |
| 1.2 The democratic establishment of local government | 4 |
| 1.3 The stages of the decentralization process | 5 |
| 2 The mandates and powers of each government level for managing land and forests | 10 |
| 2.1 The National Assembly's mandates and powers | 10 |
| 2.2 The central government's mandates and powers | 10 |
| 2.3 The provincial governments' mandates and powers | 11 |
| 2.4 The district governments' mandates and powers | 12 |
| 2.5 The communal governments' mandates and powers | 13 |
| 3 Budget for the management of forest resources and forest land | 15 |
| 3.1 Authorization of budget allocation | 16 |
| 3.2 Budget sources for land and forest resource management | 17 |
| 3.3 Financial management | 17 |
| 3.4 Forest protection and development plan | 17 |
| 3.5 Forest protection and the assisted natural regeneration of natural forests | 18 |
| 3.6 Research studies and projects managed by the MARD | 18 |
| 3.7 Communal budgets to ensure regular forest protection operation costs | 19 |
| 3.8 Budget for supporting seed supply and investment | 19 |
| 3.9 Investment in and development of special-use forests | 20 |
| 3.10 Regular operation costs for forest management and protection | 20 |
| 3.11 Taxes and fees related to forest resources and land purposes | 22 |
| 3.12 Mechanism and policy for payment for forest environmental services (PFES) | 26 |
| 4 Description of the different levels of government roles in land-use decision and policy arenas affecting forests | 30 |
| 4.1 Land-use plans and forest protection and development plans | 30 |
| 4.2 Determination of land-use purposes and forest-use purposes | 30 |
| 4.3 Forest classification | 32 |
| 4.4 Land ownership | 33 |
| 4.5 Allocation of agricultural land to households and individuals | 34 |
| 4.6 Allocation of planned forest land | 35 |
| 4.7 Transfer of forests | 41 |
| 4.8 Establishment of natural conservation areas | 41 |
| 4.9 The right to carbon/emission credits | 41 |
| 4.10 Illegal land-use activities | 43 |

| | | |
|---|---------------------------------------|----|
| 5 | Conclusions | 45 |
| 6 | Bibliography of legal documents cited | 47 |
| 7 | References | 50 |
| 8 | Appendixes | 53 |

List of figures and tables

Figures

| | | |
|----|--|----|
| 1. | The Vietnam government's land and forest management system. | 3 |
| 2. | The utilization of the PFES Funds. | 28 |
| 3. | Percentage of allocated forest type (planted and natural) per forest owner type. | 39 |

Tables

| | | |
|-----|---|----|
| 1. | The structure of state budget expenditure for the period 2005–2011 (%). | 16 |
| 2. | Key forest-related government programs and associated budgets. | 16 |
| 3. | Investment in the forestry sector by use purpose and funding source (in millions of VND). | 21 |
| 4. | Summary of taxes and fees related to forest resources and lands. | 24 |
| 5. | Revenue collected from forest environmental services in 2011–2013. | 29 |
| 6. | Description of the roles of central and lower government for land-use planning. | 31 |
| 7. | Vietnam's national Forest area in December 2013 (ha). | 33 |
| 8. | Classification based on bamboo species, diameter and density levels. | 33 |
| 9. | The land allocation quota for households and individuals. | 37 |
| 10. | Comparison of the characteristics of production forest and special-use and protection forest of land and forest rights to households and the State. | 38 |
| 11. | Forest area (ha) by ownership in 2013. | 38 |
| 12. | Establishment of natural conservation areas at the different levels of government. | 40 |

Abbreviations

| | |
|----------|--|
| CARD | Communal agriculture and rural development |
| CPC | Communal people's committee |
| CPCI | Communal people's council |
| DARD | Department of Agriculture and Rural Development |
| DiARD | Division of Agriculture and Rural Development |
| DiONRE | Division of Natural Resources and Environment |
| DONRE | Department of Natural Resources and Environment |
| DPC | District people's committee |
| DPCI | District people's council |
| DPI | Department of Planning and Investment |
| ES | Environmental services |
| FAO | Food and Agriculture Organization of the United Nations |
| FDI | Foreign direct investment |
| FES | Forest environmental services |
| FLA | Forest Land Allocation |
| FMB | Forest Management Board |
| FP&D | Forest Protection and Development |
| FPDF | Forest Protection and Development Fund |
| GSO | General Statistical Office |
| JICA | Japan International Cooperation Agency |
| LUC | Land-use certificate |
| MARD | Ministry of Agriculture and Rural Development |
| MBPF | Management Board of Protection Forests |
| MHA | Ministry of Home Affairs |
| MOF | Ministry of Finance |
| MOLISA | Ministry of Labor, Invalids and Social Affairs |
| MONRE | Ministry of Natural Resources and Environment |
| MPI | Ministry of Planning and Investment |
| MRV | Monitoring, Reporting and Verification |
| NGO | Non-governmental organization |
| NTFP | Non-timber forest product |
| ODA | Official development assistance |
| PFES | Payment for forest environmental services |
| PPC | Provincial people's committee |
| PPCI | Provincial people's council |
| REDD | Reducing emissions from deforestation and forest degradation |
| REDD+ | Reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries |
| TFF | Trust Fund for Forests |
| UNDP | United Nations Development Programme |
| USD | United States dollar |
| VAFS | Vietnamese Academy of Forest Sciences |
| VFF | Vietnam Fatherland Front |
| VND | Vietnamese dong |
| VNFF | Vietnam Forest Protection and Development Fund |
| VNForest | Vietnam Administration of Forestry |

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Introduction

This report was commissioned under CIFOR's Global Comparative Study on REDD+, as part of a research module on multilevel governance and carbon management at the landscape scale. Its purpose is to describe the distribution of powers and responsibilities related to land use, forests, and ecosystem services and, by extension, to REDD+ among the different levels and sectors of the Vietnamese government. To that end it reviews laws dealing explicitly with different sectors that affect land use and decentralization. It is intended as a reference for researchers and policy makers working on land-use issues in Vietnam, and is therefore largely descriptive.

The first section describes the structure of Vietnam's government. It discusses the recent legal history of decentralization, distinguishing powers held exclusively by one level of government and those shared among multiple levels. The paper then describes the decentralization process in more detail with regard to land allocation and land-use planning.

The second section of this review outlines the mandates and powers of each government level in terms of managing land and forests. The third describes the budget for the management of forest resources and forest land, including details on budget sources and allocations for forests and forest research. This section also describes the taxes and fees related to land and forest resources and concludes with a discussion of payment for forest environmental services (PFES) as a key national policy mechanism for forest protection in Vietnam.

The fourth section provides a description of the multilevel government roles in land-use decision and policy arenas, including land-use planning; forest protection and development plans; the determination of land-use and forest-use purposes; forest classification; land ownership; the allocation of agricultural and forest land; the transfer of forest land; the establishment of natural conservation areas; the right to carbon/emission credits; and illegal land-use activities. Finally, the report concludes with a summary of policy and legal changes, government power shifts and forest change in Vietnam.

1 Overview of the different levels of government

Since 1994, the government system in Vietnam has consisted of two parts: (i) central government; and, (ii) local government. The central government is the Socialist Republic of Vietnam's highest expression of state administration. It is an executive organization of the National Assembly and has the right to enforce the laws. Meanwhile, there are three levels of local government: (1) provincial governments, which consist of a provincial people's council (PPCI) and provincial people's committee (PPC); (2) district governments, which consist of a district people's council (DPCI) and district people's committee (DPC); and, (3) communal governments, which consist of a communal people's council (CPCI) and communal people's committee (CPC). This system is organized around the National Assembly's five-year term.

Before 1986, participation in national economic matters by "non-state" economic organizations, commercial production, and product exchange markets was not accepted in Vietnam. All land and forests were nationalized and allocated to state-run farms, agricultural cooperatives and state-owned forest enterprises (SFEs). Moreover, all of these organizations' activities were implemented in accordance with plans directly designed and prepared by the central government. In other words, the central government was the most powerful body under the centrally-planned mechanism.

During the period 1975–1986, under the power of the central government, it is estimated that Vietnam lost 1.7 million hectares (ha) of natural forests (Xuan et al. 2009, 84–97). Meanwhile, most of Vietnam's remaining natural forests were degraded, with a reduction from an estimated 43% (14.3 million ha) of the total land area in 1943 to 27.2% (9.18 million ha) by 1990 (Sam and Trung 2003, 2; FAO 2009). Forest loss did not only impact wood and non-wood supplies,

but also biodiversity and ecosystem services (Sam and Nghia 2001). During this period a large proportion of the Vietnamese population were dependent on forests for their livelihoods. It was estimated that 20 million people living in forest areas, mostly ethnic minorities, subsisted on low incomes of under USD 5 monthly per-capita income (Sam and Trung 2003, 15).

In 1986, Vietnam started to launch a policy reform known as "*Doi Moi*" in Vietnamese. Accompanying the policy reform, the legal system has gradually been revised, with the power to manage land and forests transferred to different "lower" levels of government. This has led to a clearer classification of power and mandates that has given local governments more power to manage land and forests. Furthermore, local people (individuals and households) have been allocated forest land and forests, while the central government formulates the legal system and national strategies, but also has the capability to manage and guide local government operations.

The reforms include a number of government initiatives to improve sustainable forest management and regrowth and to support poverty reduction. For instance, the central government has implemented activities related to land and forest allocation and national afforestation and reforestation programs, which provide support for local people to practice tree plantation and forest management, particularly through payment for environmental services (PFES). PFES is considered to be a revolution in Vietnam's forestry sector by recognizing forests for their environmental services. PFES has been practiced since 1 January 2011, focusing on water regulation and soil erosion control services in watershed areas and recreation landscapes. PFES is aimed at generating financial sources for forest conservation and improving the livelihoods of forest owners and local people

engaged in forest protection. It is estimated to have collected more than VND 3,329 billion over its 3 years of implementation, with almost VND 1,000 billion collected annually (VNFF 2014).

Evident progress has been made on the implementation of the new land-use laws and policies, not only in agricultural production but also with regard to changes in the make-up of flora in mountain areas, the increase in forest resources and poverty reduction (Sunderlin and Huynh 2005). In addition, Vietnam's forests have undergone a significant transition. According to data from the Ministry of Agriculture and Rural Development (MARD), by the end of 2012 the total forest area in Vietnam had reached 13.86 million ha (an increase of 4 million ha compared to 1986), or about 41% of the total natural area, including 10.42 million ha of natural forest and 3.44 million ha of plantation forest (MARD 2013a).

This report provides information on and a multilevel governance analysis of central government efforts to decentralize forest and land management policy. All of the information used has been collected from secondary sources, including reports from ministries and sectors; and legal documents and government policies (decrees, decisions and circulars, etc.) that contain articles and regulations relevant to the mandates and powers of local governments in relation to land and forest management. Information was also collected from provincial reports on the results of forest protection and development activities, the decentralization of mandates, etc. Further information was gathered from official and unofficial interviews with relevant individuals involved in preparing legal documents and policies on local government duties and rights or who are directly involved in land management activities.

1.1 The Vietnamese government system

The current Vietnamese government started in 2011 and its term will come to an end in 2016. The government system consists of two parts; (i) the central government; and (ii) local governments. The organizational structure of Vietnam's government system and the relationships between the different levels of government in

terms of land and forest management is illustrated in Figure 1. More detailed information on the number of members in each people's council and the candidate selection process is provided in Appendixes 1 and 2.

The central government is the National Assembly's executive body, exercising the executive power. It is also the highest body of state administration. The central government consists of 22 ministries, two of which have key land management responsibilities. The first of these is the Ministry of Natural Resources and Environment (MONRE), which is responsible for the management of natural resources and the environment. The natural resources in this respect include land, water, minerals, and those involved in environmental geology and hydrometeorology. The MONRE's duties include measuring and mapping, delivering public services, the preparation of national master land-use plans, and providing guidelines for implementing the land law within national boundaries (such as the preparation of provincial master land-use plans and the implementation of land allocation and land leasing) (MONRE 2014). However it is the Ministry of Agriculture and Rural Development (MARD) that has key responsibilities for the management of Vietnam's forests. The MARD's duties include the preparation of national master plans for agricultural development and forest protection and development, as well as the provision of guidelines for implementing laws on forest protection and development (MARD 2014). Detailed information on these ministries' mandates related to land and forest management will be explained in the following sections.

There are three levels of local government, which correspond to the National Assembly's five-year term. Provincial (or city) governments are directly managed by the central government and are the highest level of local government. There are 58 provincial governments across Vietnam, each consisting of a provincial people's council and a provincial people's committee.

According to the country's Constitution (both the 1992 and 2013 versions) and the Law on the Organization of People's Councils and People's Committees (2003), the PPCL is the province's organ of state power. It represents the will, aspirations and mastery of the province's

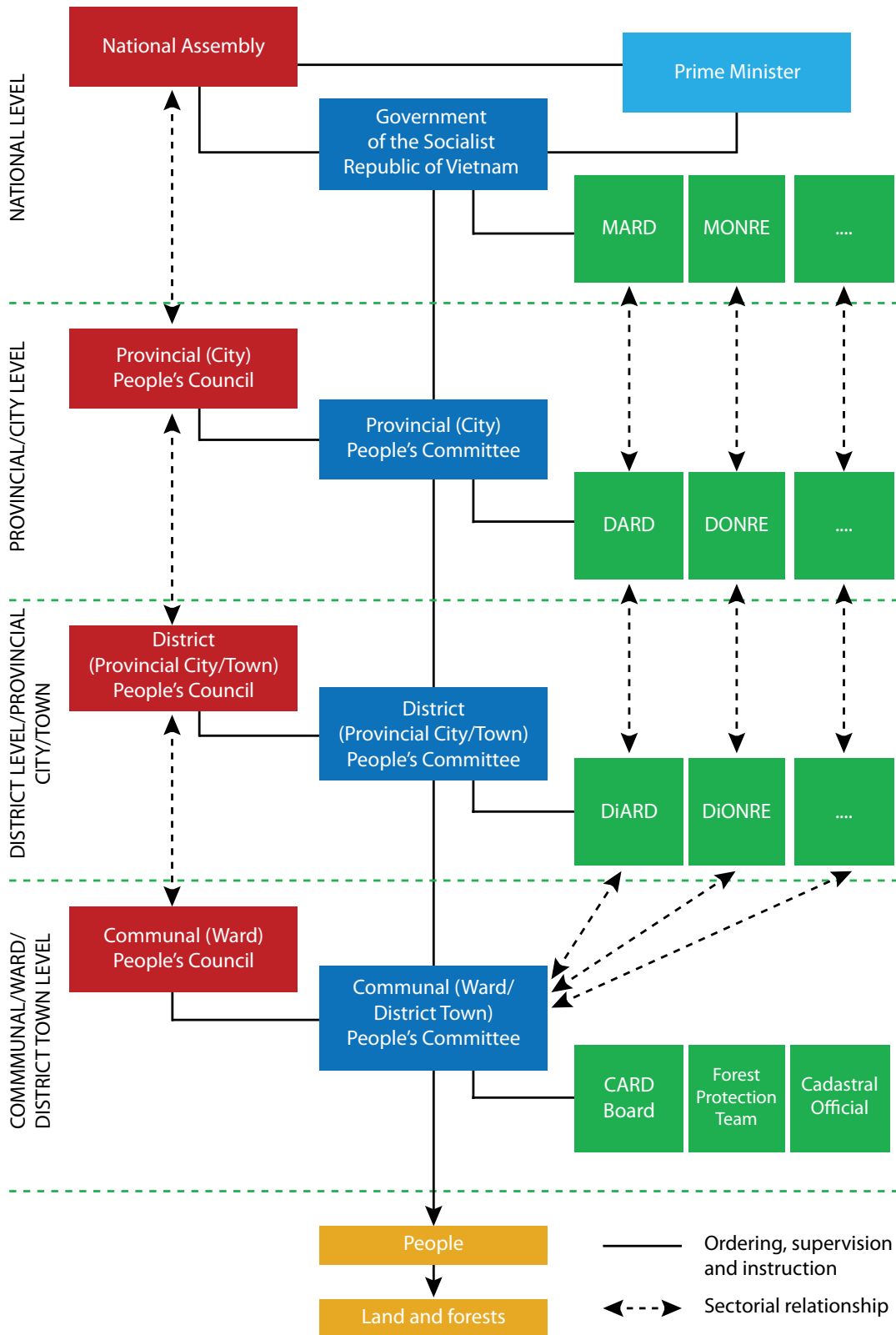


Figure 1. The Vietnam government's land and forest management system.

people. The PPCI is accountable to the province's people and to the central government. It decides on provincial issues and legal regulations, and supervises conformity with the constitution and laws at the local level and the implementation of its resolutions.

Meanwhile, the PPC is elected by the PPCI. It is the PPCI's executive body and the State's organ of local administration. It is responsible to the PPCI and the central government. A PPC includes various departments, including a department of natural resources and environment (DONRE), which is a provincial sub-department of the MONRE. The DONRE's duties include preparing provincial land-use master plans, providing guidelines for implementation of land laws within the provincial boundary (such as the preparation of the provincial land-use master plan and guidelines for implementing land allocation and land leasing, etc.). The PPC's departments also include the Department of Agriculture and Rural Development (DARD), which is a provincial sub-department of the MARD. The DARD's duties include the preparation of provincial master plans for agricultural development and forest protection and development, as well as the provision of guidelines for implementing laws on forest protection and development.

The district governments include the governments of districts, towns and cities directly managed by provincial governments and represent the second level of local government. A district government also consists of two parts: the district people's council and the district people's committee. As stated in the Constitutions of both 1992 and 2013 and the Law on the Organization of People's Councils and People's Committees (2003), a DPCI is the district's organ of state power, representing the will, aspirations, and mastery of the district's people. The DPCI is accountable to both the district's people and the provincial government. The DPCI decides on district issues, as well as legal regulations and instructions from the provincial government, and supervises conformity with the Constitution and laws in district area and the implementation of its resolutions. The DPC is the DPCI's executive body and also the district-level organ of state administration. It is responsible to the DPCI and the higher government levels. It also ensures "consistency in the management" of the state administrative system from the provincial to

the communal governments. A DPC has various divisions, including a DiONRE, which has duties related to the preparation of district land-use master plans, the provision of guidelines for implementing the land law within the district's boundaries (e.g. preparing the district land-use master plan and implementing activities for allocating and leasing land to local households and individuals). Its divisions also include a DiARD, with duties related to the preparation of district master plans for agricultural development and forest protection and development, as well as the implementation of forest protection and development activities established in provincial laws and guidelines.

The communal government, including governments of communes, district towns and the city wards, is the lowest level of local government. It is the communal organ of state power and represents the will, aspirations, and mastery of the people in the commune. It is accountable to the district government and the provincial government. The CPCI has the power to decide on and resolve communal issues, as well as legal regulations and instructions issued by the provincial government and district government, and supervises conformity with the Constitution and laws in the communal territory. Meanwhile, the CPC is elected by the CPCI and is the CPCI's executive body and the State's communal-level administrative body. It answers to the CPCI, DPC and PPC and "enforces" the Constitution and state-issued laws; legal documents issued by the central, provincial and district governments; and the resolutions approved by its CPCI.

1.2 The democratic establishment of local government

All local governments are formed through the establishment of first the people's council and then the people's committee. The establishment of the people's council is based on an election held every five years. The number of members in each people's council depends on the size of the population. A province with a population of less than 1 million inhabitants therefore has 50 PPCI members, while a province with more than 1 million inhabitants has between 50 and 85 members, adding one member for each additional 1,000 inhabitants above the 1 million mark. (For further information

on the regulations regarding the number of members in each people's council at each level of government, see Appendix 1.)

According to the Law on the Election of Members of People's Councils, Vietnamese citizens over 21 years of age are eligible to register as electoral candidates, regardless of their ethnicity, gender, social status, religion, educational background or career. However, in reality this has never been implemented. Candidates for the election of each people's council are selected through three rounds of negotiations held by the corresponding level of the Vietnam Fatherland Front, an organization under the leadership of Vietnam's Communist Party (see the detailed description of the three negotiating rounds in Appendix 2). All Vietnamese citizens over 18 years old and with full legal citizens' rights are eligible to vote for the corresponding PPCL, DPCL and CPCL in the place where he or she registers as an inhabitant.

In the first meeting of the new people's council organized within a month of the election results being publicized, the newly-elected members select a chairperson, vice-chairpersons, and members of the council's executive sections, as well as assigning powers and mandates to each member. Then the chairperson of the people's council selects and proposes one member of his/her council for the position of chairperson of the people's committee at the same level. The members of the people's council then vote for the nominated person. Once elected, the chairperson of the people's committee nominates people for vice-chairperson and the other positions in the people's committee (for instance, the heads of the functional departments or divisions). Those taking the positions of vice-chairperson or heads of functional units do not have to be members of people's council at that level of government. The number of vice-chairpersons and other members of the people's committee is decided by the chairperson of the people's committee.

1.3 The stages of the decentralization process

This section aims to address: (i) how the decentralization process developed in Vietnam; and ii) how that process affected the power of the local governments.

1.3.1 Decentralization process

Vietnam has completed one stage of its decentralization process. According to many reports, the country's renovation process started in 1986 and the decentralization activities have been developing since then. However, it has also been noted that the decentralization process really started in 1992, when the Constitution designed around the ideology of building the economy based on the mechanism of centralized plans and budget subsidies was replaced by one based on the ideology of building a market economy regulated by law. Since then the Vietnamese legal system has been continuously revised and supplemented, paving the way for economic conversion and development. Vietnam has grown from a low income into a low middle-income country (GSO 2012).

In 2013, Vietnam's National Assembly decided to revise the 1992 Constitution, with the new Constitution approved on 1 January 2014. This version contains clearer and more specific regulations on the mandate and power of each level of government. It was passed with the aim of changing the basic organizational models of local government, promoting decentralization and autonomy. In addition, these changes seek to enhance the effectiveness and efficiency of the state management of the different levels of local government and to create favorable conditions for the smooth operation of production activities, as well as the integration of Vietnam into the world's economy. Vietnam's legal system is currently under revision to bring it into line with the Constitution's objectives and contents.

1.3.2 Multilevel policy and power shifts

The decentralization process has generated numerous changes in mandates and powers at each government level. In the past, the provincial government plans needed to be approved by the central government. The plans of each government level are based on a number of criteria (ordinances) established by the government or a higher government level. Currently, the Prime Minister only approves long-term plans (five-year terms) on socioeconomic development for the provinces and planning related to sectors and important economic zones. In the provincial government, centrally-managed cities now have

the power to draw up and decide on the plans for the province's socio-economic development; the zoning of province sub-regions; and planning on agricultural and forestry production, industrial zones (except for large and centralized industrial zones), trade, tourism and services, and urban and rural development, etc. This effectively removed the mechanism of lower-level governments having to faithfully follow the targets set by higher-level governments for preparing plans, or the lower-level governments having to report their plans to the higher ones.

In the field of investment, local governments at the different levels are entitled to more autonomous rights. In the past, basic investment projects (including projects on forest planting, protection and development) or investment in infrastructure were all directly decided and approved by the central government through the Ministry of Planning and Investment (MPI). Currently, the provincial people's committee has the power to decide on projects with a value of less than VND 600 billion. At the same time, the chairperson of the provincial people's committee has the power to authorize the chairperson of the district and communal people's committees to decide on investment projects using the local budget if they involve capital of less than VND 5 billion at the district level and less than VND 3 billion at the communal level.

The management of government budgets is an important activity in the decentralization process. The budget distribution mechanism is based on approved estimated budget collection and expenditure and income sources in the area managed by the respective government. In the past, if there was a surplus when budget collection was compared to expenditure, that amount was paid into the state budget; and if there was a deficit, it was covered by the state budget. This mechanism was replaced by one involving budget distribution at four levels, in which each level of government has the power to define clear budget collection sources and expenditure items, while the state budget only supplements the local budget in the case of specific targets, geographical conditions and work requirements. The central government distributes the state budget in line with the decisions taken by the National Assembly. Meanwhile, the PCP has the power to manage the local budget in line with the decisions taken by

the PCPL and is permitted to implement certain mechanisms, regulations and rates for using the state budget, as well as deciding on certain kinds of fees, charges and other people's contributions based on the regulations contained in the laws.

The management of land and natural resources, including forest resources, is the weakest stage in the management of local government public assets because the power is mainly concentrated in the central government. The Land Law of 2013¹ divides mandates and powers related to the management of land and public assets between the central government and the different levels of local government. The central government implements the mandates on national land management nationwide, approving the provinces' land-use plans. The different levels of local government are entitled to practice state management of land within the territory they directly manage. Moreover, following the approval of land-use planning and plans, the CPCs have the power to decide limits for land allocation, leasing and reclamation and to prepare land prices in line with the central government's general regulations. Communal governments are given the power to manage, use and exploit public lands. They take direct responsibility for and manage changes to the land in the managed area, as well as updating and storing the information about those changes.

As the "owner's representative," the provincial government has the power to arrange and reorder state-owned enterprises under its management and establish new state-owned enterprises in its area of authorization if necessary. In the field of forestry, the governments of many provinces have arranged and re-ordered the system of state-owned forest enterprises (SFEs). If the SFEs are operating well they will be allowed to continue, operating in line with the enterprises law, and if they are not they will be closed or converted into forest management boards. SFEs are tasked with biodiversity protection, conservation and forest protection and development (FSSP 2013), although it has been noted that due to a lack of resources their main focus is on forest protection alone.

With regard to public service activities (including activities related to the extension of agriculture

¹ Law No 45/2013/QH13 (Land Law) of 29 November 2013.

and forestry, etc.), the central government has empowered provincial governments to arrange and reorganize the system of functional departments and organizations in accordance with the conditions of their respective provinces, to decide on the numbers of permanent officials and staff, and to arrange career officials and staff in public service units under the province's management. In the past, provincial governments totally depended on the central government's decisions regarding the establishment of supporting agencies and staff distribution. However, they now have the power to develop supporting agencies (establishing more or less) based on the conditions of their particular province, defining the total number of officials and staff members in the province's administrative agencies and submitting them to the Prime Minister for approval. The provincial government also has the power to decide on measures to attract qualified staff to work in the province and to appoint the directors of specialized departments without having to obtain written agreement from the specialized ministries.

Another highlight of the decentralization process is that the people's committees have gained more real power. They now have decision-making power over the duties of local governments, particularly the approval of land-use planning and plans. The real power of these people's elected bodies has therefore increased. In addition, decentralization also facilitated conditions for the people's committees to include people's opinions in decision-making processes on important tasks for their area. The aim here is to minimize careless decisions being made on issues of importance to the local people, who provide the basis for the open and transparent operation of administrative agencies.

1.3.3 Decentralization process: land allocation and land-use planning

Generally speaking, the people and their communities have more chances to participate in activities related to the management of land and forest resources. The Vietnamese government has issued agricultural land allocation policies since 1988, while in 1992 saw the issuing of the Constitution of the Socialist Republic of Vietnam which prescribed laws on land management and use. Which after amendment and supplementation was then followed by the Law on Forest Protection

and Development,² which includes regulations on forest land allocation and forest protection and development that include reforestation efforts. In addition to the units formed by the government and cooperatives, these legal documents prioritize individuals that directly implement agriculture activities as eligible for the allocation of agricultural land. At the same time, individuals and social organizations are also the targets of the allocation of forest land. The land allocated to these targets includes "unused land" planned for agricultural development and "bare land" planned for forestry development.³

Individuals and social organizations receiving land as a result of land allocation have four rights:

1. To manage and cultivate allocated land following the designated land-use purposes.
2. To the results of their efforts to work the land and invest in it.
3. To transfer investment in the land to others.
4. To receive compensation for their investment in and properties on the land, should the government take it back.

Like the regulations on the decentralization of power, the Land Law and the Law on Forest Protection and Development also stipulate that the government has to consult people on their opinions when preparing planning and plans for land use and forestry development in order to provide them with opportunities to raise their voice and supervise the implementation. At the same time, every citizen has the right to supervise and denounce deviations on the following issues:

1. Formulating, adjusting, publishing and implementing land-use planning and plans.
2. Land allocation and leasing and the conversion of land use.
3. Land reclamation, compensation, support and resettlement.
4. The registration of land and other properties pertaining to that land; and the issuing of land-use certificates (LUCs) and the right to use land and other properties pertaining to it.

² Section 2 of the Law on Forest Protection and Development of 2004.

³ The term "land use" is not clearly defined but is considered a temporary term.

5. The collection, exemption and reduction of fees for the use and leasing of land and land-related taxes; and the determination of land prices.
6. The implementation of administrative procedures regarding the mandate and power of land users. The people have the right to supervise land use and management by sending their reflections and written documents to the authorized bodies and persons seeking solutions. People also have the right to send requests to legally-approved representative organizations that can help these organizations supervise land and forest resource management.

1.3.4 Central government control

For the past 30 years, the central government (including the MARD and the MONRE) has issued about 300 legal documents related to the implementation of the approved regulations of the Land Law and the Law on Forest Protection and Development. These legal documents (decrees, decisions, resolutions, circulars, guidelines, etc.) contain detailed instructions about implementing the allocation of agricultural and forest land, the preparation of land-use planning and plans, and forest protection and development; regulations for decentralization and practice; providing local government guidance on forest protection; and stipulations regarding the regulation of the cooperation among relevant agencies to ensure effective land and forest management and utilization.

The shortcomings and weaknesses in central government supervision include:

1. Delayed issuing of laws and other legal documents guiding its implementation. For instance, it normally takes the government one or two years to prepare and issue guidance documents whenever a new law is issued or an existing law is amended.
2. Legal documents consistently lacking the regulations to assess the results of local government operations, generating a lack of monitoring and evaluation for lower-level government activities.

3. Legal documents not referring to the human resources needed to implement the assigned responsibilities or sanctions for local governments that have not fulfilled the mandates and responsibilities.

So while decentralization has allowed the lower government levels a greater amount of flexibility, there is also ambiguity over responsibilities and the lack of recourse actions may result in poor results.

As a result, local governments are unable to implement a number of assigned activities as regulated due to their limited capacity. They are also limited by the lack of repercussions for individuals and at local government levels when they do not fulfill the responsibilities established by the central government. One example is that the government has issued three legal documents to regulate the different levels of local government in order to complete the allocation of forest land, but no provinces have yet finished allocating forest land in their provinces.

1.3.5 Local government autonomy

Vietnam's last autonomous region was dissolved in 1975 and regulations on autonomous rights in the national Constitution and legal system were abrogated. Since the initiation of renovation in 1986, the local governments have been given decision-making powers on the preparation and implementation of various master plans and annual plans; the management of land and natural resources; other actions such as infrastructure construction; budget collection and allocation; the organization and management of public services; the arrangement of their organizational structure and human resources; and enterprise management. However, while assigning more power in terms of local government decision making, these actions do not extend to complete autonomous rights.

1.3.6 The balance of the decentralization process

Vietnam has made great progress in the decentralization of land and forest management. However, the decentralization process has also been slow and unbalanced. Decentralization mainly

focuses on the central government transferring to the provincial governments tasks that they either do not need to or cannot do and there has been no full decentralization among the different levels of government (central, provincial, district and communal). At the same time, the decentralization process mainly focuses on tasks and activities and does not pay attention to the decentralization of decision making or the use of resources by provincial governments, as mentioned above. More importantly, there is still a lack of decentralization

of power for leaders and individuals in the government system. All of this has generated the following challenges:

1. A heavy workload for provincial governments.
2. Inefficient sources (e.g. finance and human resources) to fulfill their mandates and exercise their powers.
3. The different levels of local government do not pay attention to the quality of work results or the unexpected consequences when implementing land and forest management.

2 The mandates and powers of each government level for managing land and forests

2.1 The National Assembly's mandates and powers

As stated in the Constitution, the National Assembly is the highest body representing Vietnamese citizens and the highest organ of state power.

In terms of land and forest management, it has the power to carry out the following key activities:

1. To prepare and approve laws related to land and forests, such as the Land Law and the Law on Forest Protection and Development. For approved laws to be enforced, they must be promulgated by the Prime Minister, who is the head of the Government and represents the country internally and externally. The National Assembly has the power to promulgate the Constitution and laws relating to land and forests, such as the Land Law or the Law on Forest Protection and Development for the whole country.
2. To make decisions on the establishment, merger, division or adjustment of the boundaries of provinces and cities under direct central rule and special administrative-economic areas.
3. To abrogate all formal written documents issued by the State Prime Minister, its standing committees, the central government, the Prime Minister, the Supreme People's Court, and the Supreme People's Procuracy that are inconsistent with the national Constitution and statutes and resolutions issued by the Assembly.
4. To approve national land-use master plans, national five-year land-use plans, national socioeconomic development plans (master plans, five-year plans and annual plans), national programs and projects on land use and forest development, and the distribution

- of the national budget for land-use activities and forest protection and development.
5. To approve decisions on the establishment, merger, division or adjustment of the boundaries of provincial cities and towns, districts and communes.

2.2 The central government's mandates and powers

The central government is the National Assembly's executive body and the highest organ of state administration in Vietnam. Generally speaking, the central government has the following important mandates in relation to land and forest management:

1. It has to provide detailed instructions and guidelines on how to implement national laws and National Assembly resolutions for lower-level governments.
2. It has to prepare national land-use master plans and national master plans related to land use, such as the national socioeconomic development master plan; national five-year land-use plans and national five-year plans related to land use (such as the national five-year socioeconomic development plan); and provide lower-level governments with detailed instructions and guidelines on how to implement these plans. It also has the power to prepare, approve and implement national master plans and national five-year plans on forest protection and development, biodiversity protection, etc.
3. It has the power to approve provincial master plans (e.g. provincial master plans on land use, forest protection and development, biodiversity protection) submitted by the provincial governments.
4. It has to design national programs and national projects and then implement those

programs and projects after obtaining the National Assembly's approval.

5. It has to prepare a national annual budget plan, including annual budgets for each province and each sector, and then implement the plan after obtaining National Assembly approval.
6. It has the power to check, examine, supervise, monitor and assess the lower-level governments' implementation of national laws, national master plans, national projects and programs, etc.
7. It has to implement work on mapping, establishing a national land and forest resource database and solving land and forest management disputes.
8. It has the power to approve annual natural timber exploitation plans submitted by the provincial people's committees.
9. It has to report the activities it has implemented to the National Assembly and the Prime Minister.

The head of the central government is the Prime Minister, who has the power to direct its activities and operations; direct the design of policies and the organization and implementation of the laws; and to direct and be accountable for the national administration's operations and activities from the central level to the local level. The Prime Minister also has the power to approve the election, relieving of duties, secondment, and dismissal of the chairperson and deputy-chairpersons of the people's committees of provinces and cities under direct central rule; and to suspend or annul the decisions, directives and circulars of his/her ministers, other government members, and provincial governments that are inconsistent with the national Constitution, laws or other formal written documents from higher state organs.

Two key central government ministries carry out land-use related mandates: the MONRE and the MARD (MARD 2014b; MONRE 2014). The MONRE is responsible for carrying out mandates related to land, mineral resources, geology, the environment, hydrometeorology and climate change. However forests and water resources, which are outside of the MONRE's jurisdiction, are under the responsibility of the MARD, which has to carry out the above-mentioned mandates in relation to forests and irrigation systems, including dams and water reservoirs. (For more details of the

mandates corresponding to the MONRE and the MARD, see Annexes 3 and 4.)

Other central government ministries, such as the Ministry of Finance (MOF) and the Ministry of Planning and Investment (MPI), have only indirect and/or supporting responsibilities relating to land and forest management. For instance, the MPI has a mandate for the preparation of national socioeconomic development plans, which include parts with a brief description of land-use arrangement, while the MOF has a mandate for the preparation of budget plans, which provide money to each province for implementing activities such as forest allocation and tree plantation.

2.3 The provincial governments' mandates and powers

As noted, provincial governments consist of a provincial people's council (PPCI) and a provincial people's committee (PPC). The PPCI's key mandates and powers are to approve the provincial master plans (provincial master plans for land use, forest protection and development, socioeconomic development, etc.), five-year plans and annual plans (annual plans for land use, forest development and protection, and socioeconomic development; annual budget plan, etc.) submitted by the PPC. In addition, it has the power to check, examine, monitor and assess the PPC's activities. Finally, it has a mandate to bring the voices of local people and lower-level governments to the PPC. Meanwhile, the PPC has the following range of mandates and powers relating to land and forest management:

1. To promulgate and provide detailed instructions and guidelines for district governments on how to implement national laws and national policies.
2. To prepare provincial master plans (for land use and forest protection and development, or provincial sustainable development plans) five-year plans (for land use), provincial annual plans (land-use plan), programs and projects, and annual budget plans, including annual budgets for each sector and district in the province; to provide detailed instructions and guidelines for lower-level governments on how to implement these plans after obtaining approval from the PPCI and central government; to monitor and assess the lower-

level governments' implementation of national laws, provincial master plans, and provincial projects and programs.

3. To approve district master plans on land use, forest protection and development, etc. submitted by the district governments.
4. To implement work on mapping, investigating land-use status, establishing provincial land and forest resource databases and solving land and forest management disputes.
5. To give permission for natural timber exploitation plans submitted by companies and forest management boards.
6. To report implemented activities to the PPCI and the central government.
7. To establish forest management boards (protection forest management boards and special-use forest management boards) and allocate forest land and forests to them.

Each PPC has two departments to implement mandates related to land and forest management: the DONRE and the DARD. The DONRE is responsible for natural resource management and the environment at the provincial level. It is directly accountable to the PPC and then to the MONRE, under the PPC's leadership. It plays key roles in promulgating and preparing instructions and guidelines on how to implement national laws and national policies relating to land, mineral resources, geology, the environment, hydrometeorology, climate change, surveying and mapping, and marine management; preparing provincial master plans for land use and environmental protection, provincial five-year plans for land use and environmental protection, and provincial annual plans; and preparing documents relating to provincial projects and programs on land use, environmental protection, etc. Other key roles include facilitating the implementation of the above-mentioned projects and programs after they are approved by the PPC and related parties; checking, examining, supervising, monitoring and assessing the implementation of national laws, provincial plans, provincial projects, etc; implementing work on mapping, investigating land-use status, establishing provincial land and land-use databases, and solving land and forest management disputes. Hydrometeorology is also under the mandate of the DONRE, which can authorize permits and supervise and assess hydrometeorology works in the area.

The DARD is responsible for agriculture and rural development, including forests, at the provincial level. It is directly accountable to the PPC and then to the MARD, under the PPC's leadership. It plays key roles in promulgating and preparing instructions and guidelines on how to implement national laws and national policies on forest protection and development, irrigation systems (including dams and water reservoirs), and agricultural production; preparing provincial master plans for agriculture and rural development and forest protection and development, provincial five-year plans for agriculture and rural development, five-year plans for forest protection and development, and provincial annual plans; and preparing documents relating to provincial projects and programs on agriculture and rural development and forest protection and development. Other key roles include facilitating the implementation of the above-mentioned projects and programs (including land-use plans) after they are approved by the PPC and related parties; checking, examining, supervising, monitoring and assessing the implementation of national laws, provincial plans, and provincial projects on forest protection and development; directly implementing activities related to forest inventory and forest protection and development; directly implementing activities related to provincial projects and programs; and approving natural timber exploitation plans submitted by companies and forest management boards (for further details of the mandates and powers of DONREs and DARDs, see Appendixes 5 and 6.)

2.4 The district governments' mandates and powers

The key mandates and powers of the district people's council (DPCI) are similar to those of the PPCI: approving the district master plans (on land use, forest protection and development, socioeconomic development, etc.), five-year plans, and annual plans (annual plans for land use, forest development and protection, and socioeconomic development; annual budget plan, etc.) submitted by the district people's committee (DPC). In addition, it has the power to check, examine, monitor and assess the DPC's activities. Finally, it has a mandate to bring the voices of local people and communal governments to the DPC.

As the executive body of the DPCL, the DPC has the following mandates and power:

1. To promulgate and transfer to the communal governments detailed PPC instructions and guidelines on how to implement national laws and national policies.
2. To prepare district master plans (on land use, forest protection and development, sustainable development, etc.), five-year plans (district five-year land-use plan), annual plans (on land use), district programs and projects, and district annual budget plans.
3. To provide communal governments with detailed instructions and guidelines on how to implement these plans, programs and projects, following approval by the PPC.
4. To monitor and assess the implementation of national laws, district master plans, and district projects and programs by the communal governments.
5. To implement work on investigating land-use status and resolving land and forest management disputes.
6. To report the implemented activities to the DPCL and the PPC.

Each district people's committee has two divisions to help it carrying out its mandates and power in managing land and forests: the division of natural resources and environment (DiONRE) and the division of agriculture and rural development (DiARD). The DiONRE is responsible for natural resource management and the environment at the district level. It is directly accountable to the DPC and then to the DONRE, under the DPC's leadership. It plays key roles in preparing guidelines on the implementation of master plans, annual plans, and policies and laws related to land use, environmental protection, hydrometeorology, and mining activities, etc.; supervising and monitoring implementation of the activities of communal governments and local people after guidelines are approved by the DPC; implementing land and forest allocation activities; checking, examining, supervising, monitoring and assessing practices related to land use, mining activities, pollution, etc.; implementing the activities of provincial projects and programs assigned by the DPC; and preparing reports on the implementation of policies, plans, projects and programs for the DPC.

The DiARD is responsible for agriculture and rural development, including forests, at the district

level. It is directly accountable to the DPC and then to the DARD, under the DPC's leadership. It has mandates for promulgating and preparing instructions and guidelines on how to implement national laws and policies and provincial and district policies on forest protection and development, irrigation systems, and agricultural production; preparing district master plans for agriculture and rural development and forest protection and development, district five-year plans for agriculture and rural development and forest protection and development, and district annual plans. Other mandates include facilitating the implementation of the above-mentioned projects and programs after they are approved by the PPC and related parties; checking, examining, supervising, monitoring and assessing the implementation of national laws and provincial and district policies; and the implementation of provincial and district projects on forest protection and development. Importantly, they also have the power to give permission for natural timber exploitation for house construction submitted by local people (for more details of the mandates and powers of DiONREs and DiARDs, see Appendixes 7 and 8).

2.5 The communal governments' mandates and powers

The communal people's council (CPCI) has mandates and powers to approve communal socioeconomic development master plans with contents related to land-use planning and plans; to approve annual socioeconomic development plans, annual forest protection and development plans, and annual communal budget plans, etc. It also has the power to check, examine, monitor and assess the implementation of DPC activities. Finally, it has the mandate to bring the voices of the people living in the communes to the DPC. The communal people's committee (CPC), which is the CPCI's executive body, has the following mandates and powers:

1. To promulgate and transfer the contents of national laws and provincial and district instructions and guidelines to the communal people.
2. To prepare communal socioeconomic development master plans with contents relating to land-use planning and land-use plans; to prepare annual socioeconomic

development plans, annual forest protection and development plans, and annual communal budget plans, etc.; and to implement these plans after obtaining approval from the CPCl and DPC.

3. To facilitate the implementation of district programs and projects in the communal area.
4. To supervise, monitor and assess the implementation of national laws, district projects and programs, and the local people's communal plans.
5. To implement work on investigating land-use status and resolving land and forest management disputes among its communal people or villages.
6. To implement forest protection activities.
7. To report the implemented activities to the CPCl and the DPC.

The CPC has officials and communal boards to help carry out its mandates. For instance, it has officials in charge of land-use planning, a communal board for agriculture and forestry development, a communal forest protection team, a communal steering committee for immediate forest management activities, and communal extension workers. Meanwhile, the forest ranger station send its officers to every commune to help the communal people's committee check, examine, supervise, monitor and control forest protection and development practices.

3 Budget for the management of forest resources and forest land

The budgets allocated in a decentralized system will determine the level of autonomy and influence of lower-level governments to implement policies effectively Oates, 1998; Yang et al. 2015. Since *Doi Moi* (Renovation) in 1986, the fiscal policy has also been further decentralized by the Vietnamese government. Decentralization has been an ongoing process in Vietnam since the first budget law introduced in 1996, subsequently amended in 1998, which introduced two budgetary layers at the central and provincial levels (Bjornestad 2009). It was the State Budget Law of 2002, implemented in 2004, that moved away from line budget distribution to allocative budget redistribution to the provinces. Thus a minimum expenditure per province was calculated on the basis of expenditure norms (Martine-Vaque 2005). It should be noted that it is therefore the provincial authorities who have the greater autonomy when it comes to determining the fiscal relationship (expenditure assignments and revenue sharing) with the lower levels of government, i.e. the districts and communes within their jurisdiction.

Vietnam's government financing centers on a nested budget system in which the lower budgetary levels are components of the upper budgetary level. Thus the budget of higher levels of government ensures the balancing of the lower-level government budgets to prevent deficits. Thus if the expected revenue (from both local and shared taxes) is less than the minimum expenditure requirements, the region is allowed to keep 100% of the proceeds from shared taxes for its local budget share; and if budgets are in excess of their needs, the revenue from shared taxes is transferred to the national budget.

Local governments have three main sources of revenue: 1) land-related taxes and fees and local fees and charges, 100% of which can be retained by the local authorities; 2) revenue sharing

between local authorities and central government (e.g. sourced from VAT, except on imports), corporate and personal income tax, and excise tax on domestic goods etc.; and, 3) transfers from the upper levels of government. The local government share of total revenue has increased from 28.1% in 2003 to 38.4% in 2012 (MOF data, 2015). Notably, the local government share of total spending in Vietnam has also increased, from 47.5% in 2003 to 55.6% in 2012 (MOF data, 2014)

The National Budget Law⁴ and Government Decree No. 60⁵ regulate state treasury annual revenue and expenditure items. State revenue includes revenue from taxes, fees and charges, and from the state economy; cash contributions from organizations and individuals; funds for development assistance; and other revenues regulated in those legal documents. State treasury expenditures include expenditure on socioeconomic development, to ensure national security and defense, for the operation of the state administration system, to pay off the state debt, for development assistance, and other expenditures included in the legal documents.⁶ The fiscal year lasts from 1 January to 31 December. The National Assembly is responsible for preparing the national budget; budget allocation to ministries, sectors, provinces and cities managed by the central level; and drawing up an annual budget balance report. At the local level, the people's councils at each level of government are responsible for budget distribution in their particular area. The structure of the state budget for the period 2005–2011 is shown in Table 1.

4 The National Budget Law (Law No. 01/2002/QH11).

5 Government Decree No. 60/2003/ND-CP of 6 June 2003 on Regulation and Guidance for Implementing the National Budget Law.

6 Article 2 of the National Budget Law.

Table 1. The structure of state budget expenditure for the period 2005–2011 (%).

| Expenditure items | 2005 | 2007 | 2008 | 2009 | 2010 | Preliminary for 2011 |
|---|-------|-------|-------|-------|-------|----------------------|
| Total % of expenditure | 100 | 100 | 100 | 100 | 100 | 100 |
| Development investment | 30.15 | 28.08 | 26.38 | 32.31 | 28.23 | 24.13 |
| Social and economic services | 50.37 | 53.06 | 55.74 | 54.05 | 58.05 | 61.51 |
| Education and training | 10.89 | 13.46 | 11.83 | 12.35 | 12.05 | 14.98 |
| Health care | 2.90 | 4.11 | 3.18 | 3.45 | 3.87 | 5.58 |
| Science, technology and the environment | 0.98 | 1.90 | 0.70 | 0.68 | 0.64 | 0.81 |
| Broadcasting and television | 0.80 | 0.35 | 0.59 | 1.08 | 1.36 | 1.13 |
| Pension and social relief | 6.76 | 9.16 | 8.20 | 8.96 | 9.90 | 10.29 |
| Economic services | 4.49 | 4.04 | 4.68 | 4.85 | 5.80 | 6.87 |
| General public administration | 7.14 | 7.31 | 8.40 | 7.23 | 8.65 | 8.49 |
| Addition to financial reserve fund | 0.03 | 0.05 | 0.04 | 0.04 | 0.04 | 0.01 |

Source: GSO Vietnam 2015

Table 2. Key forest-related government programs and associated budgets.

| Program | Ministry responsible | Amount (USD) | Period |
|--|----------------------|--|---|
| 5-Million Hectare Reforestation Program | MARD | Total investment is VND 31,500 billion (approx. USD 2 billion) | 1998–2010 |
| Forest Protection and Development | MARD | Annual investment is about VND 1,500 billion (approx. USD 71 million) | 2011–2020 |
| Rapid and Sustainable Poverty Reduction Support Program | MOLISA | About 25,237 billion VND (approx. 400 million USD) invested for 2009–2011 | 2008 – 2020 |
| Program for Inventory and Monitoring Changes of Forest Resources | MARD | Not the same for all inventory cycles. About VND 50 billion (USD 240 million) for forest inventory cycle 4 (2006–2010) | Implemented in five-year cycles and currently in its fifth cycle (2011–2015). |

The main budget source for land and forest management is the development investment fund, which ranged between 24% and 32% of the overall state budget in 2005–2011 (GSO Vietnam 2015). This funding source is used to invest in infrastructure construction, forest protection and development, and socioeconomic development. Other sources related to land and forests come from science, technology and the environment, but are mainly used for research and the transfer of advanced technology in agriculture, forestry, fishery, etc.

The regulations on responsibilities and budget distribution regarding the management of lands and forest resources are as follows:

3.1 Authorization of budget allocation

The bodies with authorization to distribute the national budget at the central level are the central government (National Assembly) and the relevant ministries, such as the MPI, the MOF, and the MARD. With regard to needs related to the implementation of national projects and programs, the budget distribution is approved by the Prime Minister following submission from the ministry responsible and the authorization of the National Assembly. There are five key national programs related to land and forest use and management, as shown in Table 2. Program 661, known as the 5-million Hectare Reforestation Program, had an estimated total investment of USD 2 billion in

1998–2010 and was under MARD management. Another ongoing program (2011–2020), also under the MARD, is for forest protection and development (FP&D), with an annual investment of USD 71 million. The MARD is also responsible for the national forestry monitoring inventory, conducted every 4 years. Another key social program for poverty reduction and livelihood development for mountain and rural people is the Rapid and Sustainable Poverty Reduction Support Program, which is under Ministry of Labor, Invalids and Social Affairs (MOLISA) responsibility. The ministries responsible consider the budget distribution plan approved by the Prime Minister in order to prepare and approve detailed budget allocation plans for distribution to provinces and the approved national programs. Meanwhile, the provincial, district and communal people's councils consider local budget availability and the budget allocated by the national level and programs in order to prepare and approve the details of budget allocation plans for programs and projects and other activities.

3.2 Budget sources for land and forest resource management

Several budget sources are used for managing lands and forests (Vietnamese Government, 2007):

1. The state treasury budget is mainly used to invest in large-scale reforestation, such as the Forest Protection and Development Program and in national parks and projects approved by Prime Ministerial Decision No.30a of 2008. This budget helps support: the Rapid and Sustainable Poverty Reduction Program in 62 poor districts in the country's Northwest and Central Highlands; development of commercial plantations in planned wood supply areas; forestry road construction in planned areas for wood supply plantations; pilot research projects and investment in the procurement of advanced equipment and technologies; the application of a geographical information system for forest planning, management and protection; and investment in research and high technologies for seed and germplasm development and technologies for intensive plantations.
2. The State also provides investment for economic development. This budget is used to ensure forest protection through

contracts, assisted natural regeneration of forests, monitoring the changes of forests and forestland, and other administration costs regulated by legal documents.

3. The budget from the local government budget is used to contribute to the national fund for the approved programs and projects. As mentioned above, the revenue sources for the local government budget are collected from taxes and fees (on land, houses, natural resources, etc.), state budget allocations, donations and contributions from national and international organizations, etc.
4. Budget sources from fund mobilization are donated by different economic components in the country such as international organizations and national donors through the official development agencies for forest protection and development. Other financial sources include payment for forest environmental services (PFES), taxes on forest resources, etc.⁷

3.3 Financial management

The implementation and financial management of the above-mentioned programs and projects is conducted by the ministries responsible (MARD, MPI, and MOF). A number of legal documents guide the financial management of both specific programs and general forest protection and development activities.

3.4 Forest protection and development plan

A specific legal document was issued for the financial management and implementation of the national forest protection and development program plan for 2011–2020.⁸ Under this program, state budget funds are used to invest in and support: i) forest planting and tending to protection and special-use forests; ii) construction

⁷ Decision on approval of the Forest Protection and Development Plan for the period 2011–2020 No. 57/QĐ-TTg of 9 January 2012

⁸ Inter-ministerial Circular No. 10/2013/TTLT-BNNPTNT-BKHĐT of 1 February 2013 on Guiding the Management and Utilization of the National Fund for Implementing the Forest Protection and Development Plan for the Period 2011–2020 issued by Prime Ministerial Decision

of forestry infrastructure for forest protection and development; iii) monitoring and management operation costs.

It is noted that most funding for conserving “protection” and “special-use” forests (two of the three main forest classification types) comes from state budget funds. The state budgets that ensure funds for forest protection and assisted natural regeneration for forests are managed by the MARD. However, local governments also need to manage budgets for forest protection and assisted natural regeneration for forest areas.⁹

3.5 Forest protection and the assisted natural regeneration of natural forests

Additional state budget funds are allocated to local authorities to implement forest protection and the assisted natural regeneration of natural forests: i) the provincial people’s committees prepare annual budget plans following the guidance of this circular (No.80/2013) and submit them to the MARD and the MOF for approval; ii) the MARD compiles the demands of budget plans from all provinces and prepares an annual budget plan, which it sends to the MOF; iii) considering the state budget and in collaboration with the MARD, the MOF approves the supplemental budgets for each province in order to prepare an annual state budget revenue and expenditure plan and budget distribution plan to be submitted to the government and National Assembly for approval.

The guidance provides regulations on the management and utilization of national allocated funds for forest rangers. This focuses on capacity building, forest fire control and the procurement of equipment and tools for forest protection and forest fire monitoring.¹⁰ Payments are also provided for individuals and organizations mobilized for

the control of illegal forest destruction and the prevention of forest fires.¹¹

3.6 Research studies and projects managed by the MARD

Inter-ministerial Circular No. 101 of 2001¹² clearly states the budget sources for research studies and projects managed by the MARD, including costs mainly related to: seed research (for crops and forest trees, including cross-breeding; seed selection for pilot projects; experiments in the area of seed degradation; approval of new seeds and germplasm; surveying and identifying germplasm; the restoration of seeds with advanced characteristics; the storage of flora and fauna gene sources at agro-forestry seed research institutions and centers; production of good quality seeds and head clone trees); ancestor and grandparent seeds (for domestic livestock; the completion of seed production technologies and procedures (if any); importing genes and new germplasm and technology for seed production, if needed, to make use of advanced sciences and technologies; the organization of training sessions on seed production for technical staff in MARD-managed projects; the preparation of investment and construction, the procurement of equipment and capacity building for research institutions, centers and production organizations; monitoring and evaluation of agriculture and forestry seed breeding programs; and other costs related to seed breeding and improvement. The Vietnam Forestry Administration (VNForest) and the MARD’s Department of Science, Technology and Environment are the agencies that prepare annual plans for forestry research needs and submit annual research plans and required budgets to the MARD for approval. They also monitor the implementation of approved forestry research projects and approve the final results of implemented research projects. Total investment in forestry research for 2001–2010 was about VND 318 billion, accounting for 0.5%

9 Inter-ministerial Circular No. 80/2013/TTLT-BTC-BNN of 14 June 2013 on Guiding the Management and Utilization of State Budget Funds for Forest Protection and Development.

10 Decision No. 07/2012/QĐ-TTg of 8 February on Strengthening Forest Protection and Management.

11 Inter-ministerial Circular No. 20/2013/TTLT-BNNPTNT-BTC of 27 March 2013 on Revising and Complementing Certain Articles Regulated in Inter-ministerial Circular No. 61/2007/TTLT-BNN-BTC of 22 June 2007.

12 Inter-ministerial Circular No. 101/2001/TTLT-BTC-BNNPTNT (MARD and MOF) of 20 December 2001 on Guiding the Financial Management of National Funds Used for Crop Seeds and Varieties and Forest Germplasms.

of total investment in forestry in that period (VNForest 2012).

MARD Decision No. 114¹³ regulates the annually approved budget distribution for every program and project and for non-project activities.

3.7 Communal budgets to ensure regular forest protection operation costs

Section 1, article 3 of Decision No. 07¹⁴ clearly states that the central government provides budget support to the communes to ensure regular operation costs for forest protection, as follows: i) support in the form of VND 100,000/ha/year to implement protection activities for protection forests managed by communal people's committees; ii) financial support for controlling illegal logging activities and forest fires. In relation to the first point, communal people's committees use the allocated funds for forest protection activities that include maintaining the regular operation of forest protection teams; propaganda, dissemination and education on the legal regulations on forest protection; and contracting labor for forest protection, forest fire prevention and other activities related to forest protection.

The chairperson of the provincial people's committee (PPC) regulates the rate for supporting people involved in forest fire control in line with the provincial conditions; and for paying the medical care and hospital fees for people involved in forest protection and forest fire control who are affected during those activities. The financial support rate is VND 100,000/day/head for people who receive hospital treatment. If badly injured, they can be considered "wounded soldiers" and in the case of death during work, support is provided for costs associated with burial and the victims are considered to be "martyrs," according to the current government regulations. Payment is provided for the operation of management units at the different levels to direct the urgent matter

13 Article 3 of Ministry of Agriculture and Rural Development Decision No. 114/2008/QD-BNN of 28 November 2008 on the Foundation of the Vietnam Forest Protection and Development Fund.

14 Article 3 of Prime Ministerial Decision No. 07/2012/QĐ-TTg of 8 February 2012 on Policies to Enhance Forest Protection.

of forest protection and forest fire prevention and control. The PPC decides on supporting payment rates, fund management and allocation, and the preparation of budget balance reports for budgets supporting the communes.

Section 3, article 6 of Decision No. 07 also reconfirms investment in the forest ranger forces through training and capacity building; investment in forest protection and forest fire prevention; and strengthening the provision of military equipment and tools for forest rangers. The aim during 2011–2015 is to provide technical and professional training to 8,000 communal-level forest protection team members and to the forest ranger force, as well as investing about VND 1,000 billion in the procurement of means and equipment to support forest fire prevention and control (Phuong, 2013).

3.8 Budget for supporting seed supply and investment

Inter-ministerial Circular No.11¹⁵ regulates the use of state budget funds for maintaining spring seed, forest tending after basic investment (for forest trees as seedlings) and supporting seed supply and production. These investments are for activities including the procurement of seed licenses for seeds that do not exist in the country; the finalization of seed production, processing and maintenance procedures; the construction of demonstration approved seed supply models; the hiring of international experts; short-term training sessions for researchers and technical staff working in the area of seed breeding, according to the projects; the extension and exploitation of gene sources for research and production as approved projects; and the enhancement of seed quality management for state management agencies, including the completion of seed databases, the inspection and control of seed quality, the publication of documents for seed management, and short training courses for seed managers at the national and provincial levels. The state budget provides one-time support to produce seeds for forestry, the maximum support being 50% of the costs for seed production.

15 Inter-ministerial Circular No. 11/2012/TTLT-BNNPTNT-BTC-BKHDT of 1 March 2012 on Guiding the Management and Utilization of National Funds for Implementing a Project for the Development of Seeds and Varieties in Agriculture, Forestry and Fishery up to 2020.

In relation to state agencies and organizations, the state budget is managed and used in line with the approved projects, which includes the costs of infrastructure construction for seed research, storage, management, production, processing and maintenance; importing (or in-country procurement) of new seeds for crops, Livestock and forestry, including the costs of seed collection (if any); and planting and tending to seed forests and orchards in forestry. As for business enterprises and companies, the government provides financial support for infrastructure building (roads, irrigation, and waste treatment) at the sites where seeds are produced with the application of high technology. The financial support is no more than 50% of the total costs for regulated items, as mentioned above.

3.9 Investment in and development of special-use forests

Prime Ministerial Decision No. 24¹⁶ on Policy for Investment in and Development of Special-use Forests in the Period 2011–2020 regulates state budgets for those forests managed by the MARD and local budgets used to invest in local government-managed special-use forests. The state budgets are used to provide targeted investment for national parks managed by the local government that are located in border and island areas of the localities involved, often with limited budgets.

Inter-ministerial Circular No. 100¹⁷ regulates the budget for the operation of management units and for the management and protection of special-use forests in accordance with Article 7 of Decision No. 24 (2012),¹⁸ which includes: i) budgets for the operation of special-use forest management boards, ii) budgets for managing and protecting special-use forests. The government provides an average rate of VND 100,000/ha/year for whole special-

16 Prime Ministerial Decision No. 24/2012/QD-TTg of 1 June 2012 on Policy for Investment in and the Development of Special-use Forests in 2011–2020.

17 Inter-ministerial Circular No. 100/2013/TTLT-BTC-BNNPTNT of 26 July 2013 on Guiding the Implementation of Certain Articles Regulated in Prime Ministerial Decision No. 24/2012/QD-TTg of 1 June 2012 on Policy for Investment in and the Development of Special-use Forests in 2011–2020.

18 Article 7 of Decision No. 24/2012/QD-TTg.

use forest areas allocated to be managed by the management board.

The state treasury ensures the budget source for the operation of management boards, the management of special-use forests, and supporting communities in buffer areas after balancing the revenue gained from eco-tourism activities regulated in Article 14 of Decision No. 24.

Decision No. 774¹⁹ regulates the continuation of the investment and support policy based on existing regulations to extend the policy for providing financial support to large timber supply plantations established in Decision No. 147²⁰ of 2007. It establishes greater support to engage and mobilize individuals and households in growing forests for the purpose of supplying large timbers.

3.10 Regular operation costs for forest management and protection

Decision No. 07 (2012)²¹ states that the government provides financial support to communal budgets to ensure the regular operation costs for forest management and protection, including: i) support for a rate of VND 100,000/ha/year to implement management and protection activities for the forest areas managed by the CPC; ii) support funds for implementing activities for forest destruction control, forest fire prevention and control, planning for shifting cultivation areas and forest fire prevention activities.

A total of VND 59,801,707 million was invested in forestry for the period of 2001–2010, with an estimated 48% (VND 28,719,815 million) used for reforestation and 52% (VND 31,081,892 million) for non-reforestation activities (Phuong, 2013). The data in Table 3 illustrates a large increase in the amount of investment made towards tree plantations from between 2001–2005 and the next period 2006–2010. Investments in

19 Minister of Agriculture and Rural Development Decision No. 774/QD-BNN-TCLN of 18 April 2014 on Approval of Action Plans for Enhancing the Productivity, Quality and Value of Planted Production Forests for the Period 2014–2020.

20 Decision No. 147/2007/QD-TTg of 10 September 2007.

21 Decision No. 07/2012/QD-TTg of 8 February 2012 on Policies to Enhance Forest Protection.

Table 3. Investment in the forestry sector by use purpose and funding source (in millions of VND).

| No. | Item | Period | | Total for 2001–2010 | (%) |
|--------------|--------------------------------------|-------------------|-------------------|------------------------|------------|
| | | 2001–2005 | 2006–2010 | | |
| 1 | Investment in tree plantations | 10,030,085 | 18,196,394 | 28,719,815 | 48.03 |
| 1.1 | National budget | 2,662,998 | 4,854,170 | 7,517,168 | 12.57 |
| 1.1.1 | Central government budget | 2,045,356 | 4,221,714 | 6,267,070 | 10.48 |
| 1.1.2 | Local government budgets | 471,713 | 545,910 | 1,017,623 | 1.7 |
| 1.1.3 | Other (natural resource tax) | 145,929 | 86,546 | 232,475 | 0.39 |
| 1.2 | Credits | 821,666 | 1,092,417 | 1,914,083 | 3.20 |
| 1.3 | ODA | 1,410,776 | 1,091,138 | 2,501,914 | 4.18 |
| 1.4 | FDI | 246,400 | 208,180 | 454,580 | 0.76 |
| 1.5 | Non-state organizations | 525,469 | 1,312,867 | 1,838,336 | 3.07 |
| 1.6 | Households, individuals, communities | 4,362,776 | 9,637,622 | 14,000,398 | 23.41 |
| 1.7 | Others: PFES, carbon credits | 0 | 493,336 | 493,336 | 0.82 |
| 2 | Non-tree plantation investment | 13,542,992 | 17,538,900 | 31,081,892 | 52.41 |
| 2.1 | Infrastructure construction | 595,950 | 1,762,215 | 2,358,165 | 3.94 |
| 2.2 | ODA | 2,755,754 | 3,754,556 | 6,510,310 | 10.89 |
| 2.3 | Science and technology | 113,630 | 204,309 | 317,939 | 0.53 |
| 2.4 | FDI (wood processing) | 10,077,658 | 11,817,820 | 21,895,478 | 36.61 |
| Total | | 23,573,077 | 35,735,294 | 59,801,707 | 100 |

Source: MARD 2012. Forestry Sector Restructuring Project

tree plantations account for the second highest proportion of the forestry sector fundraising at 48 %. The highest proportion however is directed to non-tree plantation investment at 52%, particularly from foreign direct investment (FDI) at 37% for the wood processing industry. This is evidence of the influence of the market mechanism on forestry and wood processing, which provides more value added in a forest product chain, with profits providing a strong attraction for investment. Investment in plantations from the budgets of individuals, households and communities also accounts for a large portion of the total investment (23.61%), implying that government policies to diversify forest growers have had positive impacts. Additionally, most people living in forestry areas, and their livelihoods to some extent, may depend on forests.

State budget investment in reforestation accounts for 13% of total investment in forestry, but contributes significantly to forest development in Vietnam. State budget investment increased greatly from 2001–2005 to 2006–2010, due in part to increasing plantation areas and the increased cost

norm of planting 1 ha of forest. However, the main cause of the rising state budget investment in this period is that the National Assembly requested the prioritization of efforts to complete the objectives and tasks of the 5-Million Hectare Reforestation Program, in parallel with the implementation of a policy to support the development of production.²²

There was a downward trend in foreign investment in reforestation during the period 2006–2010, with a total of seven collaborative reforestation projects on reforestation in this period (compared to only one project for the period 2001–2005). Investment in infrastructure development, estimated at 3.94% of total investment from the forestry sector, was directly managed by the MARD and mainly focused on national parks and infrastructure building for MARD organizations (Table 3).

Only a small portion of the total investment budget was allocated to science research and

²² Prime Ministerial Decision No. 147/QĐ-TTg of 10 September 2007 on Policy for the Development of Production Forests for 2007–2015.

technology development in forestry (VND 317,939 million, an estimated 0.54% of total forestry investment). Consequently, the application of scientific knowledge and advanced technology to improve the productivity and quality of plantations faces a number of limitations and challenges, such as the quality of seed and poor silvicultural measures and management.

Since 2010, the government has introduced an innovative policy on PFES through Decree No. 99/2010/ND-CP of 24 September 2010. The implementation of this policy has mobilized financial sources from society and provides more financial sources to the forestry sector to implement government policy on forestry socialization i.e. encouraging the engagement of all economic components, organizations, communities, etc. involved in forest protection and development.

The total investment in forestry at the end of 2006–2010 had more than doubled compared to the total investment at the end of previous period (2001–2005), with investment from the state budget increasing by 202%, investment from non-state organizations by 250% and investment from households, individuals and communities by 221%. The ODA budget also increased. According to the assessment report on the implementation of the forest development strategy during 2006–2020 the largest number of signed projects (17) corresponded to 2006, with the number decreasing after that. This means that foreign investors have decreased their ODA support for Vietnam, which is related to considerable national achievements in socioeconomic development and forestry, meaning that Vietnam is now internationally considered to be a medium-income country. Decreasing ODA support will therefore continue in the coming years.

With regard to total financial investment (budget structure, investment trend, investment structure, management of investment), it is estimated that for 2001–2010, total investment by different sources in the forestry sector amounted to VND 59,801,707 million. Of this amount, the largest portion came from foreign direct investment, including direct investment and joint ventures in planting forests, for a total investment budget of VND 22,350,058 million, or 37.4% of

total financial investment. FDI was followed by investment from households, individuals and communities, which accounted for VND 14,000,398 million, or 23.4%. State budget investment in forestry ranked third, for a total of VND 10,193,272 million, or 17%. Investment from ODA and other foreign aid was VND 9,012,224 million, or 15.10% of total investment in forestry.

3.11 Taxes and fees related to forest resources and land purposes

Taxes and fees are an important source of revenue for local governments, which can retain 100% of the revenues collected. The tax bases and tax rates are set by the central government; specifically the National Assembly. Therefore local authorities have limited powers when it comes to setting fees and charges based on the figures outlined by the central government (Tranh et al. 2014).

3.11.1 Natural resource tax

The natural resource tax was first regulated in Ordinance No. 05 of 1998²³. In Vietnam, ordinances are not laws, but rather just legal documents guiding implementation of the law. Therefore, Ordinance No. 05 (1998) on the Resource Tax had a low level of legality as it was not approved by the National Assembly. Given the need for strong legality in relation to the resource tax, the Resource Tax Law was approved in 2009. The law provides basic regulation and will be further guided by a decree and circulars. The main differences in the contents of these documents are that the law stipulates details of the tax rates for all types of resources, such as metallic minerals (9 types) and non-metallic minerals (17 types); crude oils, natural gases, and natural products (from the forests), etc., whereas Ordinance No. 05 does not mention many types of resources.

This Resource Tax Law is an important tool for regulating the exploitation of natural resources and increasing state treasury revenues. It is also relevant to “payment for ecosystem services” as it regulates the detailed tax levels paid by different

23 Revised Ordinance No. 05/1998/PL-UBTVQH10 on Resource Taxes of 16 April 1998.

users of goods and resources—such as water, forest products and natural fisheries—depending on the quality of environmental or ecosystem services. Tax is one of the income sources for the state budget and is collected by tax bodies.

Based on the natural resource tax ordinance, the government issued Decree No. 50²⁴ in 2010, which provides detailed regulations on guiding implementation of the resource tax. Also in 2010, the MOF promulgated Circular No. 105²⁵ on Guiding Implementation of Decree No. 68, which provides detailed regulations on implementation of the revised resource tax ordinance. In addition to other regulations, this circular provides details of methods for calculating the resource tax, as follows:

$$\text{Tax on natural resources to be paid for a certain period} = \text{Actual commercial resource production harvested} \times \text{Price of every product unit used for taxation} \times \text{Tax rate} - \text{Amount of resource tax deducted or tax exemption (if any)}$$

The Resource Tax Law of 2009 specifies the following tax rates: 10-35% for timber harvested from natural forests; 10%-20% for branches, stumps and roots; 1-2% for firewood; and 10-15% for bamboo. These rates are relatively high compared to those of other resources, such as metallic mineral resources (7–25%), non-metallic minerals (3–30%), and natural fisheries (1–10%),²⁶ for example. As of 2009 (when the law was approved), the total forest area was 12.8 million ha, of which natural forest areas accounted for 10.3 million ha (80%) (MARD, Decision No 2140/QĐ-BNN-TCLN of 9 August 2010). Some claim that the tax rates for timbers contained in the Resource Tax Law are quite high (10-35%), with the highest tax rate for timber group I (the best timber) being 35%, compared to a tax rate of just 9-25% for gold. However, the central government has increasingly been attempting to reduce natural timber logging, so the high tax would work as a disincentive, at least for legal logging (FSSP 2013).

24 Government Decree No. 50/2010/ND-CP of 14 May 2010 on Details and Guidance for the Implementation of Certain Articles of the Resource Tax.

25 Circular No. 105/2010/TT-BTC on Guiding Implementation of Certain Articles of the Resource Tax and Decree No. 50/2010/ND-CP of 14 May 2010.

26 Resource Tax Law of 2009.

Equally, there is no tax payable on timber logged from plantations in order to encourage production forest activities i.e. to develop plantations.

Meanwhile, most of the investments from the state budget are used for “forest protection” and these represent quite small amounts. High taxes, less financial support and no special loan interests make it less attractive for companies, enterprises, households and individuals to invest in natural forest management. In addition, the high tax rates charged on natural timbers may also lead to negative impacts such as illegal logging and tax evasion.

People living in mountainous areas, particularly ethnic minorities dependent on revenues from the collection of non-timber forest products (NTFPs), are also required to pay tax. However, NTFP tax rates are also high (10-25%) and local people can only make very small profits as these products are sold through intermediaries.

Table 4 provides a summary of taxes and fees related to forest resources and lands in Vietnam. The table also summarizes the criteria for exemption and the relevant policy documents. It should be noted that there is no policy regulating the idea of taxes on forest resources being invested to restore the forests, so there is inconsistency in the use of the funds from natural resource taxes. In many cases, they are used for other purposes that are not related to investment in reforestation.

3.11.2 Water resource tax

Article 7 of the Resource Tax Law of 2009 also refers to the water resource tax and stipulates tax rates applicable to the use of water for different purposes, including bottled water, water for electricity production, and water used for other purposes and production. The highest tax rates are applied to the exploitation of water for the mineral water production business (8-18%). However, those applied to the use of natural water (including activities related to the use of water for business, such as for electricity production) are generally lower (2-5%) and no taxes are charged on the use of water for agricultural production. Water sources used for the production of power that does not feed into the national electricity grid are tax exempt. The tax rate for water used for the production of power that does feed into the

Table 4. Summary of taxes and fees related to forest resources and lands.

| Land-use tax | Description | Exemptions or reductions | Relevant policy document |
|--|--|---|--|
| Forest products from natural forests | Tax rates apply for forest products harvested from natural forests (timber, firewood, bamboo, certain NTFPs, etc.). | Tax exemption is applicable to firewood and bamboo harvested with approval by individuals for their own use. | Resource Tax Law (2009) |
| Water resource tax | Tax rates applicable to the use of water for different purposes, including bottled water, water for electricity production, and water used for other purposes and production. | The use of water for agricultural production. The tax is charged for water sources used for power production, but tax exemption applies if the power produced does not feed into the national grid. | Resource Tax Law (2009) Decree No. 50/2010/ND-CP |
| Land-use fee | The land-use fee is calculated based on the land area, the land-use purpose and the price of land, regulated by the people's committee of the respective province or central city. | The reduction and exemption of land-use fees can be considered in the case of poor and ethnic minority households in difficult areas defined by the government. The land-use fees can be reduced by 100% for households in extremely difficult socioeconomic conditions | Decree No. 45/2014/ND-CP |
| Tax on the transfer of land-use right and fee for the conversion of land-use purpose | Land users have to pay a tax when transferring the land-use right to others and when changing the purpose of the land use. | Exemptions and reductions are applicable in specific cases. | Individual Income Tax Law (Law No. 04/2007/QH12); Law on Cooperate Income Tax (No. 14/2008/QH12). |
| Land-leasing fee | The State collects this fee when leasing land and water surfaces to individuals, households and organizations for business activities regulated by law. The rate depends on the location and leasing period. | Reductions and exemptions can be considered in specific cases. | Decree No. 46/2014/ND-CP. |

national grid is currently 4%, having increased from 2% on 1 January 2014.²⁷

3.11.3 Land-use fee

According to the Land Law of 2013, “agricultural land” comprises lands for production and protection and special-use forests. Several legal documents were issued to regulate land-use taxes

and fees, but the current Decree No 45²⁸ stipulates the details of the collection of land-use fees. This decree applies to organizations, households and individuals who are using lands for agricultural and forestry cultivation and for fishery farming. It also stipulates that this tax is applicable to those who have been allocated land areas for agricultural cultivation but have not yet used the land. All

²⁷ Resolution No. 712/2013/UBTVQH13 of 13 December 2013 on Approving the Tax Rate Table for Natural Resources

²⁸ Government Decree No. 45/2014/ND-CP of 15 May 2014 Regulating the Collection of Land-Use Fees.

revenues from land-use taxes are managed by the local governments.²⁹

Decree No. 45 stipulates that legal land users must pay land-use fees. The decree also defines the basis for calculating the fees, the type of land use and user, exemptions and reductions for land-use fees, and specificities regarding how the fees are to be collected. The land-use fee is calculated based on the allocated area, transferred area, land-use right certificate, land-use purpose, and land price.

Decree 45 also establishes regulations on the reduction and exemption of land-use fees for households and individuals. The fee is reduced by 50% for the allocation quota applicable to land users such as households and individuals who are living in areas with difficult socioeconomic conditions. A total exemption of the land-use fee is also applied for land users (households and individuals) living in areas with extremely difficult socioeconomic conditions, as identified by the government. Finally, there is a land-use fee reduction of 70% for enterprises that have preferential projects investing in forestry, including reforestation projects on bare lands, seedling production, and wood processing, etc. (article 5, Decree No. 61³⁰).

3.11.4 Land-use right transfer tax

The Land Law of 2013³¹ stipulates that all legal land users have the right to transfer the right of land use and properties on land (section 4, article 95), but have to pay tax when transferring the right of land use (Article 107). Every organization, household and individual that has a land-use certificate has to comply with the tax on transferring land-use right. One of the purposes of this law is to mobilize financial resources for the state budget by charging tax on land users when land-use rights are transferred.

29 Article 22 of Decree No. 60/2003/ND-CP of 6 June 2003 on Regulation and Guidance for the Implementation of the National Budget Law.

30 Article 5 of Government Decree No. 61/2010/ND-CP of 4 June 2010 on Policy to Encourage Enterprises to Invest in Agriculture and Rural Areas.

31 Law No. 13/2003/QH11 of 26 November 2003 on Land.

The Law on the Land-use Right Transfer Tax of 1994³² specifies the tax rates for transferring land-use rights for land used for agricultural, forestry, aquaculture, salt-making, residential and building purposes, among others. The Law on the Revision and Supplementation of the Law of Land-use Right Transfer of 1994 was passed in 1999, revising article 7 of the 1994 law for agricultural, forestry, aquaculture and salt-production land, as well as for State, building and other types of land. The details of regulations on the land-use right transfer tax are contained in Decree No. 19.³³ If the land-use purpose is changed, the user is required to pay the land-use fee, which varies from case to case (article 5, Decree No. 45). However, in 2009 the land-use right transfer tax was included in the Individual Income Tax Law,³⁴ which has now replaced the Law on the Land-use Right Transfer Tax and all of its legal guiding documents on taxing land-use transfer.

The Cooperate Income Tax Law³⁵ is only applicable to organizations carrying out production business activities, and services. In brief, this is a tax on the income of organizations from their business activities. However, it also includes tax exemption for crop production and fishery farming operated by organizations established under the Cooperative Law; technical services for agriculture; scientific research and technology development; products being produced in piloting process; business activities by people with disabilities; and aid and support for education, research, culture, and charity, etc.

3.11.5 Land and water surface leasing fees

The fee for land and water surface leasing was recognized in Government Decree No. 46³⁶ on Fee Collection for Leasing Land and Water Areas

32 The Law on the Land-use Right Transfer Tax of 22 June 1994.

33 Decree No. 19/2000/ND-CP of 8 June 2000 on Guiding the Implementation of the Law on the Land-use Right Transfer Tax.

34 Law No. 04/2007/QH12 of 21 November 2007 on Individual Income Tax.

35 Law No. 14/2008/QH12 of 3 June 2008 on the Corporate Income Tax.

36 Government Decree No. 46/2014/ND-CP of 15 May 2014 on Regulating the Collecting of Fees for the Leasing of Land and Water Surfaces.

(Article 12). It also specifies other cases for the exemption and reduction of land-leasing fees (Article 19). The exemption and reduction of fees for land and water leasing is applicable to the following: investment projects in areas with difficult socioeconomic conditions; projects using land to build houses for workers in industrial areas approved by the authorized government; projects to build dormitories using state funds; land for agricultural production for ethnic minorities; lands for implementing the reforestation of protection forests and coastal protection forests; land for infrastructure development of public business organizations; and the infrastructure building of research organizations, etc.

3.11.6 Determination of forest prices

The process of determining prices for forests follows the stipulations of Decree No. 48,³⁷ which establishes the methods for quantifying the monetary value of forest products (mainly timbers) and considers the value of environmental services to be intangible, so they are not included in forest prices. The issuance of Decree No. 99 of 2010³⁸ on PFES Policy makes it necessary to revise Decree No. 48 to make the two decrees consistent. The idea is for forest prices to be composed of both the value of forest products and the value of environmental goods and services.

3.11.7 Tax collection office

All taxes and fees are collected by the district or provincial tax office and put into the national account.

3.12 Mechanism and policy for payment for forest environmental services (PFES)

Government Decree No. 99³⁹ on PFES comprises five chapters and 25 articles that stipulate PFES policy in Vietnam, including:

- Types of forest environmental services that service users pay to service providers, as well as the definition of service users and providers.
- The management of the budget collected from PFES.
- The rights and duties of service providers and users.
- The responsibilities of state management agencies at different levels and in different sectors for implementing PFES.

In this policy, the environment is comprised of different ecosystem components such as plants, animals, micro-organisms, water, soils, air and landscape, etc. The forest environment has usable values for society, which are understood as use values of the forest environment, including soil conservation, water regulation, watershed protection, coastal protection, biodiversity conservation, carbon sequestration, landscape beauty for eco-tourism and recreation, forest products and non-timber forest products. The provision of forest environmental services (FES) bestows use values on those services to meet the demands of society. FES is defined in section 2 of article 4 of this Decree. PFES is the provision/payment relationship created by the service providers and users. The following are some of the key regulations on PFES:

- *Forest types*: Forests to be paid for environmental services are those that provide one or more environmental services, including protection, special-use and production forests.
- *Forest environmental services*: Eligible services include: i) soil protection, the reduction of soil erosion, and the reduction of sedimentation in reservoirs, rivers and streams; ii) the regulation and maintenance of water sources for the production and living activities of the society; iii) carbon sequestration and retention and the reduction of greenhouse gas emissions through measures to prevent forest degradation and the loss of forest area and to encourage forest sustainable development; iv) protection of the natural landscape and conservation of the biodiversity of forest ecosystems for tourism services; and v) the provision of spawning grounds, sources of food and natural seeds, and the use of forest water for aquaculture.
- *Principles of PFES*: The decree specifies the following principles:⁴⁰ i) organizations and

37 Government Decree No. 48/2007/ND-CP of 28 March 2007 on the Principles and Methods for Determining the Prices of Different Types of Forests.

38 Government Decree No. 99/2010/ND-CP of 24 September 2010 on PFES Policy.

39 Government Decree No. 99/2010/ND-CP of 24 September 2010 on PFES Policy

40 Article 5 of Decree No. 99/2010/ND-CP.

individuals benefiting from FES must pay the owners of the forests that create them for those services; ii) PFES is paid in money through direct or indirect payment methods; iii) PFES through a Forest Protection and Development Fund (FPDF) is the money that FES users give to the Fund to pay the owners of forests that supply forest environmental services; iv) PFES is a factor of the production costs of products that use FES and does not substitute the resource tax or other payments stipulated by law.

- *Forest environmental service users:* The users that have to pay for environmental services include⁴¹: i) hydropower production facilities that have to pay for services for soil protection and the reduction of erosion and sedimentation of reservoirs, rivers, and streams, as well as services for the regulation and maintenance of water sources for hydropower production; ii) clean water production and supply facilities have to pay for services for the regulation and maintenance of the water sources they use; iii) industrial production facilities that use water directly from water sources have to pay for services for the regulation and maintenance of the water sources they use; iv) organizations and individuals providing tourism services that benefit from FES have to pay for services for the protection of the natural landscape and conservation of the biodiversity of forest ecosystems serving tourism purposes; and v) those (for example, water companies and hydropower plants) that have to pay for FES for carbon sequestration and forest retention, as well as services for the provision of spawning grounds, sources of food and natural seeds, and the use of forest water for aquaculture.
- *Service providers that receive PFES* include⁴²: i) forest owners who are allocated forest or leased forest by the government for long-term use for forestry purposes and forest owners who plant forests by themselves on allocated forestry land certified by the PPC based on the recommendation of the DARD; ii) forest owners that are households and individuals that were allocated forest or leased forest by the government; village individuals allocated forest by the government for long-term use for forestry purposes; forest owners that are households, individuals, or village communities

that make their own investments to plant forest on forestry land allocated by the government and certified by the DPC based on the recommendation of the specialized forestry body, certified by the communal people's committee; iii) organizations, households, individuals, or village communities contracted for long-term forest protection by state organizations, with the contracts entered into by the contractors and the contractees, certified by the CPC.

- *The payment rate for forest environmental services* is defined as follows:⁴³ i) The PFES rate applied to hydropower plants is VND 20/kWh of commercial electricity. The electricity production used to calculate the amount of PFES is the power a hydropower plant has sold to purchasers according to power purchase contracts; ii) Clean water supply companies pay VND 40/m³ of clean water. The water production used to calculate the PFES is the amount a clean water production business has sold to consumers; iii) The payment rate for industrial production facilities using water directly from water sources is not yet being applied and the MARD will provide the regulations; iv) Organizations and individuals conducting tourism business that benefits from FES have to pay 1-2% of the revenue generated in the payment period. The amount is based on revenue multiplied by the level of payment (1-2%).
- *PFES fund management follows Inter-ministerial Circular No. 62:*⁴⁴ i) The money collected from PFES is managed through a Forest Protection and Development Fund (FPDF), which is a non-profit fund whose operation is stipulated in Decree No. 05.⁴⁵ The FPDF is established at both the national level (under the MARD) and the provincial level (under the DARD) (see Figure 2 for the fund structure). The FPDF is responsible for collecting money from the PFES scheme and for the organization of payment to forest owners; ii) the Vietnam Forest Protection and Development Fund (VNFF)

43 Article 11, Decree No. 99/2010/ND-CP.

44 Inter-ministry Circular No. 62/2012/TTLT-BNN-BTC of 16 November 2012 on Guiding the Management and Utilization of PFES Money.

45 Government Decree No. 05/2008/ND-CP of 14 January 2008 on the Forest Protection and Development Fund.

41 Article 7, Decree No. 99/2010/ND-CP.

42 Article 8, Decree No.99/2010/ND-CP.

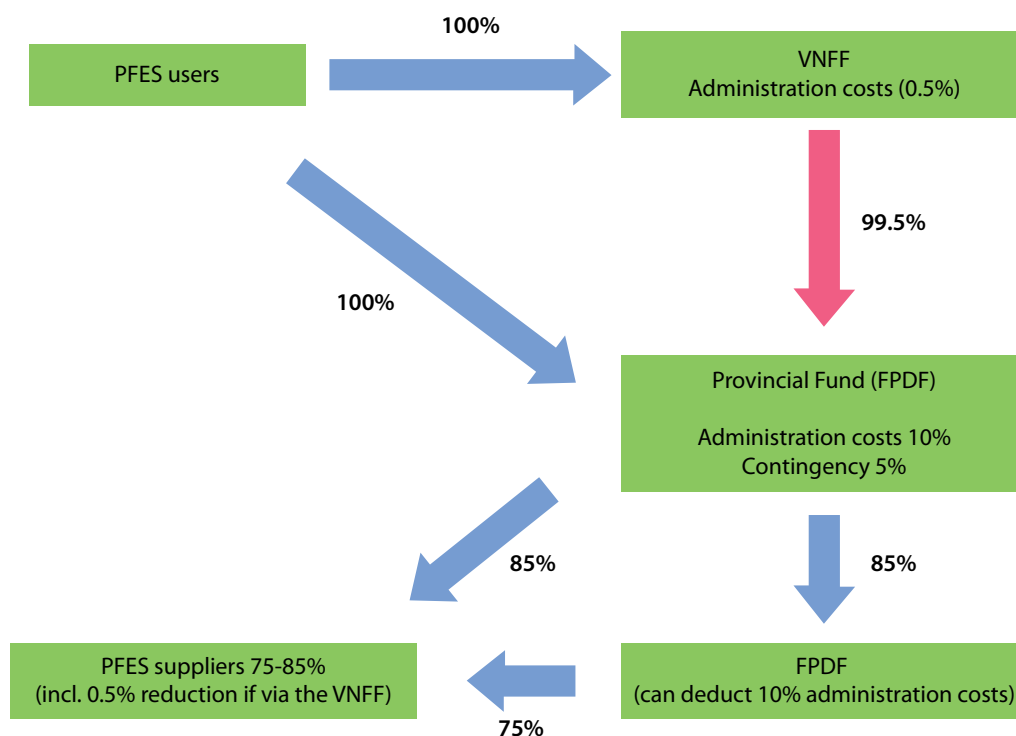


Figure 2. The utilization of the PFES Funds.

can use a maximum 0.5% of the total money collected from PFES for operating the fund and implementing its responsibilities. This specific rate is decided by the MARD. The remaining amount of PFES is transferred to the FPDF at the provincial level as regulated in Circular No. 80;⁴⁶ iii) The FPDF at the provincial level receives payment from the VNFF and collects payment for services provided in its area. It can use a maximum of 10% of the total PFES amounts to cover fund operation costs and payment to the FPDF. At the provincial level, the fund has to deduct a certain amount stated in Circular No. 85⁴⁷ as part of a contingency fund used to pay forests owners as compensation in the case of decreased sources of PFES revenue. The remaining amount is used

to pay service providers for forest protection, as regulated in Circular No.80.

Pilot operations of PFES in Son La and Lam Dong were operated in 2008, since 1 January 2011 Decree No. 99 has been in effect, and has subsequently meant PFES has been applied country wide. To date, 20 legal documents have been issued to guide implementation of the PFES scheme, 12 of which are related to FPDF organization and operation and 8 documents for implementing PFES.

Total annual revenue from PFES is about VND 1,120 billion (or USD 53 million) (VNFF 2014). Of the different revenue sources, hydropower production facilities account for 98% of total revenue. The revenue from PFES paid to the VNFF amounts to 79-84% of total revenue (Table 5).

Despite having been implemented for three years, the PFES scheme still has no appropriate and effective monitoring and evaluation system. The current monitoring and checking are implemented by the FPDF at the national and provincial levels,

46 Ministry of Agriculture and Rural Development Circular No. 80/2011/TT-BNNPTNT of 23 November 2011 on Guiding Methods to Calculate the Payment Rates for Forest Environmental Services.

47 Ministry of Finance Circular No. 85/2012/TT-BTC of 25 May 2012 on Guiding the Financial Management of the Forest Protection and Development Fund.

Table 5. Revenue collected from forest environmental services in 2011–2013.

| # | Items | Unit | 2011 | 2012 | 2013 |
|---|---|-------------|---------|-----------|-----------|
| | Total | | 282,929 | 1,172,438 | 1,067,864 |
| | <i>Collected by national VNFF</i> | | 231,750 | 981,399 | 850,273 |
| | <i>Collected by provincial FPDF</i> | | 51,179 | 191,039 | 217,592 |
| 1 | Amount paid by hydro power plants | Million VND | 267,757 | 1,154,663 | 1,042,859 |
| | <i>Collected by national VNFF</i> | | 218,192 | 966,221 | 834,466 |
| | <i>Collected by provincial FPDF</i> | | 49,565 | 188,442 | 208,393 |
| 2 | Amount paid by clean water suppliers | | 14,505 | 16,903 | 23,907 |
| | <i>Collected by national VNFF</i> | | 13,558 | 15,178 | 15,807 |
| | <i>Collected by provincial FPDF</i> | | 947 | 1,726 | 8,100 |
| 3 | Amount paid by ecotourism | | 667 | 872 | 1,099 |
| | <i>Collected by national VNFF</i> | | 0 | 0 | 0 |
| | <i>Collected by provincial FPDF</i> | | 667 | 872 | 1,099 |
| 4 | Forest area eligible for PFES in watersheds | ha | 631,614 | 3,653,340 | 3,653,340 |
| 5 | Actual forest area for which PFES is paid | | 650,548 | 2,699,569 | 1,768,142 |

Source: VNFF, 2014

but this only focuses on checking the quality of forest protection (mainly based on forest area) and some aspects of payment monitoring. The VNFF prepares an annual report on the organization and implementation of PFES, which it submits

to the MARD and the MOF. A monitoring and evaluation system is being considered to improve the PFES scheme, ensuring its transparency and effectiveness (Decision No. 395⁴⁸).

48 Decision No. 395/TB-VPCP/ of October 3 2014 on the Conclusions of Deputy-Prime Minister Hoang Trung Hai at the On-Line Review Meeting on the Three Years of PFES Implementation (2011-2013).

4 Description of the different levels of government roles in land-use decision and policy arenas affecting forests

4.1 Land-use plans and forest protection and development plans

4.1.1 Land-use plans

In Vietnam, the central government and the people's committees at the provincial, district and communal levels must formulate land-use planning and land-use plans. Furthermore, each has its own types of plan. The central government has to prepare and submit two types of plan to the National Assembly for approval⁴⁹ – a national land-use master plan (commonly known as 10-year land-use planning) and a national 5-year land-use plan. Then it has to implement the approved plans. The PPCs have to prepare and submit two types of plan – a provincial land-use master plan (commonly known as 10-year land-use planning) and a provincial 5-year land use plan – to the PPCI and the central government for approval. They then have to implement the plans after obtaining approval. The DPCs have to prepare a district 5-year land-use plan and an annual land-use plan. They have to submit these plans to the DPCI and the PPC for approval and then implement them after obtaining approval. Previously, the CPCs also had to prepare a 5-year land-use plan and an annual land-use plan, but as of July 2014 they no longer have to prepare land use plans. However, the CPCs still have to prepare socioeconomic development master plans that include a communal land-use plan. Table 6 provides a description of the roles of central and lower government for land-use planning.

4.1.2 Forest protection and development plans

According to the 2004 Law on Forest Protection and Development, all governments must have forest protection and development plans. At the central government level, the MARD is responsible for preparing national master plans, five-year plans and annual plans for forest protection and development. The national master plans and national five-year plans for forest protection and development have to be approved by the Prime Minister and are subsequently implemented by the MARD. At the provincial and district levels, the people's committees are responsible for preparing provincial master plans, five-year plans and annual plans for forest protection and development. These plans have to be approved by the people's councils and are then implemented by the people's committees. At the communal level, the CPCs are responsible for preparing communal annual forest protection and development plans, which also have to be approved by the CPCI and then implemented by the CPC.

4.2 Determination of land-use purposes and forest-use purposes

The Vietnamese legal system still assumes that the main purpose of the preparation and approval of the different types of plan is to determine the land-use purposes of each piece of land, while the preparation of forestry development plans is to define the use purposes of the forests. According to Land Law, governments with the power to prepare and approve land-use plans and forest protection and development plans have the power to define land-use purposes and the use purposes of forestland and forests. They also have power to redefine the use purposes and to convert use purposes in those plans. However, those plans

⁴⁹ This mandate has been regulated in the 1993, 2003 and 2013 Land Laws.

Table 6. Description of the roles of central and lower government for land-use planning.

| Type of plan | Central government | PPC | DPC |
|---|---|--|--|
| Land-use master plans (10-year land-use planning) | <ul style="list-style-type: none"> i. Strategies on national socioeconomic development, defense and security; regional socioeconomic development master plan; sectorial developmental strategies and plans. ii. National biophysical and socioeconomic conditions. iii. Land-use status, land-use potentialities and outcomes obtained from the implementation of previous national land-use master plans. iv. Sectorial and regional demand. v. Development of scientific knowledge and technology that can be applied to land use and land management. | <ul style="list-style-type: none"> i. Incorporate National land-use master plan. ii. Regional and provincial socioeconomic development master plans; sectorial development strategies. iii. Provincial socioeconomic conditions. iv. Existing land-use status and outcomes obtained from the implementation of previous provincial land-use master plans. v. Land-use demand from districts and sectors in the province. vi. Land-use norms. vii. Development of scientific knowledge and technology that can be applied to land use and land management. | Not required |
| 5-year land-use plans | <ul style="list-style-type: none"> i. National land-use master plan for the same time period. ii. National 5-year socioeconomic development plan. iii. Land-use demand from the sectors for a 5-year period. iv. Outcomes obtained from implementation of the preceding national 5-year land-use plan. v. Investment capacity and mobilization of resources for implementing the 5-year land-use plan. | <ul style="list-style-type: none"> i. National 5-year land-use plan. ii. Provincial 5-year socioeconomic development plan and provincial annual socioeconomic development plan. iii. Land-use demand from the province's sectors for a 5-year period. iv. Outcomes obtained from implementation of the preceding provincial 5-year land-use plan. v. Investment capacity and mobilization of resources for implementing the 5-year land-use plan. | <ul style="list-style-type: none"> i. Provincial 5-year land-use plans. ii. Provincial and district socioeconomic development master plans. iii. Natural and socioeconomic conditions of the districts in the province. iv. Existing land-use status, land potentialities and outcomes from the implementation of the preceding district 5-year land-use plan. v. Land-use demand from the province's sectors for a 5-year period. vi. Land-use norms. vii. Development of scientific knowledge and technology that can be applied to land use and land management. |
| Annual land-use plans | Not required | Not required | <ul style="list-style-type: none"> i. Analyses of outcomes obtained from the implementation of the preceding annual land-use plan. ii. Classification of areas used for planned purposes and areas used due to demand from districts and communes in the province. iii. Determination of areas to be retrieved. iv. Land-use solutions. |

have to be in line with national, regional and sectorial plans.

In practice, the PPCs are the most powerful organizations in terms of deciding on land-use purposes and the use purposes of forestland and forests. However, the conversion of forests, particularly natural forests, to other land uses is quite strictly controlled. For instance, the Forest Protection and Development Law of 2004 states that the conversion of protection forests, special-use forests, and production forests to other purposes and the conversion of forest-use purposes must be in line with approved forest protection and development projects and plans. Therefore, such activities must first be approved by the Prime Minister or PPC.

4.3 Forest classification

In Vietnam, forests are defined according to the following three criteria:

1. An ecosystem whose main component contains perennial timber trees and palms that have a height of at least 5.0 meters (except for new plantation areas and certain species of coastal mangrove forest) and bamboo that is capable of providing timber and non-timber forest products, and other direct and indirect values, such as biodiversity conservation, environmental protection and landscape. New plantation areas or young generation areas are defined as “forests” if they satisfy the following criteria: the average height of the trees is 1.5 m for slow-growing species or over 3.0 m for fast-growing species, while tree density should be at least 1,000 per hectare. Areas of ecological agriculture and areas for aquaculture production that have scattered trees, bamboos and palms are not classified as forest.
2. Canopy cover by trees is a key component and should be 0.1 or higher.
3. “Forest” areas should be consecutive with minimum size of 0.5 ha; if the area is in the form of a strip, then the width of the area should be 20 m and it should contain at least three lines of trees. Trees in an area under 0.5 ha or a strip with a width of less than 20 m are classified as “scattered trees.”

Forests in Vietnam are further classified according to their use purpose, origin of formation, terrain

conditions, main species and stumpage volume level. Forests defined by origin of forest formation and human influence are divided into natural and planted forests. Forests defined in accordance with the terrain conditions are classified as hill forests or rocky mountain forests. The classification of forests is most commonly based on the main purpose of their use (sometimes referred to as the forests’ “main function”), as follows:⁵⁰

- **Protection forests**, which are used mainly to protect water sources and land, prevent erosion and desertification, restrict natural disasters and regulate the climate, thus contributing to environmental protection. These include: i) headwater protection forests; ii) wind- and sand-shielding protection forests; iii) protection forests for tide shielding and sea encroachment prevention; and iv) environmental protection forests.
- **Special-use forests**, which are used mainly for: the conservation of nature, specimens of the national forest ecosystems and forest biological gene sources; scientific research; the protection of historical and cultural relics and of landscapes; and recreation and tourism services combined with protection, contributing to environmental protection. They include: i) national parks; ii) nature conservation zones, including nature reserves and species-habitat conservation zones; iii) landscape protection areas, including forests with historical or cultural relics as well as scenic landscapes; and iv) scientific research and experiment forests.
- **Production forests**, which are used mainly for the production and trading of timber and non-timber forest products in combination with protection, contributing to environmental protection. They include: i) natural production forests; ii) planted production forests; and iii) seeding forests, including selected and recognized planted forests and natural forests.

According to MARD statistical data (2014), by early 2013 Vietnam had 13.74 million ha of forest, of which 2 million ha were classified as special-use forest, 4.67 million ha as protection forest and 7 million ha as production forest (see Table 7). A system of mechanisms and policies has been developed for each of these forest types (FSSP 2014). For example, forests under the special-use and protection status are most likely to

⁵⁰ Article 4 of the 2004 Law on Forest Protection and Development.

Table 7. Vietnams national Forest area in December 2013 (ha).

| Items | Special use forests | Protection forests | Production forests | Total |
|-----------------|---------------------|--------------------|--------------------|-------------------|
| Natural forests | 1,999,442 | 4,012,435 | 4,350,488 | 10,362,364 |
| Plantations | 82,348 | 653,096 | 2,650,530 | 3,385,975 |
| Total | 2,081,790 | 4,665,531 | 7,001,018 | 13,748,339 |

Source: MARD. 2014. Decision No. 3322/QD-BNN-TCLN dated on 28 July 2014 on Promulgation of Forest Area as of 31 December 2013.

be assigned to state bodies. However it has been noted that the classification system hinders forest owners from maximizing the effectiveness of forest management and utility, particularly in the case of protection forests (FSSP 2103). The regulations regarding the conversion of forest purpose have arguably been flawed, with ambiguous laws regulating the conversion of natural forests and discrepancies in the responsibilities of different levels of government for changing the land use purpose. For example, the Forest Protection and Development Law states that the Prime Minister and the PPC make these decisions, while the Land Law stipulates that it is the PPC or certain user groups e.g. state organizations, foreign investors and individuals should make such decisions, while the district government decides on the changing land-use purposes of households and individuals (FSSP 2013). The lack of clarity in responsibilities, through discrepancies reflected in different laws is inherently problematic for effective implementation of land and forest decisions, leaving risk of mismanagement.

Classification can also be based on main species, with forests divided into timber forests, bamboo forests and mixed and timber forests. Then, depending on the stumpage volume, diameter and tree density, forests are divided into the quality categories of rich, average, and poor forest, in line with the specific criteria given below:

1. For timber forests:
 - a. Very rich forest: stumpage volume of over 300 m³/ha.
 - b. Rich forest: stumpage volume between 201 and 300 m³/ha.
 - c. Average forest: stumpage volume between 101 and 200 m³/ha.
 - d. Poor forest: stumpage volume between 10 and 100 m³/ha.
 - e. Forests without volume: average tree diameter is less than 8 cm and the volume of standing trees is under 10 m³/ha.

Table 8. Classification based on bamboo species, diameter and density levels.

| Status | Diameter (cm) | Number (stand/ha) |
|--------------------------------|---------------|-------------------|
| 1. Big-bodied bamboo species | ≥ 5 | |
| - Rich forest | | >8,000 |
| - Average forest | | 5,000–8,000 |
| - Poor forest | | < 5,000 |
| 2. Small-bodied bamboo species | < 5 | |
| - Rich forest | | . 10,000 |
| - Average forest | | 6,000–10,000 |
| - Poor forest | | < 6,000 |

For bamboo forests, classification is based on species, diameter and density levels. Table 8 provides an example of the classification system used for the Bamboo forest which distinguishes between rich, average, and poor forest for big and small bodied bamboo species.

4.4 Land ownership

In Vietnam, land is the property of the people⁵¹ and the State is a representative of the people, holding the ownership rights of land. According to current laws, the central government and the people's committees are the State's representative organizations. They are legally allowed to practice ownership rights over land and forests in their administrative areas. In other words, they have the power to define and redefine the use purposes of land and forests.

The State has the following eight rights: (1) to decide on master plans and land-use plans; (2) to

51 The Land Laws of 1993, 2003 and 2013.

decide on land-use purposes; (3) to prescribe land-use quotas and land-use terms; (4) to decide on land recovery and land requisition; (5) to decide on land prices; (6) to decide on the handing over of land-use rights to land users; (7) to decide on land-related financial policies; (8) to prescribe the rights and obligations of land users.

Similarly, the State has the right to decide on the use of: natural forests and forests developed for state investment, such as forests planted for production purposes transferred from forest owners to the state; wild animals; microorganisms; forest landscapes and the environment. The State can make decisions on: i) the use purposes of forests, based on the approved forest protection and development planning and plans; ii) forest allocation norms and the terms of forest use; iii) forest allocation, leasing, and reclamation and the transfer of forest use purposes; iv) forest pricing; v) the control of forest resources based on financial policies, including the collection of forest-use charges, forest leasing fees, taxes on the transfer of forest use right and the ownership of production forests, such as planted forests; vi) the transfer of forest use rights to forest owners via various forms of forest allocation; vii) forest leasing; viii) the recognition of forest use rights and the ownership of production forests, such as planted forests; and, ix) the rights and responsibilities of forest owners.

4.5 Allocation of agricultural land to households and individuals

Land allocation was first mentioned in the Land Law of 1987. However, this law only regulated the allocation of agricultural land to farms as well as forest enterprises, cooperatives, agricultural and forestry production cooperation, factories, the people's armed forces, state bodies, social organizations and individuals (who are not members of cooperatives) for stable and long-term uses. Since 1993, the Land Law has stipulated that the State allocates agricultural land to farmer households and individuals (whether or not they are members of cooperatives) for long-term use and that farmer households are allowed to organize their labor and employ laborers. The State encourages households either to invest in production inputs and labor and to apply scientific advances to improve the value of the land and land-use efficiency, especially for bare land and

hills; or to reclaim land to expand land areas for agroforestry and fishery production, etc.

After the Land Law of 1993 came into effect, the government issued hundreds of documents to guide the definition of borders between communes and the procedures for allocating agricultural land, etc. Since then, the PPCs have issued hundreds of documents directing the DPCs and providing guidelines for them to allocate agricultural land to households and individuals. Based on these guidelines, the DPCs have allocated land to farmer households for rice cropping and annual crops with a use term of 20 years and for perennial crops with a use term of 50 years. As of 2012, governments at all levels had allocated nearly 9.4 million ha of agricultural land to about 12 million organizations, households and individuals and issued more than 11.49 million land-use certificates covering about 9 million ha of agricultural land allocated to organizations, households and individuals (Phuc et al. 2013).

A number of changes have also been made in terms of the land use rights given to households and individuals that received agricultural and forestry land from the governments. In the 1993 Land Law, households and individuals only had four rights, but the revised Land Law of 2013 increased the number to eight.

According to the Land Law and government instructions, the allocation of agricultural land to each household or individual is based on land-use planning and land-use plans and on land-use demand of households, individuals and other actors. Practically speaking, this regulation is only implemented in lowlands. In mountainous areas, the allocation of land to each household or individual is mainly based on the historical and actual land utilization of the household or individual and its community.

The people's committees at each government level have different responsibilities relating to the implementation of land allocation. The PPCs have the power to make decisions on the allocation or leasing of land to organizations, overseas Vietnamese and religious establishments. They also have power to allow organizations to change land-use purpose. Meanwhile, the DPCs have the power to make decisions on the allocation or leasing of land to local households, individuals

and communities. They also have the power to allow local households and individuals to change the land-use purpose in areas of less than 0.5 ha in each case. The CPCs are not allowed to implement land allocation activities. At the provincial level, the DONREs help the PPCs to implement the above-mentioned mandates, while the DiNREs help the DPCs to implement their mandates in this respect.

4.6 Allocation of planned forest land⁵²

According to MARD data (2014), Vietnam was covered by 13.95 Mha of forest (both natural and planted) in December 2013. Decentralization has meant that forest management and ownership has been devolved from the central government to the lower governments and other user groups (Phuc et al. 2013).

Vietnam's first Forest Protection and Development Law was issued in 1992. It recognized only organizations and individuals (persons) as subjects of planned forest land allocation, but excluded households (a group of people with a blood relationship, living together, sharing assets and food and using same land areas for cultivation⁵³). However, after the 1993 Land Law recognized households as subjects of agroforestry land allocation, the government issued Decree No. 02/CP⁵⁴ (in early 1994), which emphasizes the allocation of forest land to households for stable and long-term forestry development purposes for a term of 50 years or longer until the main products are harvested (should the tree rotation be longer than 50 years). In 1999, the government

replaced Decree 02/CP with Decree 163,⁵⁵ which governs in more detail the allocation of forestland to households working in and earning mainly from forestry, agriculture, fisheries, and salt production. According to this new decree, land allocation is a duty of the provincial and district people's committees. Since then, the number of households interested in receiving forestland for afforestation and reforestation has increased, while the allocation of forestland, especially to households and individuals, has accelerated considerably. Thus, the revised Land Law has expanded rights applied to different types of land, including forestland, and stipulate a bundle of rights for exchanging, transferring, inheriting, mortgaging, and leasing associated with the allocated land (Phuc et al. 2013). Following Decree 02/CP, some provincial governments have allocated bare land and hills planned, often for production forestry, to local households.

The 2003 Land Law further stipulates the conditions for land allocation (article 31). It is mainly the responsibility of the provincial and district governments to allocate land. The PPC will "make decisions on allocating land, leasing land or permitting the conversion of the land-use purpose" with respect to all types of actors, whereas the DPC can only make decisions regarding family households and individuals and on allocating land to communities of citizens (Land Law 2003). The MONRE is responsible for allocating land-use certificates. The quota for allocating forestland to households and individuals is 30 ha with a term of 50 years. As for organizations, the allocation quota is based on the project and approved by the authorized body (article 13, No. 163⁵⁶).

Forest land allocation (FLA) procedures are outlined by the government and require a formal application process. These procedures were summarized by Phuc et al. (2013) and require households to first apply in a written letter to the district government specifying the land

52 In Vietnam, planned forest land includes land with forest cover and land without forest cover, if the latter is classified as land to be used for forest development purposes.

53 Law No. 33/2005/QH11 of 14 June 2005 on the Vietnam Civil Code, approved by the 9th National Assembly of the Socialist Republic of Vietnam during its 7th session. The Vietnam Civil Code of 2005 replaced the Vietnam Civil Code of 1995.

54 Decree No. 02/CP of 15 January 1994 on the Allocation of Forest Land to Organizations, Households and Individuals for Stable and Long-term Use for Forestry Purposes (no longer in effect).

55 Government Decree No. 163/1999/ND-CP of 16 November 2011 on Allocating and Leasing Forest Land to Organizations, Households and Individuals for Stable and Long-term Use for Forestry Purposes.

56 Article 13, Decree No. 163/1999/ND-CP of 16 November 2011 on Allocating and Leasing Forest Land to Organizations, Households and Individuals for Stable and Long-term Use for Forestry Purposes.

allocation, size and vegetation status along with a five-year land-use plan. This is submitted to the chairperson of the CCP who then approves the letter and sends it to the chairperson of the DPC. The land-use plan has to be certified by the village head and the CPC before it goes to the DPC. If approved, a land allocation team comprising members of the district government, including members working in forest protection, and of the CPC is sent to the requested site after various village meetings have been held to establish allocation procedures. Understandably, these procedures are often not practiced on the ground. It should be noted that the procedures remain inconsistent and vary among localities (Phuc et al. 2013). Even as a largely top-down process, it is suggested that the formal procedures are often side-stepped. As a result, allocation may be made to individuals in some cases and to whole villages in others, often with forest management rules for one village being copied for another (Phuc et al. 2013; Castella et al. 2006). In addition, a lack of credible forestry data has also impeded accurate forest allocation.

In terms of implementation, the allocation of land without forest cover is a mandate of the DONREs and DiNREs. The DARDs and DiARDs do not have any mandate relating to these activities. There are two parts to the allocation of land with forest cover: allocation of forest land and allocation of the biological resources that develop on the land. The allocation of forest land is a mandate of the DONREs and DiNREs, while allocation of the biological resources on the land is under the mandate of the DARD.

The contents of the Forest Protection and Development Law have been revised once since 1998, whereas the contents of the Land Law have been revised several times. The changes include those eligible for access and allocation of agricultural and forest land, as well as the conditions of allocation. These changes have included the rights to use land and forest resources, the period of land use, and the time limit for land

allocation, etc. Detailed information on the land allocation quota for households and individuals is presented in Table 9 based on the 2003 Land Law.

Notably this Land Law has since been revised with the 2013 Land Law⁵⁷. While this has meant further increases in land user rights (including the rights to transfer, exchange, lease, inherit and mortgage land), it is still unclear what impacts in practice this will have as the law was only enacted in 2014. Changes to the former land law are said to largely stem from bottom up pressure (e.g. from local people) concerning land rights (Hansen, 2013). Hansen (2013) argues that the latest land Law will affect the state's right to appropriate land for both public and private 'interests' potentially through clearer stipulations on land users' rights to compensation and resettlement support (Hansen, 2013). For example the 1993 Land Law may have facilitated private acquisition of public lands (land grabs) by allowing lower level governments to decide whether to extend leases. Thus while rights and guidance may have been clarified, there are still a number of concerns even given these revisions, for example questioning why 'permanent' land allocations rights have still not been provided (Hansen, 2013).

Households, individuals, organizations and communities that are allocated and leased agricultural and forest land (known collectively as "land users") have eight common rights (under the 2003 land law):

1. They are granted certificates for land-use rights and tenure rights on houses and other properties pertaining to land.
2. They enjoy interest on investment in the land.
3. They receive benefits from national constructions for the protection and improvement of agricultural land.
4. They are instructed and supported by the government in the improvement and enrichment of agricultural land.
5. They are protected by the government when other people violate their land rights and interests.

⁵⁷ Land Law No. 45/2013/QH13 of 29 November, 2013 on the regime of land ownership, powers and responsibilities of the State in representing the entire-people owner of land and uniformly managing land, the regime of land management and use, the rights and obligations of land users involving land in the territory of the Socialist Republic of Vietnam.

Table 9. The land allocation quota for households and individuals.

| Land category | Limit for land allocation to households and individuals |
|--|--|
| Land for annual crops, fishery farming and salt production for each land category. | i) Not more than 3 ha for each type of land for the provinces and centrally-managed cities in the Southeast and Mekong Delta region; ii) Not more than 2 ha of each type of land for other provinces and centrally-managed cities. |
| Land for perennial crops. | Each household or individual with not more than 10 ha for communes, wards and towns in lowland areas; and less than 30 ha for communes, wards and towns in mountainous areas. |
| Production and protection forests. | No more than 30 ha for each type of land. |
| Assigned different types of types of land, including land for annual crops, fishery farming and salt production. | No more than 5 ha in total, as a combination of different land categories. |
| Additional land for perennial crops. | Maximum allocated land area for growing perennial crops is 5 ha for communes, wards and towns in lowland areas; and 25 ha for communes, wards and towns in mountainous areas. |
| Additional land for production forest. | Maximum allocated land area is 25 ha. |
| Hilly and mountainous bare land and land with water area classified as unused land. | i) No more than 3 ha for each type of land for the provinces and centrally-managed cities in the Southeast and Mekong Delta region; ii) Not more than 2 ha for each type of land for other provinces and centrally-managed cities. |
| Areas of agricultural land owned by households and individuals resulting from land transfer, leasing, re-leasing, and inheritance were the land-use rights and co-investment are provided to others. | NA (not counted in the limit of agricultural land allocation). |

Source: Article 70 of the 2003 Land Law.

6. They receive compensation when the government reclaims the land, except in cases in which the owners of land reclamation are organizations formed by the government and allocated land without paying use fees.
7. They can claim, denounce and rebut any behaviors that violate their legal rights on land use;
8. They are granted certificates for the right to land use and properties on the land.

Organizations have one additional right, which is the right to use land as a mortgage and equity. In addition to the above-mentioned rights, households and individuals also have the right to transfer, lease and inherit land, and to give it to others.

In terms of forest function, the forests being managed by households consist of 2.6 million ha of production forests, 0.7 million ha of protection

forests and a small area of special-use forests. There are various rights associated with these different forest types and different types of owners have differing rights and access, as summarized in Table 10. For instance, while communities have been allocated forest areas, their rights are not defined. The 2005 Civil Law does not recognize the legal status of village communities and the Forest Protection and Development Law also fails to recognize them as owners (FSSP 2013). Furthermore, communities' allocated forest still do not have the right to transfer, lease, or mortgage forest utility rights (FSSP 2013). For further information on forest land-use rights given to households, see Appendix 10.

According to survey and statistical data on agricultural, rural and fishery practices in 2011, a total of 1.48 million households were managing forest land. In terms of the size of the allocated land, most households (53%) were managing

Table 10. Comparison of the characteristics of production forest and special-use and protection forest of land and forest rights to households and the State.

| Characteristics | Production forest | Special-use forest, protection forest |
|--|--|---|
| Quality of land given to households | Barren land (mainly) and land stocked with forest or planted forests, but with low timber value. | Land with standing forest usually with high timber value – barren land designated for planting. |
| Form of land-granting | Allocation | Sub-contracting. |
| Scope of rights given to recipient | 8 use rights. | Specified in forest protection and/or tree planting, usually strictly limited. |
| Duration of rights | 50 years. | Specified in contract. |
| Management control over land | Households. | Forest management boards, state-owned forest companies. |
| Level of legal restrictions for the use of land/forest resources | Relatively low. | High to very high. |
| Sources of permission for land use | Lower government levels. | Central government. |

Source: Phuc et al. (2013) from 2004 Forest Protection and Development Law, 2003 Land Law, Decree 02 of 1994, Decree 01 of 1995.

Table 11. Forest area (ha) by ownership in 2013.

| Forest user or manager | Total | Natural forest | Planted forest |
|------------------------------|-------------------|-------------------|------------------|
| Forest management boards | 4,744,121 | 4,190,988 | 553,133 |
| State-owned forest companies | 1,900,394 | 1,394,854 | 505,540 |
| Other economic organizations | 206,141 | 48,355 | 157,786 |
| Armed force units | 264,926 | 208,968 | 55,957 |
| Households | 3,414,360 | 1,709,290 | 1,705,070 |
| Communities | 524,477 | 502,131 | 22,346 |
| Others | 607,408 | 467,392 | 140,016 |
| Communal people's committee | 2,292,626 | 1,876,182 | 416,445 |
| Total | 13,954,453 | 10,398,160 | 3,556,294 |

Source: MARD, 2014a.

less than 1 ha of forestland, 30.8% of them were managing an area of between 1 and 3 ha, and 7.76% were managing an area ranging between 3 and 5 ha, while the remainder had more than 5 ha (Vietnamese Government 2011).

In terms of Vietnam's forest users and allocated forests, the state-run forest management boards for protection and special-use forests manage 4.7 million ha, households 3.4 million ha, the communities 0.52 million ha, and the CPCs 2.2 million ha (Table 11). Figure 3 shows that the largest percentage of natural forest is managed by the State through forest management boards, state-owned forest companies and the CPCs. These government organizations are also responsible

for managing over 600,000 ha of planted forest. It is clear that other actors have a relatively small share of allocated forestland, with the exception of households, which have a slightly higher share of natural forest (13%) and total planted forest (11%). Communities have a much lower share and have so far been allocated 4% of the total share of natural forests and a very small proportion of production forests (Figure 3).

According to surveys by Long (2012) and Trung (2011), the current natural forests managed by households are those that used to be directly managed by state-owned forest enterprises and forest management boards. When these forests were exhausted due to exploitation or poor

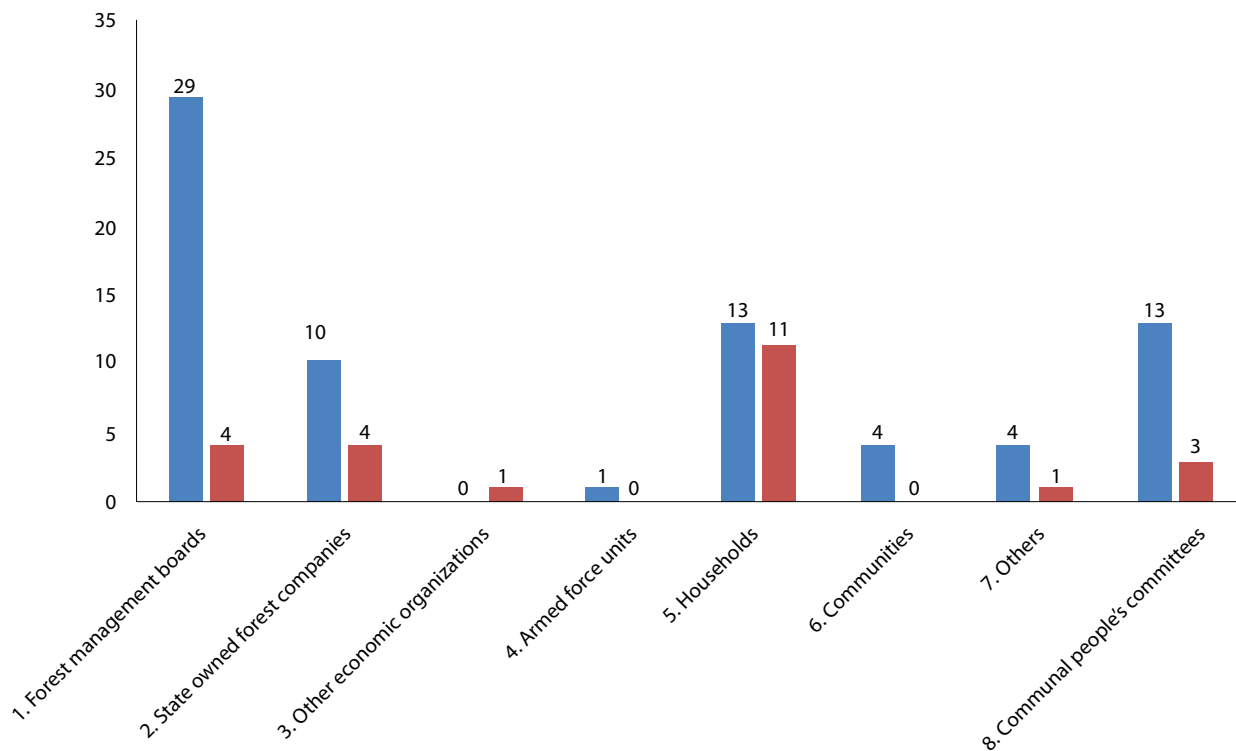


Figure.3. Percentage of allocated forest type (planted and natural) per forest owner type.

Source: MARD, 2014a

management by those state-run bodies, the state-owned forest enterprises and forest management boards allocated them to local governments, which in turn allocated them to local households. These allocated forest areas have arguably generated limited economic value for local people and instead have become a burden for them. As a result of poor management of land and forests and the issuance of land-use right certificates, as well as a lack of information transparency, no state agencies in Vietnam have so far proved capable of providing adequate and reliable information about the numbers of households involved and the areas of forest land for which they are granted land-use right certificates. The data provided by the MARD was last updated in 2010. According to the available data, as of 2011, local governments had allocated a total of 10,465,581 ha of forestry land, with 1.8 million land-use certificates issued by the MONRE (MONRE 2011; FSSP 2013). Earlier FSSP (2010) data highlighted that in 2010 state organizations had 5,875 land-use certificates for a larger proportion of forests, while households had 1.18 million certificates for a smaller proportion.

In many cases, forest classified as special-use and protection and therefore under direct state

management is sub-contracted under Decree 01 of 1995,⁵⁸ allowing local households to be contracted management rights for protection and planting (Phuc et al. 2013). Often contracts are of a one-year duration and the state agencies will pay households fees for forest protection efforts.

As mentioned above, allocation of planned forest land is being implemented in accordance with the Law on Forest Protection and Development, effective since January 01, 2014. The powers to allocate planned forest land given to local governments are described below:

- At the provincial level, the PPCs have the power to allocate planned forestland under the category of “special-use forests” without any fees to the forest management board, research and technology development organizations and vocational schools. They also have powers to allocate planned forest land under the category of “protection forests” without any fees to the forest management board, economic organizations, people’s armed forces, local

⁵⁸ Government Decree 01/CP of 4 January 1995, enacted to regulate the allocation of land for agriculture, forestry and aquaculture production in state-owned enterprises.

Table 12. Establishment of natural conservation areas at the different levels of government.

| Central government | Provincial government | District and commune government |
|---|--|---|
| <ul style="list-style-type: none"> Formulates and implements master plans on biodiversity conservation nationwide. Provides detailed criteria for classifying reserves and regulations on managing reserves. Decides on the establishment of reserve areas at a national level. Issues and enforces regulations on the rights and responsibilities of households and individuals living legally in reserves. On a three-year basis or when needed, issues and enforces regulations on the criteria for classifying species and the regimes for managing and protecting species on the list of rare and endangered species that are prioritized for protection. Issues and enforces regulations on the procedures for appraising documents proposing a species' insertion onto or removal from the list of rare and endangered species prioritized for protection in biodiversity conservation efforts or for release into their wildlife habitats. Issues and enforces regulations on the conditions for breeding and developing species on the list of rare and endangered species that are prioritized for protection, wildlife rescues, the conservation of plant varieties and breeds, special micro-organisms and fungi, and the preservation of gene sources and genetic materials. Issues and enforces specific regulations on the protection of wild animals whose hunting is prohibited in wildlife habitats, the exploitation of conditionally exploited species in wildlife habitats, and the list of conditionally exploited wildlife. Issues and enforces regulations on exchanging, exporting, importing, buying, selling, giving, keeping, and transporting species on the list of rare and endangered species that are prioritized for protection and samples of their genetic materials for the purpose of biodiversity conservation, scientific studies, and ecological tourism; and regulations on exchanging, exporting, importing, buying, selling, giving, keeping, and transporting for commercial purposes certain species on the list of rare and endangered species prioritized for protection and their products. | <p>Powers and responsibilities of PPCs:</p> <ul style="list-style-type: none"> Approve and have the right to make changes to planning on biodiversity conservation at the provincial level formulated by the PPC. Give approval on establishing natural reserves in the area managed by the province. <p>Powers and responsibilities of PPCs:</p> <ul style="list-style-type: none"> Publish master plans on national biodiversity conservation on their portals and at the head offices of lower-level people's committees. Organize implementation of master plans on national biodiversity conservation in the provincial territory. Formulate, appraise and adjust the planning on biodiversity conservation of the province and centrally-managed cities and submit them to the people's council for approval. Decide on the establishment of provincial reserves with consultation of lower-level people's committees and of the opinions of local residents with legal status living in or adjacent to planned reserves. Set up land markers to define reserve borders. Manage reserves as assigned by the government. Issue financial regulations for reserve management units. Inspect, inventory and assess the state of biodiversity of natural wetlands, establishing a regime for the sustainable development of the ecological system and defining their location and area on land-use maps or their co-ordinates above sea level. Inspect, inventory and assess the state of biodiversity in limestone mountains and unused lands not classified as forest ecological systems, establishing a regime for the sustainable development of their ecological systems. Conduct surveys to develop a list of invasive species occurring in local areas and report them to the MONRE and the MARD. Cooperate with the relevant authorities to inspect and assess the potential entry of invasive species to prepare preventive measures and control their invasion. Survey and identify the distribution area and prepare a plan to isolate and eliminate harmfully invasive species in local areas. | <p>Powers and responsibilities of DPCs:</p> <ul style="list-style-type: none"> Publicize national master plans on biodiversity conservation in the districts. Organize the implementation of national master plans on biodiversity conservation in the districts. Cooperate with conservation area management units to set up land markers to demarcate the borders of natural reserves. <p>Powers and responsibilities of the CPCs:</p> <ul style="list-style-type: none"> Publicize national master plans on biodiversity conservation in the communes. Cooperate with natural reserve management units to set up land markers to demarcate the borders of natural reserves. Promptly report to functional units of the PPC or the nearest rescue center when receiving information from any organization or individual that detects any species on the list of rare and endangered species prioritized for protection that have lost their habitats or been lost, injured or affected by disease. Promptly report to the PPC or its functional units when receiving information about external harmful species to provide prevention and control measures. Manage gene sources in local areas. Promptly report to the PPC's functional units to provide appropriate measures when receiving information from any organization or individual that is keeping genetic materials from any extinct species on the list of rare and endangered species prioritized for protection. |

households and individuals to manage, protect and develop them. Finally, they are allowed to allocate planned forest land under the category of “production forest” to organizations, firms and overseas Vietnamese.

- At the district level, the DPCs have the power to allocate planned forest land under category of “production forest” to local households, individuals and communities.
- A shortcoming of the current legal requirements is that they state that CPCs are responsible for making a forest allocation plan, which is not appropriate considering the CPCs do not have the mandate to allocate forests (FSSP 2013).

Yet despite land allocation being a government priority, the process is still incomplete. Furthermore, the FSSP report (2013) highlights that even in cases where allocation has been “completed” issues remain in terms of the accuracy of forest data and forest maps and a lack of clarity in relation to boundaries and ownership.

4.7 Transfer of forests

Forest owners such as households and individuals are allowed to freely transfer their production forests and right of use for production forests.⁵⁹ Enterprises only have the right to transfer production forests obtained from an allocation process and that involved self-investment or were not developed with state budget funds. However, social organizations, communities and state organizations are not allowed to transfer forest and forest land use rights.

4.8 Establishment of natural conservation areas

Areas of forests classified as conservation areas due to their biodiversity, gene sources and ecological systems were first established in Vietnam in 1964. Since then, the development of protected forests (including national parks, natural reserves, habitat reserves, cultural and historical reserves, etc.) has been addressed in Vietnamese forestry development laws and policies. In total Vietnam has 164 terrestrial Protected Areas

⁵⁹ Forestry Protection and Development Law of 2004; Land Law of 2013.

which cover 7% of the total land area (ICEM, 2003). According to the Biodiversity Law,⁶⁰ the governments at every level have the power and duty to establish and manage special-use forests. However institutional arrangements are different among protected areas. MARD and its provincial departments are responsible for managing six natural conservation areas, when the area covers more than one province. Alternately, and in the majority of cases, if the protected area falls within only one province they are under the responsibility of the PPC, with management decentralized (de Queiroz, et al. 2013). The PPC will often organize a management board but keep control of the finances. Areas of special use forest, consist of most the national parks, nature reserves (also known as nature conservation areas), and cultural-historic-environmental sites in Vietnam (ICEM, 2003). Table 13 summarizes the roles and responsibility of the different government levels in the establishment of natural conservation areas in Vietnam.

4.9 The right to carbon/emission credits

As Vietnam has ratified the United Nations Framework Convention on Climate Change (UNFCCC) and the Kyoto Protocol, it is eligible for trading emission/carbon credits. A number of documents have been issued to provide guidelines on the implementation of the Kyoto Protocol, especially the clean development mechanism. These documents are quite general, encouraging investment projects applying the clean development mechanism, but do not specify the right to carbon/emission credits.⁶¹ The Environmental Protection Law of 2014⁶² further focuses on the formulation and development of a domestic carbon credit market and participation in the international carbon

⁶⁰ Biodiversity Law of 13 November 2008 (Law No. 20/2008/QH12).

⁶¹ Prime Ministerial Decision No. 130/QĐ-TTg of 2 August 2007 on Certain Mechanisms and Policies for Investment Projects under the Clean Development Mechanism.

⁶² Article 41 of Law No. 55/2014/QH13 of 2014 on Environment Protection.

market, while Prime Ministerial Decision 1775⁶³ approves the project on emission management and carbon trading activities in the international market. The MONRE is responsible for the overall management of climate change policies and UNFCCC efforts in the country, as carbon is a natural resource. However, the MARD is responsible for providing leadership on REDD+⁶⁴ as its remit has to do with forest management (UN-REDD Programme 2013). It therefore chairs the national REDD+ Steering Committee, while the Vietnam Forestry Administration is part of its organizational structure. The other ministries (the MPI and the MoF) also support the MARD in REDD+ initiatives. The standing office of the National REDD+ Steering Committee, known as the Vietnam REDD+ Office, is tasked with rallying resources and coordinating, monitoring and guiding REDD+ implementation throughout the country. Each of the ministries (MONRE, MARD, MPI and MoF) contributes to the National Steering Committee of the National Target Program to Respond to Climate Change (NTP-RCC) (The RED Desk 2015).

Vietnam has been implementing projects related to the REDD+ initiative since 2009. To date, the country has approved the National REDD+ Action Plan,⁶⁵ the Green Growth Strategy⁶⁶ and a number of activities aimed at the reduction of greenhouse emissions. International development partners that are implementing or will be implementing REDD+ activities in Vietnam include the U.S. Agency for International Development, the Japan International Cooperation Agency (JICA), the German Organization for International

Cooperation (GIZ), the World Bank, the German Development Bank (KfW), the Embassy of Finland, and the Embassy of Norway. Numerous non-governmental organizations (NGOs) also support the development of REDD+ activities in Vietnam, including the domestic Centre for Sustainable Rural Development and international organizations like the SNV Netherlands Development Organization, the International Institute for Environment and Development, the World Agroforestry Centre, Climate Focus and Winrock International.

Vietnam has completed the first phase of the UN-REDD⁶⁷ Program and is now implementing Phase 2, focusing on the pilot mechanism for payment for the reduction of greenhouse gas emissions. The single largest sources of funding for REDD+ activities in Phase 2 will come from the Food and Agriculture Organization of the United Nations (FAO), the United Nations Development Programme (UNDP), and the United Nations Environment Programme. The National REDD+ Network and the Forest Sector Support Partnership are also institutions that generate networks and dialogue on REDD+ among the various government and non-government actors (The REDD Desk 2015).

The first phase of the UN-REDD program focused on building REDD readiness, including technical- and capacity-related aspects. At the central level, the National REDD+ Network was set up, which is led by VNForest and co-chaired by the Norwegian Embassy in Vietnam. Members that joined the network include UNDP Vietnam, FAO Vietnam, JICA, the Vietnamese Academy of Forestry Science (VAFS), the Vietnam Forestry University, and national and international NGOs and civil society organizations. To support REDD+ implementation, several thematic sub-technical working groups were also established:

- REDD Governance, which covers issues related to REDD governance; government structures and capacity building; forest policies, rules and regulations; and external linkage with other government agencies.
- Monitoring, Reporting and Verification (MRV), which covers issues related to forest data, forest inventory, data management and MRV.

63 Prime Ministerial Decision No. 1775/QD-TTg of 21 November 2012 on Approving the Project on Emission Management and Carbon Trading Activities Associated with the International Market.

64 “REDD+” = “reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.”

65 Prime Ministerial Decision No. 799/QD-TTg of 27 June 2012 on Approving the National Action Plan for Emission Reduction through the Reduction of Deforestation and Forest Degradation, Sustainable Forest Management, Conservation and the Enhancement of Forest Carbon Stock in 2011–2020.

66 Prime Ministerial Decision No. 1393/QD-TTg of 15 September 2012 on Approving the Vietnam Green Growth Strategy.

67 “REDD” = “reducing emissions from deforestation and forest degradation

- REDD Financing and Benefit Distribution, which covers issues related to the development of the REDD+ fund.
- Local REDD Implementation, which covers issues related to REDD implementation in districts and communities, capacity building, interventions, alternative rural livelihoods, and ethnic communities.
- Private Sector Engagement, which covers issues related to the program's development and implementation, forming related policies.
- Safeguards, which covers issues related to coordinated technical assistance delivered to the government of Vietnam and other relevant stakeholders for the operationalization of safeguards to promote social and environmental co-benefits from REDD+ at the national, sub-national and local levels.

As results of the UN-REDD Program, a number of technical documents were prepared focusing on reference emission levels (REL), forest ecological stratification, the development of allometric equations for forest biomass estimation, the benefits distribution system, and safeguards, etc. The second phase of the UN-REDD Program will pilot REDD+ implementation in six provinces across different ecological regions in Vietnam. It is also planned to set up a REDD+ fund under the VNFF.

4.10 Illegal land-use activities

Behaviors considered to be illegal land-use and management activities that are clearly stipulated in the 2013 Land Law and in instruction documents for implementation of the 2003 Land Law include:

- Encroaching on, occupying and destroying land.
- Violating published land-use projects and plans.
- Not using land and using land for the wrong purposes.
- Not following the Land Law regulations.
- Receiving the transfer of the right to agricultural land use for areas greater than the limit established for households and individuals in the regulations of this law.
- Using land and carrying out land-use right transactions without registering with the relevant state agencies.
- Not fulfilling or inefficiently fulfilling financial responsibilities to the State.

- Exploiting position or power to violate the land management regulations.
- Not providing or incorrectly providing the information on land regulated by the law.
- Preventing or challenging the implementation of the rights of land users as regulated by the law.

With regard to forest management and utilization, the Law on Forest Protection and Development and the law's guiding documents also clearly stipulate the following illegal behaviors in relation to forest management and use:

- Forest destruction and illegal forest exploitation.
- Hunting, catching, trapping, keeping and killing forest animals illegally.
- Illegally collecting samples in forests.
- Illegally destroying forest resources and ecosystems.
- Violating the regulations on forest fire prevention.
- Violating the rights related to preventing and killing creatures harmful to forests.
- Illegally encroaching on, occupying and changing the purposes of forest use.
- Illegally exploiting landscape, environment and forest services.
- Illegally transporting, processing, advertising, trading, consuming, storing, exporting or importing forest plants and animals in violation of the land law regulations.
- Exploiting position and power to violate land management regulations.
- Allowing free range animals in strictly protected areas in special-use forests, new planted forests and young forests.
- In special-use forests: without the permission of the relevant state agencies, raising, planting and allowing free range animals and plants not of domestic origin.
- Illegally exploiting biological resources, mineral resources and other natural resources; changing the forest's natural landscape and nature; badly affecting the natural life of forest creatures; and bringing toxic chemicals, explosives, and easily flammable things into the forests.
- Allocating, leasing, or changing, transferring, inheriting, giving to others, mortgaging, guaranteeing, for the right to forest use, when the forests are production forests known to be illegally planted.

- Destroying constructions for forest protection and development.
- Other violations of forest sources and forest ecosystems.

The chairpersons of the people's committees at all levels are responsible for detecting, preventing and promptly dealing with violations of the law on land management and use in their localities. Meanwhile, the chairpersons of communal people's committees are responsible for detecting, preventing and promptly dealing with the illegal transfer of land-use rights and changes of land-use purpose, as well as the construction of facilities on encroached land, occupied land or land used for improper purposes in their localities, and forcing the violators to restore the land to the condition it was in before the violation was committed.

Government organizations in charge of natural resources and the environment (the MONRE and the DONREs) have mandates to inspect the implementation of the Land Law, the efficiency of land management and use, and the impacts of land policy and law on the economy, society and environment at both the national and local levels. Land inspectors from the MONRE/DONREs have two main tasks: (i) to inspect the observance of the Land Law by state bodies and land users in relation to land management and use, (ii) to detect, prevent and deal with violations of the Land Law in line with their responsibilities or to propose the settlement of violations to the relevant state bodies.

To enforce and regulate illegal activities related to forest land and forest resources, forest rangers are employed as a specialized state force. Forest rangers are responsible for protecting forests, assisting the MARD and the chairpersons of the people's committees at all local government levels

in exercising management over forests, as well as ensuring the observance of forest protection and development legislation. The provincial forest protection sub-departments and district ranger stations have mandates to inspect forest protection activities and control exploitation and use, as well as the circulation, transportation and trading of forest products, in order to prevent and fight acts that violate the legislation on forest protection and development. They also have to protect the forest owners' legitimate rights and interests when they are infringed upon by others. While performing their duties, forest rangers have the power to request the organizations, households and individuals concerned to provide the necessary information and documents for inspection and investigation; to conduct site inspections and gather evidence in accordance with the legal provisions; to hand out administrative punishments for violations and apply measures to prevent acts of violation; and to take legal action against and conduct criminal investigations into acts violating the legislation on forest protection and development, such as illegal logging, forest encroachment, and forest fires.

According to data from the MARD's Forest Protection Department, in 2013 there were 27,253 cases of forest violation, including 2,120 cases of forest destruction, 1,423 cases of converting forests for shifting cultivation, 2,211 cases of illegal logging and 303 cases of violating forest fire protection regulations. In Dien Bien province, there was a total of 470 cases of violating forest regulations, of which 65 involved forest destruction, 62 shifting cultivation, 12 illegal logging and 35 the violation of forest fire controls, with the remaining cases related to wildlife and wood processing, among others (FPD 2013b).

5 conclusions

This report provides key descriptions of the organization of local government in Vietnam, which is divided into three levels (provincial, district and communal), as well as the mandates and responsibilities for the management of land and forests at each level. The contents highlight the progress of the decentralization of power since Vietnam started the “Renovation Policy” (or *Doi Moi*) in 1986, the increasing role played by local people in the management of forests, and the key roles of the local government in making decisions on land use affecting forests. Additionally, the report reveals information on budget sources and state budget funds invested in forest protection and development in the past decades.

The description and analysis indicate that since the introduction of the Renovation Policy in 1986, a number of law and policy reforms in Vietnam have created changes in the comprehensive regulation of mandates and powers for each level of local government, particularly with regard to the management of land and forests. Specifically, the laws and policies allow local governments at different levels to prepare and approve their planning and plans for land use and forest protection and development, as well as deciding on budget distribution and expenditure for the activities involved. Local governments have also been given responsibility for the allocation of land and forests to households, individuals and organizations for agricultural production, commercial forests and the management of protection and special-use forests, etc. In the Land Law of 1993 and accompanying laws, forest lands and rights were transferred from the State to households along with the provision of long-term land-use rights. Thus the State’s direct role in forest resources has been reduced in terms of key responsibilities for specifying land-use categories, as well as ensuring that forests are managed in line

with the developed land-use plans and that the laws and regulations are enforced.

The changes in national forest cover in Vietnam also reflect these shifts in government organization and priorities. In 1943, natural forest cover was estimated at 43% (14.3 million ha) of the total land area. However, from 1954 to the mid-1980s, when Vietnam was characterized by a centralized model of state control, the natural forest area was reduced and by 1990 it covered 27.2% (9.18 million ha) of the total land area (FAO 2009). Since 1995, the forests of Vietnam have been undergoing a recovery in the context of the country’s *Doi Moi* reforms. Generally speaking, Vietnam has made considerable progress in decentralization, especially the decentralization of power for local governments to manage land and forests. Government emphasis on forest plantation development, the re-categorization of forests, tenure reforms and enhancing natural forest regeneration saw forest cover increased to almost 40% of the land area by 2013 (MARD 2014). Thus, the introduction of various forest development strategies and an increasing emphasis on forest protection and development have led to significant changes in national forest management approaches.

Decentralization has promoted positive outcomes for the land use, reforestation and management of natural forests, as indicated by the introduction of various government programs such as Program 661, known as the 5-Million Hectare Reforestation Program, under the management of the MARD, as well as the forest protection and development initiatives. In 2011, the payments for forest environmental services scheme, which aims to improve forest quantity and quality, was also implemented nation-wide, and the PFES Program has been an extremely important mechanism in raising funds for the forestry sector

and incentivizing local people's involvement in forest protection. The VNFF fund reported that the PFES had generated about USD 142 million since the program's implementation, while international REDD+ financing has provided an estimated allocation of USD 17.2 million (Climate Funds 2015).

There are also a number of legal documents stipulating and providing comprehensive regulations on taxes, fees and charges for the use of land and forest resources. However, there is inconsistency among the legal documents relating to land-use taxes and fees in terms of incentivizing forest protection and development while at the same time charging high taxes and fees for timber and NTFPs. It is also unclear how the regulations on the utilization of state budget funds for forest management and development are issued and developed. There have been great changes in investment in forestry both structurally and financially and from international and domestic donors. One significant outcome of these changes is Vietnam's issuing of innovative policies to generate financial sources for forest protection and

development, such as the PFES policy. The issue of discrepancies in and between policies however is a problem noted in other areas of the forest and land laws more generally, for example in the definition of community rights as well as between government levels and their responsibilities for land use planning. Further information on both achievements and limitations of forest protection and the Development Law of 2004 are outlined in the FSSP (2013) law review report.

The decentralization process has also been associated with certain shortcomings, including the weakening of implementation due to a lack of financial and labor resources, despite the increased responsibilities and mandates given to lower levels of government. Additionally, the decentralization process needs to pay more attention to the authority of local governments to decide on the appropriate resources for implementing the assigned tasks and responsibilities. It is crucial for decentralization to clarify both the powers and resources required for leaders and individuals in the lower-level governments to implement policies effectively at the local level.

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| 2003 | Government Decree No. 60/2003/ND-CP of 6 June 2003 on Regulation and Guidance for Implementing the National Budget Law | 1994 | Law on the Land-use Right Transfer Tax of 22 June 1994 |
| 2002 | Law No. 01/2002/QH11 of 16 December 2002 on the National Budget | 1995 | Government Decree 01/CP of January 4 1995, enacted to regulate the allocation of land for agriculture, forestry and aquaculture production in state-owned enterprises |
| 2001 | Inter-ministerial Circular No. 101/2001/TTLT-BTC-BNNPTNT (MARD and MOF) of 20 December 2001 on Guiding Financial Management of National Funds Used for Crop Seeds and Varieties and Forest Germplasm | 994 | Government Decree No. 02/CP of 15 January 1994 on the Allocation of Forest Land to Organizations, Households and Individuals for Stable and Long-term Use for Forestry Purposes (no longer in effect) |
| 1998 | Government Ordinance (revised) No. 05/1998/PL-STQH10 of 16 April 1998 on the Resource Tax | 1992 | Government Decree No. 68/1998/ND-CP of 3 September 1998 on Detailed Regulations on the Implementation of the Revised Ordinance on the Resources Tax |
| 1998 | Prime Ministerial Decision No. 661/QD-TTg of 29 July 1998 on the Objectives, Tasks, Policies | 1992 | 1992 Constitution of the Socialist Republic of Vietnam, approved by the National Assembly on 15 April 1992 |

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8 Appendixes

Appendix 1. Regulations on the number of members in people's councils at each level of government

Table 1. Regulations on the number of members in provincial people's councils.

| Type of province | Population | Number of members |
|-------------------------------|---------------------------------|---|
| Provinces in lowlands | Less than 1 million inhabitants | 50 members |
| | More than 1 million inhabitants | 50 members + additional members (1 more member voted for each additional 50,000 inhabitants up to a maximum of 85 members) |
| Provinces in mountainous area | Less than 500,000 inhabitants | 50 members |
| | More than 500,000 inhabitants | 50 members + additional members (1 more member voted for each additional 30,000 inhabitants up to a maximum of 85 members) |
| Hanoi and other provinces | Over 3 million inhabitants | Less than 95 members |

Table 2. Regulations on the number of members in district people's councils.

| Type of district | Population | Number of members |
|--|--|---|
| Rural or urban district | Less than 80,000 inhabitants | 30 members |
| | More than 80,000 inhabitants | 30 members + additional members (1 more member voted for each additional 10,000 inhabitants) * |
| Mountainous or island district | Less than 40,000 inhabitants | 30 members |
| | More than 40,000 inhabitants | 30 members + additional members (1 more member voted for each additional 5,000 inhabitants) * |
| Provincial town | Less than 70,000 inhabitants | 30 members |
| | More than 70,000 inhabitants | 30 members + additional members (1 more member voted for each additional 10,000 inhabitants) * |
| Provincial city | Less than 100,000 inhabitants | 30 members |
| | More than 100,000 inhabitants | 30 members + additional members (1 more member voted for each additional 10,000 inhabitants) |
| Rural and urban districts and provincial towns | More than 30 directly-managed administrative units (administratively called communes, wards, and district towns) | The specific number of members is determined by the National Assembly's Standing Committee based on a request from the provincial people's council. |

* A maximum of 40 members

Table 3. Regulations on the number of members in communal people's councils.

| Type of commune | Population | Number of members |
|--|-----------------------------|--|
| A commune, ward or district town in lowland areas | Less than 4,000 inhabitants | 25 members |
| | 4,000–8,000 inhabitants | 25 members + additional members (1 more member for each additional 2,000 inhabitants) * |
| A commune, ward or district town in a mountainous area or island | Less than 1,000 inhabitants | 15 members |
| | 1,000–2,000 inhabitants | 19 members |
| | 2,000–3,000 inhabitants | 25 members |
| | More than 3,000 inhabitants | 25 members + additional members (1 more member is voted for each additional 1,000 inhabitants) * |
| Communes and wards | More than 8,000 inhabitants | 25 members + additional members |

* A maximum of 35 members

Appendix 2. Selection of candidates and the election process for people's councils

1 Selection of candidates

According to the Law on Election of Members to People's Councils,⁶⁸ Vietnamese citizens over 21 years old are eligible to register as candidates for election regardless of their ethnicity, gender, social status, religion, educational background or career. However, this has never been implemented in reality. Candidates for election to each people's council are selected through three rounds of negotiations held by the VFF (an organization under the leadership of Vietnam's Communist Party) at the same level. Information on each round of negotiations is presented below.

1. The first round of candidate selection includes the following steps:
Firstly, a negotiation meeting for the selection of candidates for the people's council is held by the VFF at the same level at least 85 days before election day. The participants in the first round of negotiations are representatives of the VFF, of organizations under the VFF, of the election council, and of the people's committee. The first negotiations at the provincial and district levels have to reach an agreement on structure, components, and the number of candidates that can be put forward by each political, social and economic organization, armed force unit, administrative organization and public organization. The first negotiations at the communal level, meanwhile, discuss and reach agreement on the structure, components, and the number of candidates that can be put forward by each organization, village and residential group in the commune.

Secondly, based on the results of the first

round of negotiations and adjustments by the executive office of the people's committee the leaders of the political, social and economic organizations, armed force units, administrative and public organizations, and village and residential groups (in the case of the communal level) are given permission to nominate candidates to start voting and select their candidates based on the following six criteria: (i) Faithful to the Socialist Republic of Vietnam, making an effort to contribute to the country's renovation and to construct and develop local areas; (ii) Good dignity and morality, a shining example of compliance with the law, actively struggling against the manifestation of red tape, imperiousness, abuse of power, corruption, waste and other law-breaking behaviors, protecting the State's interests, rights and the interests of the people; (iii) Good qualifications to fulfill the responsibilities of a people's committee member, having the capability to propagate and campaign for families and people to implement policies and laws and having a good knowledge of the socioeconomic situation to participate in important decisions in the local area; (iv) Closely connecting with people, listening to people's opinions, winning people's trust; (v) An ability to join in with the activities of the people's committee; (vi) Not having been a member of the people's committee for more than two terms, or for more than one term in the case of National Assembly members. After making their selection, the leaders organize a voter conference and collect comments from voters of their organization. Based on the comments of the voter conference, the leaders hold an open meeting with representatives of their related social organization to discuss and make a list of candidates. This list is then sent to the VFF.

68 The Law on Election of Members to the National Assembly and the Law on Election of Members to People's Councils of 26 November 2003.

2. The second round of candidate selection includes the following steps:
The VFF holds a second negotiation meeting with participants who attended the first negotiation meeting. This is held at least 55 days before election day with the purpose of preparing a primary list of candidates based on the lists of candidates obtained from the first round and on the criteria for being a member of the people's council. In combination with the executive section of the people's council and the committee at the same level, the executive section of the VFF organizes voter conferences on self-nominated candidates in residential places or work units and collects the comments and opinions of voters. Meanwhile, for candidates nominated by organizations, the leaders of the organizations involved cooperate with the Executive Committee of the Vietnam Labor Union to organize a second voter conference and collect comments and gauge the trust in their organizational candidates. The results of these voter conferences are again submitted to the executive section of the VFF.
3. The third round of candidate selection includes the following steps:
A third negotiation meeting with participants that have attended the first and second negotiation meetings is held by the VFF at least 35 days before election day. Participants in the third meeting discuss and make the final decision on candidate selection based on the criteria, collected comments and results of the previous meetings.

2 Election

Members of the people's council at each level are elected through election units. Each election unit is allowed to vote for less than 5 members. The number of election units, list of election units, and the number of members to be elected for the provincial people's council at each election unit are defined by the provincial people's committee with the approval of the central government. The number of election units, list of election units, and the number of members to be elected for the district people's council at each election unit are defined by the district people's committee with the approval of the provincial government, with a similar process also carried out at the communal level.

All Vietnamese citizens over the age of eighteen and with full legal citizen's rights are eligible to vote. The voters have to vote by themselves and are not allowed to authorize others to vote for them.

Those candidates with more than half the number of legal votes and with the most number of votes are elected. If more than one candidate has the same number of votes, the elder candidates are elected.

The first meeting of the new people's council is organized within a month of the election results being publicized. The new elected members have to select a chairperson, vice-chairpersons, and members of the executive positions, as well as assigning power and mandates to each member.

Appendix 3. The MONRE's mandates and powers relating to land and forest management

According to Vietnam's Land Law (45/2013/QH13), the MONRE has the following mandates and powers on behalf of the central government:

- Promulgating and implementing policy documents on land management and use.
- Determining administrative boundaries, as well as preparing and managing administrative boundary records and administrative maps.
- Preparing cadastral maps, land-use status quo maps and land-use planning maps; surveying and assessing land resources; and surveying for land pricing.
- Managing master plans and land-use plans for the whole country and the provincial level.
- Managing land allocation, land leasing, land recovery and changes to land-use purposes.
- Managing compensation, support and resettlement following land recovery.
- Implementing activities related to land registration, preparing and managing cadastral records, and granting land-use right certificates combined with the ownership of houses and other land-attached assets.
- Producing land statistics and conducting inventories.
- Developing the land information system.
- Managing land prices.
- Monitoring the practice of rights and the performance of obligations by land users.
- Checking, examining, supervising, monitoring and assessing the practice of the Land Law, and dealing with violations of the Land Law.
- Disseminating and educating on the Land Law.
- Solving land-related disputes, complaints and denunciations involving land management and use.
- Managing activities to provide land-related services.

Appendix 4. The MARD's mandates and powers relating to land and forest management

The MARD has the following mandates and powers for managing land and forests:

- Promulgating and implementing legal documents on forest protection and development.
- Preparing and implementing forestry development strategies, as well as forest protection and development planning and plans, at the nationwide and provincial levels.
- Implementing surveys determining the boundaries of all kinds of forests on maps and in the field, detailed to the administrative units of communes, wards and townships.
- Conducting forest statistical and inventory work, monitoring changes in forest resources and land for forest development purposes.
- Allocating, leasing and retrieving forests and changing forest-use purposes.
- Preparing and managing profiles for the allocation and leasing of forest land and forests for forest development purposes; implementing the registration and recognition of ownership rights over planted production forests and forest-use rights.
- Granting and retrieving licenses in accordance with the provisions of forest protection and development legislation.
- Implementing scientific research activities, applying advanced technology, and establishing international cooperation and human resource training for forest protection and development.
- Implementing the propagation and dissemination of forest protection and development legislation.
- Checking, inspecting and dealing with violations of forest protection and development legislation.
- Solving forest-related disputes.

Appendix 5. The DONREs' mandates and powers relating to land and forest management

The provincial DONREs have the following mandates:

1. Prepare and submit the following documents to the provincial people's committee for promulgation:
 - All decisions, instructions and documents related to natural resources and the environment.
 - Five-year and annual plans, program and project proposals relating to natural resources and the environment, and solutions related to the management and preservation of natural resources and the environment within the provincial area.
2. Prepare and submit the following documents to the PPC chairperson for promulgation:
 - Documents related to natural resources and the environment.
 - Documents stipulating details of the working relationships between the DONRE and other relevant units and the people's committees of districts and cities.
3. Provide instructions on implementation (e.g. for implementing legal normative documents, plans, programs, projects, criteria, technical standards and economic-technological evaluations on natural resources and the environment); and publicize and educate on laws on natural resources and the environment.
4. Preparation and implementation of master plans and annual plans relating to natural resources and the environment:
 - Prepare and cooperate with related organizations in order to establish and adjust provincial land-use planning and plans; provide guidelines on and examine the implementation of the land-use planning and plans of related organizations and lower levels of government.
 - Verify land-use planning and plans at the district level and land-use planning and plans at the ward and commune levels corresponding to urban planning and development areas in the period of the land-use planning, and submit them to the PPC for approval.
 - Verify documents on land allocation, land leasing, land retrieving, the transfer of land-use rights, and changes of land-use purpose, as well as documents issuing land-use certificates combined with the ownership of assets attached to the land with regard to religious organizations, overseas Vietnamese, foreign organizations and individuals.
 - Issue land-use certificates and ownership of assets attached to the land as authorized by the chairperson of the PPC; conclude land-leasing contracts; and register the right to land-use in combination with ownership of assets attached to the land with regard to religious organizations, overseas Vietnamese, foreign organizations and individuals.
 - Provide guidelines on and examine the implementation of laws and policies on land allocation, land leasing, land retrieving, the transfer of land-use rights, changes of land-use purpose, the issuance of land-use certificates in combination with ownership of assets attached to the land, the registration of the right to land use, the setting-up and management of land survey files, and land users' rights and obligations.
 - Provide guidelines to examine and implement land investigation, surveying, measurement, evaluation and classification; to set up and adjust any changes to maps of land-use status and land-use planning; and to establish,

- maintain and use a provincial land database.
- Prepare and cooperate with related organizations in order to guide, examine, and implement compensation and re-settlement assistance to households whose lands are taken back as stipulated by the law.
 - Cooperate with related agencies in allocating land and land-use right certificates, as well as in changes of land-use purpose; implement land-use right auctions.
 - Organize and manage the operation of the provincial land-use right registration office and guide and examine the operation of the land-use right registration office at the district level.
5. Mandates related to land valuation:
- Prepare and submit to the PPC legal normative documents on land and construction quotation for the promulgation of program and project proposals, adjusting the quotation of land types annually as stipulated by the law.
 - Promote the implementation of legal normative documents, plans, programs, projects, criteria, technical standards and economic-technological evaluations on building and the adjustment of land quotation; propagandize and popularize the land law; guide officials of the division of natural resources and environment; and answer queries on building and the adjustment and implementation of local land quotations.
 - Carry out land surveys, draw up tables of land prices, and update land prices in the land information system.
 - Submit information collected from land surveys to the provincial financial department for decision making on land allocation and land leasing; prepare regulations on fees for the transfer of land-use rights and submit them to the PPC for approval.
 - Periodically (or as necessary) report to the PPC and MONRE on the implementation of land-use plans.
6. Mandates related to the environment:
- Periodically carry out surveys and evaluate the actual status of the environment in the province; investigate and define contaminated areas; draw up a list of causes of serious environmental contamination and periodically report to the provincial people's committee and the MONRE as stipulated by the law; and examine the implementation of environmental contamination reduction measures.
 - Preside over and cooperate with related agencies to create and organize a plan for mobilizing human resources to deal with and overcome any contamination caused by environmental problems as assigned by the provincial people's committee.
 - Issue, extend or withdraw permits for any organizations that discharge sewage or collect, transport and deal with harmful solid wastes, as stipulated by the law.
 - Organize the verification of strategic environment and environmental impact assessment reports, environment protection plans for projects outside of industrial zones, nature reserve establishment projects, and biodiversity as approved by the provincial people's committee; guide and examine the implementation after approval.
 - Preside over and cooperate with the implementation of the program and plans for protecting and improving the environmental landscapes of joint branches, and preserving and sustainably developing wetlands, as assigned by the provincial people's committee.
 - Guide the creation, organization and management of an environment monitoring system as stipulated by the law; gather and store data about the environment in the locality.
 - Organize the implementation of media activities relating to environmental protection within the remit of the Department of Natural Resources and Environment.
 - Collect fees for verifying assessment reports on the environmental impact of sewage and environment protection measures, as stipulated by the law.
 - Summarize the estimates for environmental protection by provincial bodies, cooperate with the finance department to report to the provincial people's committee and submit to the provincial people's council, and manage a

- provincial environment protection fund in cooperation with the finance department.
7. Mandates related to hydrometeorology:
 - Organize the verification of documents on the issuance, extension, adjustment of contents, and withdrawal of the operation permits for specialized hydrometeorology works in the locality, as determined by the provincial people's committee, and examine the implementation.
 - Supervise and verify investment projects for building and improving specialized hydrometeorology works; participate in building projects to prevent and overcome the consequences of disasters in the locality.
 - Cooperate with related units belonging to the central government and local authorities, preserve the technical safety of government-owned hydrometeorology works in the locality and deal with any technical safety violations.
 - Summarize and produce a report about the impact of climate change on nature, people and socioeconomic fields in the locality, suggesting appropriate solutions in cooperation with related agencies.
 8. Give professional guidance on the State's management of natural resources and the environment to officials from the district's division of natural resources and environment and to government officers of the communal people's committees.
 9. Collect and analyze data, statistics and reports: Collect and analyze data about natural resources and the environment; total up and produce a report on natural resources and environmental management and preservation in the locality, as stipulated by the law.
 10. Help the provincial people's committee verify documents, plans and estimates for carrying out tasks relating to natural resources and the environment in the locality as authorized; assist with or carry out the verification of projects and works relating to natural resources and the environment, as assigned by the provincial people's committee; verify, issue, adjust and withdraw permits and certificates managed by the department of natural resources and environment, as stipulated by the law and as assigned or authorized by the provincial people's committee.

Appendix 6. The DARDs' mandates and powers relating to land and forest management

The provincial DARDs have the following mandates:

1. Work for the promulgation of the provincial people's committee: Prepare decisions and instructions; master, long-term, five-year and annual development plans; programs and projects on agriculture, forestry, the salt industry, aquaculture, irrigation and rural development; disaster prevention and reduction plans in line with the socioeconomic development master plans and local defense and security objectives; and a program and implementation method for the state administrative reform duties on aspects within the assigned scope of state management.
2. Provide instructions for and implement approved normative documents, planning, development plans, programs, projects, national standards, national specifications, and socio-technical norms for agriculture, forestry, and rural development; provide information, propaganda and education on laws related to aspects within the assigned scope of state management.
3. Mandates related to agriculture: Be responsible for implementing the land-use plan for cultivation, following approval, and the degradation prevention method for agricultural land in the province, as regulated.
4. Mandates related to forest management:
 - Guide the setting up of and be responsible for the assessment of forest planning, the forest protection plan and the development of the people's committee in the district.
 - Assist the provincial people's committee in setting up areas of protective forest, specialized forest and production forest within the scope of local management, following approval; implement forestry classification, borders defining the different kinds of forest, statistics, and inventory; and check on progress according to MARD guidelines.
 - Assist the PPC in allocating forests and forest land to the district and communal government levels, in leasing forest land, and in monitoring changes of land and forest purpose.
 - Assist the PPC in allocating forests and forest land to local villages, households and individuals.
 - Prepare and submit forest preparation plans and logging designs; and help the provincial people's committee lead and check afforestation efforts and the protection of watersheds, specialized forest and protective forest, as regulated.
 - Instruct on and check: permits for logging and transferring logging plans to the forest owner, organized by the district people's committee, following approval; implementation of rules related to local forest management and protection that are the responsibility of the district and communal people's committees; the local cooperation, participation and means of mobilization of organizations and individuals in relation to forest protection, forest product management and forest fire protection.

Appendix 7. The DiONREs' mandates and powers relating to land and forest management

The district DiONREs have the following mandates:

1. Prepare guidance on the implementation of master plans, annual plans, policies and laws related to the management of natural resources and the environment; check on implementation after the guidance is approved by the district people's committee.
2. Prepare land-use master plans, revise district-level master plans and annual plans, and implement the plans after they are approved; appraise land-use master plans and annual plans submitted by the communal people's committees.
3. Carry out activities for the appraisal of land allocation, land leasing, land retrieving, land conversion, and land transfer profiles; and issue land-use certificates and certify the assets built on the land by bodies allocated the land by district people's committees.
4. Monitor land-use changes to update and revise land management profiles and maps; manage the district land-use registration office in accordance with the mandates given by the district people's committee; provide guidelines, checking activities related to land-use statistics, land-use inventory, and land-use registration carried out by communal officers in charge of land management; and establish the district's profiles and cadastral profiles and land-use database.
5. Cooperate with the provincial department of natural resources and environment and related organizations in identifying land prices, land-use fees, and land leasing fees; and implement activities related to compensation and support for the resettlement of people whose land is taken for other use purposes.
6. Implement activities related to the protection of land, water resources and mineral resources assigned by the legal system and leadership of the district people's committee.
7. Implement registration activities; certify and check environmental protection activities and the implementation of environmental protection projects in the district; prepare periodic reports on environmental status; propose solutions for solving environmental pollution produced by trade villages, industrial zones and tourist zones in the district; collect and manage databases on water resources and the environment in the district; provide guidelines on the preparation and implementation by the communal people's committees of the regulations on and conditions for effective environmental activities.
8. Carry out surveys and statistical activities to synthesize and classify wells that have to be demolished; check practices, procedures and technical requirements for destroying the wells.
9. Carry out checking and inspection activities and participate in resolving disputes, complaints and denouncements related to natural resources and the environment as assigned by the district people's committee.
10. Assist the district people's committee in the administrative management of collective and individual economic organizations and in providing and checking the activities of social organizations and NGOs that operate in the natural resource and environment sector.
11. Implement activities such as propagating, disseminating, educating on and supplying laws and information on natural resources and the environment and public services in the natural resource and environment sector, in accordance with legal regulations.

12. Make periodic and immediate reports to the district people's committee and the provincial department of natural resources and environment on the implementation of assigned activities.
13. Provide guidelines on professional knowledge and skills for communal officers in charge of natural resources and environmental management.
14. Manage the organizational structure and implementation of mechanisms and policies related to payments, commendations, discipline and training on professional knowledge and skills for the division's officials and workers in accordance with the legal system and assignments from the district people's committee.
15. Carry out activities related to the management of the division's finances and assets in accordance with the legal system and assignments from the district people's committee.
16. Implement public service activities related to the natural resources and the environment in the district in accordance with the legal system and assignments from the district people's committee.
17. Implement other activities assigned by the district people's committee or legal system.

Appendix 8. The DiARDs' mandates and powers relating to land and forest management

The district DiARDs have the following mandates:

1. Prepare and submit to the DPC drafts of decisions and instructions, as well as master, 5-year and annual development plans for the agricultural sector and programs and projects for agriculture, forestry, the salt industry, aquaculture, irrigation and rural development; and implement these decisions, instructions, plans and programs after they are approved.
2. Promulgate national laws and policies and provincial and district policies relating to land management and forest protection and development.
3. Assist the district people's committee in implementing provincial projects and programs.
4. Assist the district people's committee in checking, examining, supervising, monitoring and assessing the implementation of national laws, provincial plans and provincial projects.
5. Assist the district people's committee in giving local people permission for natural timber exploitation for house construction.
6. Check, monitor and supervise the practices of communal officials in charge of managing activities related to agriculture and forestry.

Appendix 9. The main mandates and powers relating to land and forest management at each government level

Table 4. The main mandates and powers relating to provincial government land and forest management.

| Items | Provincial People's Council ^a | Provincial People's Committee |
|---|--|---|
| 1. Mandates and powers related to land management | <ul style="list-style-type: none"> i. Approving and monitoring provincial master plans and annual plans on land use prepared by the provincial people's committee; approving the revision of the approved master plans and annual plan on land use; approving the report on the results of implementation of the master plans and annual plans prepared by the provincial people's committee. ii. Monitoring land-use and land-management practices implemented by the district people's committee, district governments, administrative organizations and land users. iii. Approving the land prices submitted by the provincial people's committee. iv. Issuing resolutions for the conversion of less than 10 ha of paddy fields and/or less than 20 ha under the category of protection forest and/or special-use forest to other use purposes. v. Approving the land retrieval plan for implementing socioeconomic development projects in the public and national interest, such as projects for the construction of government offices, historical and cultural areas, and public parks or squares, etc. | <ul style="list-style-type: none"> i. Defining and certifying the administrative boundary lines of its administrative units (communes, wards and districts, etc.) in the field and the administrative profiles; preparing administrative maps. ii. Carrying out land surveys and assessments; implementing activities related to land-use statistics and land inventory; preparing, editing and managing local cadastral maps and land-use status maps; reporting results achieved to the MONRE. iii. Preparing provincial master plans and annual plans on land use; implementing the plans, following approval. iv. Providing guidelines for and approving master plans and planning on land use prepared by the DPCs. v. Making decisions on allocating and leasing land to and retrieving it from organizations, religious agencies, overseas Vietnamese and foreign organizations. vi. Issuing land-use certificates for organizations, religious agencies, overseas Vietnamese and foreign organizations in combination with the tenure rights for houses and other assets on the land. vii. Mobilizing investment and capital for land retrieval in order to implement the approved plans. viii. Preparing and issuing land-price tables or matrixes. ix. Establishing, managing and using local information systems and land databases. x. Monitoring land-allocation, land-leasing and land retrieval practices. xi. Managing land for the purposes of defense and security under the local region's administrative management. xii. Directing, instructing and monitoring the implementation of laws, national policies, administrative procedures, provincial master plans and annual plans on land management. xiii. Practicing ownership rights on land in the province as regulated in the laws. |

| Items | Provincial People's Council ^a | Provincial People's Committee |
|--|---|---|
| 2. Mandates and responsibilities in relation to forest management ^b | <ul style="list-style-type: none"> i. Approving and monitoring the implementation of provincial master plans and annual plans on forest protection and development (FP&D) prepared by the provincial people's committee. ii. Monitoring enforcement of the Law on FP&D by the DPCs and CPCs. iii. Approving reports on the results of implementation of the master plans and annual plans on forest protection prepared by its provincial people's committee. iv. Approving the forest prices established by the provincial people's committee. | <ul style="list-style-type: none"> i. Assuring implementation of the Law on FP&D and policies in the province. ii. Preparing provincial master plans and annual plans on FP&D; publishing the master plans, following approval; implementing the approved plans; and revising the plans. iii. Directing and approving the master plans on FP&D prepared by the district people's committees; monitoring and evaluating the implementation of these plans. iv. Making decisions on the allocation and leasing of forest land and forests to domestic organizations, overseas Vietnamese; foreign organizations and individuals; making decisions on retrieving forest land and forests from these users. v. Making decisions on the conversion of forests and forest land. vi. Implementing activities related to the inventory of forests and forest resources; reporting the results achieved to the MARD. vii. Preparing and issuing land-price tables or forest-price matrixes. viii. Directing, instructing and monitoring the implementation of laws, national policies, administrative procedures, provincial master plans and annual plans on forest management. ix. Monitoring and analyzing the results of activities related to tree plantation, forest protection, extension work, forest exploitation, etc. x. Granting forest product exploitation permits to domestic organizations, overseas Vietnamese, foreign organizations and individuals. xi. Practicing the ownership rights over forest land and forest resources in the province as regulated in the laws. |

| Items | Provincial People's Council ^a | Provincial People's Committee |
|--|--|---|
| 3. Other mandates and responsibilities related to land and forest management | <p>Approval of:</p> <ul style="list-style-type: none"> i. Provincial long-term master plans and annual plans on socioeconomic development. ii. Annual provincial budget allocation plans, including the budget for FP&D; monitoring budget use; and approving the balance sheets. iii. Decisions on the collection of fees and people's contributions, which includes fees from forest product exploitation. iv. Policies and measures related to human resource development, labor use, job creation and livelihood development. v. Plans and solutions for social insurance, social support, the elimination of hunger and poverty reduction. vi. Policies and measures on promoting research, ideas for technical renovation, and the application of science and technology in the development of production, trade and forestry within the province. vii. Environmental protection measures. viii. Measures to ensure security, order and social security. ix. Measures for implementing national policies, improving people's living standards, improving the intellectual level of ethnic minorities, ensuring equality among minorities, enhancing social associations, and for mutual support among minorities in the province. x. Measures for implementing the national Constitution, laws and legal documents. xi. The organizational structure of functional organizations under the PPC and at district level, including forestry-related agencies such as the provincial forestry department, provincial protection department, MBPF etc.; decisions on personnel and staff for functional and specialized agencies. <p>And:</p> <ul style="list-style-type: none"> xii. Abrogating decisions and instructions that go against the laws and policies made by the PPC and district governments. xiii. Dissolving district people's committees that cause serious damage to people's interests. xiv. Approving the resolutions of district people's committees on dissolving communal people's committees. | <ul style="list-style-type: none"> i. Preparing and implementing provincial master plans and annual plans on socioeconomic development. ii. Participating in the preparation of programs and projects led by government ministries and sectors; implementing activities set out in the programs and projects following approval. iii. Preparing annual provincial budget plans; implementing the plans after approval; monitoring and reporting budget utilization. iv. Directing and monitoring provincial tax offices and government agencies in charge of tax collection. v. Making schemes for collecting fees and other contributions from people and submitting them to the provincial people's committee for decision and approval. vi. Deciding on the establishment of public service units (for agricultural extension, FMBs for special use and protection forests, etc.). vii. Making decisions on establishing, dissolving and privatizing state-owned enterprises and companies (state-owned forest enterprises, agricultural and forest seed companies, etc.). viii. Issuing and withdrawing operating licenses. ix. Giving permits for the establishment of social organizations; providing instructions for and monitoring the activities of these organizations. x. Providing training courses on technical knowledge and skills for officials, government workers, etc. xi. Preparing plans on the establishment, integration, separation and adjustment of administrative border lines, and implementing them following approval. xii. Directing and monitoring the management of province, district and communal profiles, landmarks, borders and administrative border lines. xiii. Directing and monitoring implementation of other provincial and district plans. xiv. Directing district governments in preparing their master plans and annual plans on socioeconomic development; approving these plans for district implementation. |

a Articles 11, 13 and 17 of the Law on the Organization of People's Councils and People's Committees.

b Law on Forest Protection and Development of 2004.

Table 5. The main mandates and powers relating to district government land and forest management.

| Items | District People's Councils ^a | District People's Committees |
|---|---|--|
| 1. Mandates and powers related to land management | <ul style="list-style-type: none"> <li data-bbox="405 315 874 607">i. Approving and monitoring district master plans and annual plans on land use prepared by the district people's committee; approving revision of the approved master plans and annual plan on land use; approving the report on the results of the implementation of the master plans and annual plans prepared by the district people's committee. <li data-bbox="405 618 874 707">ii. Monitoring land-use and land-management practices prepared by the district people's committee. <li data-bbox="405 719 874 920">iii. Approving the land retrieval plan for implementing socioeconomic development projects in the public and national interest, such as projects for the construction of government offices, historical and cultural areas, and public parks or squares, etc. | <ul style="list-style-type: none"> <li data-bbox="895 315 1417 427">i. Making decisions on allocating and leasing land to and retrieving it from local households, individuals and villages (communities). <li data-bbox="895 439 1417 607">ii. Carrying out land surveys and assessments; implementing activities related to land-use statistics and land inventory; preparing, editing and managing local cadastral maps and land-use status maps; reporting results achieved to the PPC. <li data-bbox="895 618 1417 707">iii. Preparing district master plans and annual plans on land use; implementing the plans, following approval. <li data-bbox="895 719 1417 831">iv. Issuing land-use certificates in combination with the tenure rights for houses and other assets on the land to local households, individuals and villages. <li data-bbox="895 842 1417 976">v. Directing, instructing and monitoring the implementation of laws, national policies, administrative procedures, provincial master plans and annual plans on land management. <li data-bbox="895 987 1417 1043">vi. Practicing ownership rights on land in the district as regulated in the laws. <li data-bbox="895 1055 1417 1099">vii. Resolving land disputes among local people, local households and villages. |

| Items | District People's Councils ^a | District People's Committees |
|--|---|--|
| 2. Mandates and responsibilities in relation to forest management ^b | <ul style="list-style-type: none"> <li data-bbox="411 277 874 394">i. Monitoring enforcement of the Law on FP&D and the implementation of national and provincial policies in the district. <li data-bbox="411 398 874 607">ii. Approving and monitoring the implementation of district master plans and annual plans on FP&D prepared by its district people's committee; approving revisions of the approved master plans and annual plans proposed by the DPC. <li data-bbox="411 611 874 763">iii. Approving reports on the results of the implementation of the master plans and annual plans on forest protection prepared by its district's people's committee. | <ul style="list-style-type: none"> <li data-bbox="903 277 1433 331">i. Assuring implementation of the Law on FP&D and policies in the district. <li data-bbox="903 336 1433 389">ii. Practicing land ownership rights in the district. <li data-bbox="903 394 1433 546">iii. Preparing district master plans and annual plans on FP&D; publishing the master plans, following approval; implementing the approved planning and plans; and revising the plans. <li data-bbox="903 551 1433 604">iv. Monitoring and evaluating the implementation of master plans. <li data-bbox="903 609 1433 761">v. Making decisions on the allocation and leasing of forest land and forests to local households, individuals and villages; making decisions on retrieving forest land and forests from these users. <li data-bbox="903 766 1433 918">vi. Directing, instructing and monitoring the implementation of laws, national policies, administrative procedures, district master plans and annual plans on forest management. <li data-bbox="903 922 1433 1039">vii. Monitoring and analyzing the results of activities related to tree plantation, forest protection, extension work, forest exploitation, etc. <li data-bbox="903 1043 1433 1128">viii. Mobilizing related organizations and local people to prevent forest fires, plant diseases, etc. <li data-bbox="903 1133 1433 1218">ix. Granting forest product exploitation permits to local households, individuals and villages. <li data-bbox="903 1223 1433 1276">x. Practicing forest and forest-land ownership rights in the district as regulated in the laws. <li data-bbox="903 1281 1433 1373">xi. Solving disputes over forest land and forest resources among local people, local households and villages. |

| Items | District People's Councils ^a | District People's Committees |
|--|--|--|
| 3. Other mandates and responsibilities related to land and forest management | <p>Approval of:</p> <ul style="list-style-type: none"> i. District long-term master plans and annual plans on socioeconomic development. ii. Measures for implementing extension activities for agriculture and forestry. iii. Annual district budget allocation plans, including the budget for FPD; monitoring budget use; and approving the balance sheets. iv. Measures for applying scientific knowledge and technology to land use and forest protection and development. v. Plans and solutions for social insurance, social support, the elimination of hunger and poverty reduction in the district. vi. Measures for implementing national policies, improving people's living standards, improving the intellectual level of ethnic minorities, ensuring equality among minorities, enhancing social associations, and for mutual support among minorities in the province. vii. Measures for implementing the national Constitution, laws and legal documents. <p>And:</p> <ul style="list-style-type: none"> viii. Abrogating decisions and instructions that go against the laws and policies made by the DPC and communal governments. ix. Dissolving district-level communal people's committees that cause serious damage to people's interests. x. Approving policies and measures on human resource development, labor use, job creation; and the development of livelihoods. xi. Approving policies and measures on the promotion of research, ideas for technical renovation, and the application of science and technology in the development of production, trade and forestry within the province. xii. Approving measures for ensuring security, order, social security, etc. | <ul style="list-style-type: none"> i. Preparing and implementing district master plans and annual plans on socioeconomic development. ii. Participating in the preparation of programs and projects led by the PPC; implementing activities established in those programs and projects, following approval. iii. Preparing annual district budget plans; implementing the plans following approval; monitoring and reporting on budget utilization. iv. Preparing annual plans on collecting fees and other contributions from local people. v. Issuing and withdrawing operational licenses for cooperatives and small-scale wood processing workshops. vi. Directing and monitoring the implementation of other provincial and district plans. vii. Directing and implementing activities related to disseminating laws, national policies, provincial guidelines, and district plans to local people and the communal governments; monitoring the implementation of laws, national policies, provincial guidelines, and district plans in the district. viii. Implementing environmental protection activities. ix. Managing district profiles, landmarks, borders, and administrative and cadastral maps. x. Preparing plans on establishing new communes or the division of communes, etc. xi. Regulating the structures, specific mandates and power of specialized agencies of the district people's committee following the guidelines of the provincial people's committee. xii. Directing communal governments in preparing their master plans and annual plans on socioeconomic development; approving these plans for communal implementation. |

a Articles 11, 13 and 17 of the Law on the Organization of People's Councils and People's Committees.

b Law on Forest Protection and Development of 2004.

Table 6. The main mandates and powers relating to communal government land and forest management.

| Items | Communal People's Councils ^a | Communal People's Committees |
|---|--|---|
| 1. Mandates and powers related to land management | <ul style="list-style-type: none"> i. Monitoring implementation of the Land Law by the CPC. ii. Approving and monitoring the implementation of planning and plans on land use proposed by the communal people's committee; approving revisions of the approved land-use planning and plans proposed by the CPC. iii. Approving reports on the results of implementation of the land-use planning and plans prepared by the CPC and the results of land-use activities implemented in the commune. | <ul style="list-style-type: none"> i. Managing the commune's administrative land markers on site; reporting in a timely way to the district people's committee (or towns or provincially-managed cities) if the administrative land markers are lost, moved or broken. ii. Taking responsibility for the safe management of agricultural land used for public purposes and non-agricultural land allocated to the communal people's committee to build committee offices and other public constructions. iii. Taking responsibility for the management of the lands that have not yet been allocated or leased and of unused lands, river mud-flat areas and coastal areas in the commune. iv. Implementing activities related to land statistics and inventory; preparing land-use maps for the commune; reporting to the district people's committee on the results of the activities related to land statistics and inventory and preparing land-use maps for the commune. v. Preparing land-use plans for the commune and submitting those plans to the communal people's council for its decision and to the district people's council for approval; implementing the plans following approval; reporting the results of the implementation of the plans on land use to the DPC and CPC. vi. Deciding on the leasing of agricultural lands for public purposes related to the commune, wards and towns. vii. Detecting, preventing and resolving in a timely way cases of illegal transfer of land ownership and illegal land use; detecting and applying measures to prevent and resolve in a timely way cases of construction on illegally encroached and occupied lands and illegal use of land in the commune; enforcing violators to return the land to its previous state. viii. Directing, instructing and inspecting the implementation of administrative procedures in the commune; regulating cooperation among relevant agencies in the commune to handle administrative procedures on land and other relevant administrative procedures. ix. Implementing reconciliation over land-related disputes in the commune, cooperating with the VFF Committee at the commune level, member organizations of the VFF and other social organizations during the reconciliation process. The communal people's committee has to arrange the reconciliation no later than 45 days after receiving the request to settle a land dispute. x. Detecting, preventing and resolving in a timely way violations of the law on land use and management in the commune. |

| Items | Communal People's Councils ^a | Communal People's Committees |
|--|---|--|
| 2. Mandates and responsibilities in forest management ^b | <ul style="list-style-type: none"> i. Monitoring implementation of the Law on FP&D by the CPC. ii. Approving and monitoring the implementation of planning and plans on FP&D prepared by the CPC; approving revisions of the planning and plans on FP&D proposed by its CPC. iii. Approving reports on the results of the implementation of planning and plans on FP&D prepared by the CPC and the results of FP&D land-use activities implemented in the commune. | <ul style="list-style-type: none"> i. Preparing planning and plans for FP&D in the commune following the guidelines of the district people's committee and submitting them to the communal people's council for decision and to the district people's committee for approval. ii. Publicly announcing the commune's FP&D planning and plans no later than 30 days after the date of approval by the authorized agencies; the announcement is made in the offices of the communal people's committee during the term allocated for land use plans on FP&D. iii. Implementing FP&D planning and plans following approval. iv. Deciding on the revision of planning and plans on FP&D prepared by the communal people's committee. v. Implementing activities related to forest statistics and inventory and monitoring forest resource changes in the commune; reporting the results of activities related to forest statistics, inventory and monitoring to the district people's committee. vi. Directing and instructing the implementation of laws, policies and government regulations on the management, protection and exploitation of forests in the commune. vii. Directing villages and mountainous villages to prepare and implement village FP&D regulations in line what is regulated in the laws. viii. Cooperating with forest rangers, policemen, the military and public forces to protect forests in the commune; detecting and ensuring timely prevention of any behaviors harmful to forests. ix. Propagating and educating on the law on forest protection; instructing people to implement forest fire prevention measures; mobilizing forces for forest fire prevention in the commune. x. Managing and protecting the forests; preparing plans on the use of forest areas that have yet to be allocated or leased and submitting them to the district people's committee for approval. xi. Instructing people to implement agriculture, forestry and fishery production in combination with upland cultivation, settled agriculture, intensive farming, farming rotation and cattle rearing, in line with the approved planning and plans. xii. Inspecting the implementation of laws and policies, management regulations, and forest protection for organizations, individuals, households and communities in the commune; punishing administrative violations in relation to forest management and protection in line with what is regulated in the laws. xiii. The chairperson of the communal people's committee is responsible to the chairperson of the district people's committee in the event of forest damage and forest fires in the commune. |

| Items | Communal People's Councils ^a | Communal People's Committees |
|--|---|--|
| 3. Other mandates and responsibilities related to land and forest management | <ul style="list-style-type: none"> i. Approving measures for implementing the annual socioeconomic development plan, including aspects related to land use and forest resources; and measures for implementing programs for the extension of agroforestry, fishery and industry and converting economic, plant and livestock management regimes in line with approved planning. ii. Approving distribution of the commune's budget, including land and forest management activities; supervision of the implementation of the budget distribution measures, following approval; approving local budget balance reports. iii. Approving measures related to the rationale and effective management and use of lands reserved for public purposes in the commune. iv. Approving measures for the economic improvement and development of households in the commune. v. Approving prevention, response and recovery measures in relation to natural disasters, floods, and forest and dyke protection in the commune. vi. Approving hunger elimination and poverty reduction measures. vii. Approving measures for the implementation of ethnic policies, improving people's physical and mental living standards and increasing the intellectual level for ethnic minorities; ensuring equality among ethnic groups, enhancing national union and mutual support among ethnic groups in the commune. viii. Deciding on measures to ensure the implementation in the commune of the national Constitution, laws and legal documents issued by higher-level state agencies and of CPC resolutions. viii. Deciding on measures for protecting the people's legal rights and interests. ix. Deciding on measures to ensure the resolving of claims and denouncements in line with what is regulated in the laws. x. Abrogating in part or entirely illegal decisions and instructions issued by the CPC. xi. Approving plans for establishing, integrating, separating and adjusting administrative borders to be subsequently submitted to higher-level agencies for their consideration and approval. | <ul style="list-style-type: none"> i. Preparing annual plans on socioeconomic development that include aspects related to the use of land and forest resources that are subsequently submitted to the communal people's council and district people's committee for approval; implementing the approved plans. ii. Preparing plans for the distribution of the commune's estimated budget and submitting them to the communal people's council and district people's council for approval; utilizing the commune's budget in line with the approved plans. iii. Rationally and effectively managing and using communal land for public purposes. iv. Implementing the programs, plans and projects for the development and application of advanced technologies in agriculture and forestry; instructing farmers to convert the economic, plant and livestock management regimes. v. Implementing ethnic policies in line with what is regulated in the laws. vi. Propagating and educating on the laws; resolving violations of the laws and small disputes among people in line with what is regulated in the laws. vii. Organizing meetings with people and settling people's claims, denouncements and petitions. |

a Articles 11, 13 and 17 of the Law on the Organization of People's Councils and People's Committees.

b Law on Forest Protection and Development of 2004.

Appendix 10

Table 7. Overview of forest use rights for FLA to local households (Source: adapted from Phuc et al. 2013)

| Type of user right | Protection forests | Special use forest | Production forest | |
|--|---|--|--|--|
| | | | Natural Forest | Planted forest |
| Exchange | Restricted (only among individual households in the same locality) | | | |
| Transfer (alienation) | Restricted (only contract transfer) | Restricted (only contract transfer) | Not allowed | Not allowed |
| Inheritance | Restricted (only inheritance of forest protection contract if approved by MB) | Restricted (inherit contract if approved by MB) | Allowed | Allowed |
| Mortgage | Not allowed | Not allowed | only on added value of wood stocks | Allowed |
| Lease | Not allowed | Not allowed | Not allowed | Yes (in 3 years) |
| Use (withdrawal) | Restricted exploitation | Not allowed | Restricted Exploitation but less stringent compared to protection forest | Allowed |
| Management | Restricted management by Management Boards (MBs) | Restricted management by the State Forest Enterprises (SFEs) | Restricted management by Management Boards (MBs) | Restricted if the plantation is established by government budget |
| Additional income | Restricted | Restricted | Allowed | Allowed |
| Tenure (land title) | Restricted | Restricted | Restricted | Allowed |
| Sale | Not allowed | Not allowed | Not allowed | Not allowed |
| Endow/donate | Not allowed | Not allowed | Not allowed | Only to the State and communities |
| Investment contribution (land can be a contribution from the land owner) | Not allowed | Not allowed | Only on the added value of wood stocks | Allowed |

CIFOR Occasional Papers contain research results that are significant to tropical forest issues. This content has been peer reviewed internally and externally.

What are the roles and responsibilities of different levels of government over forests and land use in Vietnam? Over the last two decades how have government priorities shifted? How has decentralisation been realised through changing land laws and forest protection and development programs? Which powers and responsibilities are centralized, and which are decentralized? What role do local people play?

This report reviews the statutory distribution of powers and responsibilities across levels and sectors. It outlines the legal mandates held by national and lower level governments with regard to land and forest allocation, afforestation programs, rubber plantations, Payments for Forest Environmental Services (PFES), land use planning, and more. The review considers legal and policy changes in land use and forestry in Vietnam following the 'doi moi' reform in 1986 up to 2014.

After a short introduction, the second section describes the decentralization process, including mechanisms for participation. The third section outlines sources of revenue available to different government levels from forest fees and payments for environmental services. The fourth section details the specific distribution of powers and arenas of responsibility related to multiple land use sectors across and within levels, and the fifth and final section concludes on the policy changes and processes in relation to observed forest cover change.

The study was commissioned under CIFOR's Global Comparative Study on REDD+, as part of a research project on multilevel governance and carbon management at the landscape scale. It is intended as a reference for researchers and policy makers working on land use issues in Vietnam.



RESEARCH
PROGRAM ON
Forests, Trees and
Agroforestry

This research was carried out by CIFOR as part of the CGIAR Research Program on Forests, Trees and Agroforestry (CRP-FTA). This collaborative program aims to enhance the management and use of forests, agroforestry and tree genetic resources across the landscape from forests to farms. CIFOR leads CRP-FTA in partnership with Bioversity International, CATIE, CIRAD, the International Center for Tropical Agriculture and the World Agroforestry Centre.

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