



3.4 A country approach to REDD+ safeguards and the FLEGT VPA, Vietnam

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Introduction

Ideally, FLEGT and REDD+¹ should be mutually supportive in their development and implementation at the national level, but tangible FLEGT-REDD+ synergies remain elusive in practice. Collaboration may be possible in the environmental and social aspects of these initiatives, however, as articulated in timber legality definitions and country approaches to safeguards respectively (FAO 2012).

Table 1 summarizes elements of the FLEGT-VPA legality definition (to be defined in accordance with national policies, laws and regulations (PLRs) determined by the supplier country), compared to the seven internationally agreed REDD+ safeguards: (a) national and international policy consistency; (b) transparent forest governance; (c) indigenous peoples' and local communities' (IPLC) rights; (d) stakeholder (particularly IPLC) participation; (e) conservation of natural forests and biological diversity; (f) mitigating risks of reversals;² and (g) reducing displacement³ of emissions.

Vietnam is midway through its VPA negotiation process and has recently embarked on the formulation of a country approach to REDD+ safeguards. A draft VPA legality definition is undergoing review, and a draft road map for REDD+ safeguards has recently been shared with national and international stakeholders (a second iteration is being produced). The objective of this road map is to provide Vietnam with options and recommendations for how to meet its REDD+ safeguards obligations under the UNFCCC, based on a comprehensive gap analysis of relevant national PLRs.



COLLABORATION BETWEEN FLEGT AND REDD+ MAY BE POSSIBLE IN THE SOCIAL AND ENVIRONMENTAL ASPECTS OF THESE INITIATIVES.

At this crucial juncture in these two processes, the European Forest Institute (EFI) EU REDD+ Facility, in collaboration with the Netherlands Development Organisation (SNV) REDD+ Programme, commissioned a rapid analysis of the possible interactions between the draft legality definition and the safeguards road map. The findings of the analysis will inform the revision of the road map. This article discusses the opportunities and

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limitations in the content of the legal frameworks analyzed by each initiative, and potential areas of collaboration between the two processes.

Table 1. FLEGT-VPA legality definition elements and UNFCCC REDD+ safeguards

FLEGT VPA legality definition elements	UNFCCC REDD+ safeguards ⁴
title and permit allocation processes	(b) transparent and effective national forest governance structures
granting or compliance with rights to harvest	(b) transparent and effective national forest governance structures (g) actions to reduce the displacement of emissions
forest management and timber processing	(b) transparent and effective national forest governance structures (e) actions are consistent with the conservation of natural forests ⁵
community rights and welfare	(c) respect for the knowledge and rights of indigenous peoples and local communities (d) the full and effective participation of relevant stakeholders
environmental legislation	(b) transparent and effective national forest governance structures (e) actions are consistent with the conservation of natural forests
labour, health and safety policies	n/a
taxes, import-export duties, royalties and fees	n/a
respect for community and indigenous people's tenure and use rights	(c) respect for the knowledge and rights of indigenous peoples and local communities
trade and export procedures	(g) actions to reduce displacement of emissions

Sources: EC 2007; EFI 2012; UNFCCC 1/CP.16⁶

Structural mismatch

Vietnam has chosen to structure its draft legality definition not by the nine elements indicated in Table 1, but as six elements comprising the timber value chain: 1) harvest; 2) import; 3) transport and trading; 4) processing; 5) export; and 6) taxation.⁷ This contrasts with the seven statements of principle that constitute the UNFCCC REDD+ safeguards.

This structural mismatch highlights the narrow scope of the draft legality definition: it is primarily a framework for determining the legality of timber along the value chain. Environmental protection legislation is considered in the draft definition's requirement for environmental impact assessments ("environmental protection commitments") for

harvesting plans, but no explicit verifiers are included on the rights of IPLCs, which are expected from a VPA. Clear provisions for respecting IPLC customary tenure and use rights were also identified by the gap analysis as a notable omission from the current national PLR framework for REDD+ (Annandale et al. 2013).

Unlike REDD+, VPAs are bilateral agreements between the European Union and a partner country. Within the agreement, elements of the legality definition are developed through a national multi-stakeholder consultation process and guided by a number of legality and sustainability considerations (Table 1). In the UNFCCC safeguards, REDD+ has established explicit (if broad and open to interpretation) statements of environmental and social sustainability that REDD+ countries have to address in order to receive results-based financing for emission reductions or enhanced greenhouse gas (GHG) removals from the atmosphere.

A legality definition that is structured by key elements (Table 1) — such as land title, harvesting rights, management planning, community rights and environmental legislation — would facilitate a more comprehensive definition of sustainable, as well as legal, timber. Such a definition could help in negotiations on environmental and social sustainability issues, which are otherwise hampered by the focus on legal timber supply, processing and export. A definition based on key thematic issues would also facilitate comparisons and potential integration with REDD+ safeguards.

Incomplete processes

Midway through the VPA negotiation process the legality definition is still very much in draft form. A great many political sensitivities have yet to be resolved, and it is probable that other political issues will be raised as they become apparent throughout the negotiation process. Consequently, the draft legality definition cannot be considered as part of the existing PLR framework that can be analyzed for gaps compared to the REDD+ safeguards. For example, explicit references to respecting IPLC's knowledge and rights are a stark omission from both initiatives, yet both the draft road map and legality definition identify the need for compliance with existing environmental legislation.



Stakeholder feedback on the gap analysis has also identified significant shortcomings in the methodology — and, consequently, the findings — of the REDD+ safeguards road map. As with verifiers in the draft legality definition, the criteria⁸ used to interpret the REDD+ safeguards for the purposes of the gap analysis could be refined further for all seven safeguards. Specifically, two areas require more comprehensive interpretation and reanalysis of the national

PLR framework: explicit gender criteria for governance, rights and participation (relating to safeguard (b) on governance); and criteria for conservation of natural forests and biological diversity (relating to safeguard (e) on natural forests).

Unlike the REDD+ safeguards road map, the legality definition process in Vietnam has not yet clearly and comprehensively documented the gaps in the existing PLR framework or the proposed amendments to address these gaps and meet VPA expectations (Table 1). An annex of additional measures (i.e., PLR reform recommendations) has yet to be drafted for Vietnam's VPA. Broadening the scope of the legality definition — to strengthen the social sustainability aspects beyond the current focus on legal timber — could be informed by the PLR gap analysis.

With other elements of the FLEGT VPA Timber Legality Assurance System (TLAS), and a country safeguards approach for REDD+ still in the early stages of development, there is an opportunity for exchange between stakeholders, within government and civil society. This could strengthen the case for PLR reform in both processes. Immediate opportunities for PLR reform are available with the Law on Environmental Protection (currently being revised) and the Law on Forest Protection and Development (being considered for revision in the near future).



Mutually supportive processes

These findings indicate that there are limited opportunities for the draft legality definition to inform the REDD+ safeguards road map, and vice versa. There could, however, be synergies in terms of mutually supportive processes of the FLEGT VPA legality definition development and a country approach to REDD+ safeguards. These linkages have yet to be acknowledged or capitalized on by the stakeholder communities of either initiative in Vietnam. In-depth analysis of these opportunities was beyond the scope of this article, but key areas where FLEGT VPA negotiations and the development of country approaches to REDD+ safeguards could be mutually supportive are identified and summarized in Table 2.

Table 2. Potential synergies between the FLEGT VPA process and REDD+ safeguards

Opportunity for synergy	FLEGT VPA elements	REDD+ requirements
PLR, institutional and information system gap analyses	Both require a multi-stakeholder process to analyze existing PLR frameworks for consistency and gaps compared with international expectations (FLEGT VPA legality definition elements; REDD+ safeguards). Both initiatives require multi-stakeholder engagement in developing public information systems on how these international expectations are interpreted and addressed at the national level.	
Stakeholder and broader constituency communication strategies	Both benefit from well-elaborated, long-term communication strategies that present in a clear and practical manner the objectives, process, obstacles and benefits of the processes. Inclusive, non-technical language and examples should be used to match stakeholder capacities.	

Table 2, continued

Opportunity for synergy	FLEGT VPA elements	REDD+ requirements
Civil society participation structures and processes, including feedback mechanisms	FLEGT requires civil society participation in VPA preparation and TLAS implementation. The Vietnam Non-Governmental Organization (VNGO) FLEGT network is an example of a coordinated effort to develop and apply civil society capacity to the VPA.	The demand side of REDD+ requires civil society participation in all aspects of readiness and implementation. The REDD+ Working Group on Safeguards could benefit from more coordinated VNGO representation.
Civil society capacity building/ PLR framework development and reform	To contribute fully and effectively to the development of a legality definition and a country safeguards approach, stakeholders would benefit from investments in capacity development.	
Environmental and social impact assessments (capacities, methods, indicators, data)	No requirement, but VNGOs are applying a participatory Livelihood Impact Assessment (LIA) of the draft VPA. Similar capacities, methods, indicators and data could be applied to the Strategic Environmental and Social Assessment- Environmental and Social Management Framework (SESA-ESMF) of the National REDD+ Action Plan (NRAP).	Under Vietnam's FCPF readiness grant a SESA-ESMF is required and will be applied to the NRAP. This 24-month consultative process could draw on the VPA LIA in terms of methodology and indicators for monitoring safeguard compliance.
Impact monitoring against baseline assessments	A supply chain control system and legality verification are required, which could contribute to demonstrating actions to avoid displacement of emissions. The LIA approach could form the basis of continuous participatory monitoring of environmental and social aspects of the legality definition.	REDD+ readiness development partners are promoting participatory forest monitoring (PFM). An LIA-type approach to SESA and incorporation of PFM into the ESMF, as a prototype information system for safeguards, could inform and be informed by parallel experiences from the VPA.
Transparent public information access systems	The VPA requires an annex on public information, which is currently in an early draft form. Refinement of this annex should also take Vietnam's REDD+ safeguard commitments into consideration.	REDD+ countries are required to develop an information system for safeguards, which to date has not been subjected to any considered analysis or dialogue in Vietnam. There could be mutually supportive dialogue on public information between VPA and REDD+.

The ideal vs. reality

Obstacles to realizing FLEGT-REDD+ synergies — as identified by international development partners supporting one or both initiatives (FAO 2012) — also apply to Vietnam:

- lack of technical understanding of both processes and synergistic opportunities/constraints;
- lack of political incentives for coordination as well as adverse political agendas;
- lack of development partner coordination; and
- scarce in-county human resources, and time constraints.

The legality definition and broader VPA negotiations in Vietnam are technically and politically complex processes, particularly considering the levels of in-country capacity within government and civil society. Vietnam is primarily a wood-processing country, sourcing 80 percent of its timber from foreign suppliers (VoV 2013). The VPA negotiations are fraught with political sensitivities, particularly the commitment on Vietnam's part to assure the legality of significant volumes of timber that originate beyond its borders.

The REDD+ safeguard process is no less technically and politically complex. It also suffers from a lack of capacity and from significant and persistent uncertainties due to the slow progress in elaborating the details of the REDD+ mechanism. Unlike the VPA negotiations, however, financing for REDD+ readiness greatly exceeds the capacity of in-country human resources, particularly within government. This imbalance heightens the challenge of coordinating the two initiatives.

Content vs. process

In terms of content it could be argued that in the long term the political, economic and transaction costs of trying to capitalize on limited synergies do not outweigh the potential benefits of avoided duplication of effort and reduced operational costs. Highly compartmentalized government institutional structures and vested political interests could present persistent barriers to effectively integrating the legality definition and the REDD+ safeguards, or to any subsequent version of a country safeguard system.

Although it may not be politically possible for the draft FLEGT VPA legality definition to inform the draft REDD+ safeguards (and vice versa), there are clear opportunities in the mutually supportive processes of the PLR framework and monitoring system development (Table 2). Synergistic opportunities — and challenges — need to be communicated to government and the civil society stakeholders who are leading the FLEGT VPA and REDD+ readiness processes, not just in Vietnam, but in other countries that have embarked on these two initiatives.

Both state and civil society actors need to seize the opportunity presented by these two initiatives for an open dialogue on current PLR deficiencies, which can help identify and



catalyze future reforms. Government needs to show political willingness for national PLR frameworks to benefit from these processes and be more responsive to civil society. Civil society needs to have a coherent and constructive voice that builds on the momentum toward greater accountability of government in the forestry sector. Development partners must commit the financial and technical assistance necessary for in-country stakeholders to realize these opportunities.

Promoting synergies in the FLEGT VPA-REDD+ process, but not content, is based on the specific circumstances in Vietnam. Other countries who are involved in both FLEGT and REDD+ will have different circumstances, which will translate into different benefits and costs. Other countries may have a good reason to explicitly link the FLEGT VPA legality definition content with that of PLR gap analyses and with the subsequent development of country safeguards systems for REDD+.

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Endnotes

1. REDD+ includes the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries.
2. This also includes non-permanence of GHG reductions or enhanced removals from the atmosphere through the REDD+ mechanism.
3. This also includes leakage of emissions from one location to another due to application of the REDD+ mechanism.
4. The UNFCCC REDD+ safeguards also include: (a) actions that complement or are consistent with the objectives of national forest programmes and relevant international conventions and agreements, and (f) actions to address the risks of reversals, for which there are no direct counterparts in the FLEGT VPA legality definition elements.
5. This is where management plans incorporate elements of sustainable production as contributions to conserving forest biodiversity and maintaining ecosystem functionality.
6. See UNFCCC 16th Conference of the Parties Decision 1/CP.16, Annex I, paragraph 2.
7. Subsequent to the analysis reported here, Vietnam's draft legality definition has been broadened to include a seventh principle on labour rights. UNFCCC REDD+ safeguards, however, make no provision for labour rights in the forestry sector (see Table 1).
8. The safeguards present broad aspirational statements of principle about how REDD+ should be implemented. These statements are too broad to be applied directly when analyzing a country's national PLR framework for consistency with the REDD+ safeguards. Interpretation criteria are required that break down each of the seven safeguards statements into more explicit statements that can be used to assess compliance and gaps.

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