



4.5 Conflicts in Vietnam's forest areas: Implications for FLEGT and REDD+

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Introduction

Conflicts over land are rampant in Vietnam. Some erupt into physical violence and catch the attention of the media, while others linger without attracting wider attention. Land conflicts are the subject of more than 70% of the written complaints received by Vietnamese government offices in recent years. Vietnam's Ministry of Agriculture and Rural Development (MARD) acknowledges these conflicts in the uplands, but presents widely varying estimates (likely underestimates) of the extent of disputed land, from a mere 7,684 hectares (ha) to as much as 150,000 ha. The Vietnamese National Assembly acknowledged in late 2012 that "conflicts occur in many locations but are not adequately attended and resolved."

Most land conflicts in the uplands date back to the 1950s, when State Forest Enterprises (SFEs, later restructured into Forest Companies, or FCs) were given formal control of large areas of land in remote areas without prior land uses being adequately considered. The situation was exacerbated by a lack of productive land and increasing pressures from the in-migration of lowlanders. The desires of FCs and the timber industry now conflict with villagers' need to cultivate land for subsistence and income.

Land conflicts could undermine Vietnam's initiatives on Forest Law Enforcement, Governance and Trade (FLEGT) and Reducing Emissions from Deforestation and Degradation (REDD+). However, these initiatives also present an opportunity to resolve conflicts, since they offer platforms and incentives for the government and stakeholders to reach agreements on land disputes. Conflict resolution and successful implementation of FLEGT and REDD+ offer benefits for both FCs and villagers; they facilitate legal timber production and provide access to climate mitigation funding, respectively.



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Incomplete SFE restructuring, tenure reform and land transfers

Shortly after gaining independence in 1954, Vietnam nationalized all forests and established a system of SFEs to manage large forest areas and provide for national development, local employment and social services in remote areas. By 1992, however, most of the 412 SFEs were defunct; logging quotas and central government subsidies had declined from their peak in 1976–80 (Nguyen Van Dang 2001).

The Government of Vietnam initiated several efforts to reform SFEs into financially independent FCs. In 1993 the government began transferring tenure rights to local households and communities on a significant portion of SFE land. Starting in 2005, SFEs have been restructured into 148 FCs; the number of permanent staff dropped from 16,000 in 2005 to only 3,087 in 2012 (Vietnam Administration of Forestry 2012).

Despite these reforms and the fact that many FCs still receive funding from the central government or provincial authorities (e.g., through reforestation projects, forest protection programmes, or preferential access to state loans and government funding), many FCs face financial shortfalls. They are under pressure from authorities to rent land to rubber companies while also facing an outcry from villagers who demand land for cultivation.¹

By the end of 2012, Vietnam's 13.86 million ha of forest were divided into three categories (MARD 2013):

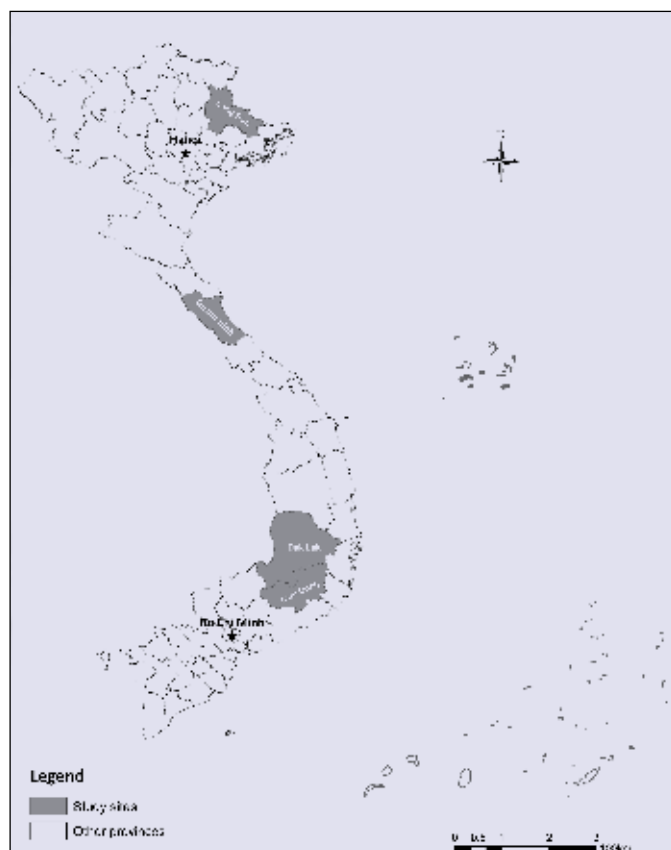
- special-use forest or protected areas (2.02 million ha);
- protected forest (4.68 million ha);
- production forest (6.96 million ha); and
- other forests (0.20 million ha).

The first two areas are primarily managed by Management Boards (MBs), who are subject to MARD or provincial authorities.

FC reform is incomplete and the government is reviewing the situation as part of a wider assessment of all state-owned enterprises. MARD submitted a draft report to the Prime Minister's Office in March 2013 recommending, among other things, that 21 companies be dismantled and their land and forests be transferred to local governments for allocation or lease to other entities, including local households.

Conflicts over forest: the evidence

Four case studies provide insight into the scale, nature and intensity of conflicts between FCs and local villages. Field research was conducted in four areas in 2002–13 (Figure 1) and supplemented by interviews of forestry officials.

Figure 1. Study sites

Prepared by Dang Viet Quang, 2013.

The Dong Bac company in Lang Son province

This was established immediately after Vietnam's independence in 1954 to produce wood from natural forests for coal mines in sparsely populated and remote ethnic minority areas.² When ethnic Vietnamese immigrants arrived in the 1960s, they settled on land that formally belonged to the company and eventually asserted customary rights to that land. By 2009, villagers were using 78% of company land for cassava and tree plantations. The company stopped harvesting the trees it had planted for fear that villagers would encroach on more land as soon as harvesting was finished. Locals complained about unfair sharecropping arrangements, a lack of promised technical and marketing assistance, and large plantation contracts being given to outsiders without regard to customary land rights.

No suitable conflict resolution mechanisms exist. The company indicates a willingness to transfer 12,777 ha to the local government for allocation to villagers, but to date only 1,516 ha have been transferred. Commune and district authorities are inundated with

petitions, but feel they lack the expertise and resources to mediate disputes. They also say they do not have the legal authority to deal with the FC since it belongs to Vietnam's Forestry Corporation under MARD's oversight. The situation remains deadlocked.

The Long Dai company in Quang Binh province

This company was set up in the 1960s to exploit the local forests. Today, it manages the remaining forests, both natural and planted, and engages in reforestation, timber harvesting and wood processing. In 2010 the company received a Land-Use Right Certificate (LURC) for 100,035 ha of forest land covering 96% of Truong Son commune. This left local households in Cat village reliant on government aid due to a shortage of production land. Cat villagers felt they had no choice but to encroach upon the company's land; this engendered conflict.

The company claims that the LURC gives them exclusive rights to the timber and land and renders the villagers' logging and cultivation illegal, even though villagers and the Commune People's Committee have repeatedly raised with the company the issues of the villagers' lack of productive land and dire living standards. Villagers engage in clandestine logging and cultivate fields around their houses, which technically lie on company land. In 2010, under pressure from villagers, the company transferred 1,637 ha to local households, including some in Cat village. Tensions persist, though, since the land is distant from villages and of poor quality. Villagers continue to voice their discontent, but are largely ignored.

M'Drak company in Dak Lak province

This was established in 1975. Today it manages 26,769 ha of natural forest, tree plantations and barren land, for which it received a LURC in the late 1990s. One of the five communes bordering the company's land is Krong Jing. About 70% of Krong Jing's residents are indigenous or recently arrived ethnic minority immigrants. Villagers rely on agricultural production, yet most land around the village is classified as FC forest land and is unavailable for household cultivation. Today, six of the commune's fifteen villages grow crops on the company's land, even though the practice is illegal. Ongoing immigration adds to the pressure. The company has stopped plantation harvesting in some cases, concerned that villagers will encroach on the land after harvest.

To maintain control over the land, the company contracted approximately 1,000 villagers to work with them under sharecropping arrangements. However, most households violated their contracts and planted cassava or sugarcane for their own income instead of trees. The 3,000 ha of land that was transferred by the company as part of a restructuring program in 2007 was reserved by the District People's Committee for lease to private companies. This produced a strong outcry among villagers and encouraged them to encroach on the company's land. The company called for local authorities to back their legal claims to the land, citing the LURC. District officials say they lack the financial and technical capacity to allocate land and resolve disputes, but they support the company's efforts to enforce compliance with their legal land rights. Local officials and company

staff visited households, asking them to stop cultivating and defer to company contracts for the planting of trees. Only some households complied with this request.

Loc Bac company in Lam Dong province

This was established in 1975, around the same time as a state resettlement project that helped immigrants build houses and open agricultural fields on land that formally belonged to the company. In 2000, the construction of the Dong Nai hydro-electric power plants brought improved local roads, allowing villages to shift to agro-industrial crops for export, such as tea, coffee and cashews.

Today, 25% of all households lack productive land and conflicts flare. Provincial authorities converted 5,000 ha of forestland managed by the company (about 25% of the company's total land) to agriculture and then leased this land to 19 rubber companies. In principle, forest conversion is allowed only in degraded or poor-quality forests. However, large volumes of timber were taken out of forests that were reportedly not degraded, triggering villagers' anger. Villagers continue to request 5,000 ha of land for cultivation. Bao Lam Rubber company, one of those that received land for rubber plantations, has seen villagers carve out small coffee and cassava plots. Land conflicts have increased in number and intensity, as observed by To et al. (2013).

Analysis of the case studies

The four case studies suggest that several issues predominate:

- The spatial extent of conflicts is larger than indicated by government statistics, covering a significant portion of the 2 million ha under formal FC control. One FC alone reports conflicts over at least 17,000 ha.
- Competition for land — more than for timber — lies at the core of these conflicts, although this may reflect the depletion of timber in these areas. The lack of access to productive land fuels villagers' insecurity over basic subsistence and deeper frustrations with the company and, more broadly, the government.
- The provisions in company reforestation contracts, coupled with lack of support from the company, cause local resentment about benefit-sharing arrangements for forest product harvesting, land allocations or contracts being given to outsiders, dissatisfaction with the support received from the company and restrictions imposed on agricultural uses of the land.
- A sense of injustice is the trigger for most land conflicts. Villagers are more likely to oppose companies if they feel their customary rights to land or livelihood are being violated and/or they perceive that land is unfairly allocated to outsiders (e.g., private companies).
- Authorities lack effective mechanisms to address land conflict at the local level. Even where FCs agree to transfer land to villagers, transfers are often stalled because a) local authorities lack the human and financial resources for implementation, b) land is given to private companies, or c) land is too distant from villagers or is not productive. LURCs have been ineffective in resolving conflicts since they are often issued without due diligence and they ignore established land uses by villagers as well as their customary rights to forest land.

Implications for FLEGT and REDD+

Forest conflicts undermine the potential of FLEGT and REDD+ to achieve their primary objectives: legal timber harvesting, processing, domestic sales and export as well as maintaining and increasing carbon stocks in forests. In fact, FLEGT and REDD+ could even aggravate these conflicts if conflict-resolution processes are not designed and implemented effectively. The following challenges may occur:

- Inability to demonstrate the legality of wood products from contested lands for domestic consumption or EU export, as required under the FLEGT VPA. At the very least, the conflicts may deter retailers who want to avoid any controversy associated with wood products. Villagers, for example, cannot produce “legal wood” if they are not recognized as legal landholders on forest land. Companies, in turn, may be the legal land-holders, yet be unable to grow trees due to encroachment by villagers. Local communities contest the LURCs granted to FCs due to lack of prior consultation or consideration of preexisting claims on land. The M’Drak company has been unable to be certified by the Forest Stewardship Council, in part for these reasons.
- Inability to demonstrate sustainable forest management for carbon stocks while meeting local livelihood needs, in line with REDD+ safeguards. The clearance of land for agricultural crops (subsistence or otherwise) or rubber plantations does not increase carbon stocks, but leads instead to further degradation. In addition, the failure to recognize villagers’ customary rights and promote participatory decision-making may prevent global financing due to non-compliance with REDD+ safeguards.
- a potential increase in conflicts due to the increased value of land, either from increased access to EU and potentially other markets or new sources of income for forest management from REDD+ funding mechanisms.

Recommendations for FLEGT

The Vietnam FLEGT VPA process should facilitate a review process for the forest sector. This could facilitate the resolution of many of these longstanding land conflicts, particularly during the development of a national legality definition and Timber Legality Assurance System (TLAS). Vietnam’s VPA process would need to prioritize several issues within a legality definition process or TLAS.

Clarification of forest tenure rights

This is especially important with regard to the framework for legal timber. This would include clarification of who holds the rights to forest land and resources, particularly in situations where LURCs conflict with land use or customary rights. Furthermore, conflicts prevent more LURCs from being issued across the country, yet no wood producer can produce demonstrably legal wood without an LURC. This calls for a reform requiring existing LURCs to be accompanied by some sort of proof that adequate consultation has taken place, or a nationwide initiative to review forest tenure, conflict resolution and

mandate the inclusion of Free Prior Informed Consent (FPIC). An enabling framework should be established for civil society organizations (CSOs) to monitor and facilitate all LURC processes.

Perceived injustices associated with reforestation contracts

Villagers often perceive sharecropping arrangements and the allocation of contracts to outsiders or local elites as unjust. Even when contracts comply with laws and regulations, conflicts impede producers from obtaining LURCs or producing wood products that are free from controversy. Options for resolution include accepting such contracts only if they comply with minimum standards for the protection of villagers' rights and interests. Standards could include obtaining FPIC before contracts are signed, monitoring of compliance (supported by TA and training of FCs and CSOs), and allowing media coverage of conflicts.

Implications for REDD+

Conflicts between villagers and FCs will directly affect the success of the REDD+ Action Plan in Vietnam and could undermine planned support from the Forest Carbon Partnership Facility. The Vietnam REDD+ Action Plan would need to place a priority on at least four critical issues to lay the foundation for successful implementation:

- address conflicts leading to forest conversion;
- ensure that rubber plantation projects³ respect land rights and encourage smallholder rubber schemes;
- improve forest management practices by forest companies;⁴ and
- implement Cancun safeguards.

Address conflicts leading to forest conversion

FC land is often encroached on due to villagers' subsistence and income needs. Villagers sometimes feel that land encroachment for agricultural production is the only option that allows them to benefit from forest land. Any effort to contain agricultural uses and enhance carbon stocks in the landscape, therefore, must involve villagers to avoid risking failure or further impoverishing them. FCs and villagers should both be involved in the development of carbon-rich landscapes on the basis of existing use and customary rights, which may have to be preceded by a land claims process.

Ensure that rubber plantation projects respect land rights and encourage smallholder rubber schemes

Provincial authorities have allocated presumably underused or degraded forests to private rubber plantations. This has caused negative — sometimes violent — reactions from and impacts on villagers who claim prior use of (and hence rights to) the land. The development of these plantations will likely stall unless customary rights are provided for, or company-community partnerships for rubber plantations are developed that make available unclaimed land and follow FPIC processes.

Improve forest management practices by forest companies

Due to conflicts over land use, FCs cannot be assumed to be effectively managing all the forest land officially listed in their LURCs. Any efforts to assist FCs to obtain global funds for climate change mitigation through high-carbon-offset management of tree plantations will need to involve villagers as active participants. They must have a central role in efforts to improve the management of degraded forest lands, and will likely need to be included in any land claims process.

Implement Cancun safeguards

REDD+ affirms the value of local knowledge and the rights and local people to be informed and consulted on REDD+ actions, but pays less attention to local peoples' forest tenure or customary rights. Stakeholders, particularly local communities, should be involved in the design and implementation of REDD+ actions. While implementing the National REDD+ Action Plan, the Vietnamese government is committed to Cancun Safeguard 4,⁵ and it is now time for FPIC to be integrated into institutional commitments and monitored during REDD+ implementation.⁶ Existing procedures under Vietnam's Decree on Grassroots Democracy fail to ensure meaningful participation in public decision-making. The implementation of the Action Plan can support the safeguard processes to address forest tenure issues, particularly conflicts between FCs and villages. It can also support the independent monitoring of safeguard implementation. This may include expanding procedures under the Decree on Grassroots Democracy to include FPIC and enabling independent organizations to conduct and monitor FPIC stakeholder consultations to implement Cancun Safeguard 4.

Conclusions

FLEGT and REDD+ can offer opportunities for overcoming conflicts between villagers and forestry companies only if they find ways to address villagers' perceptions of injustice. Cooperation between FCs and villagers will not only benefit FLEGT and REDD+, it will directly contribute to improving Vietnam's forest governance in the long run. However, turning conflict into cooperation requires the Vietnamese government to undertake a thorough assessment of the legal and regulatory framework applicable to forest tenure and FCs. It must also more broadly assess existing forest-related law enforcement and coordination between forest and forest-related agencies (e.g., land, rubber, coffee). In particular, fair solutions to forest conflicts need to be locally specific. Uniform, top-down solutions may not address the injustices experienced by villagers in each community, and may even become a new source of injustice. Legal and regulatory reforms will have to support the emergence of cooperative solutions from the ground up.

Acknowledgement

This article summarizes the findings of longer reports and case studies: *Conflicts over Forests in Vietnam: Implications for FLEGT and REDD+* (forthcoming, Forest Trends) and *Land Conflicts between Forest Companies and Villagers* (To et al. 2013). These reports sought

to estimate the extent and scope of forest land conflicts, as well as assessing structure, underlying causes and economic and political ramifications.

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Endnotes

1. Vietnam's 2009 Strategies for Rubber Sector Development (until 2015) and Vision (until 2020) call for a rapid expansion of rubber plantations, often at the expense of the forest. A detailed description of forest conversion into rubber plantations and its socio-economic and environmental impacts can be found in *Chuyen doi rung sang trong cao su tai Viet Nam* (Forest conversion into rubber plantation in Vietnam) by To Xuan Phuc and Tran Huu Nghi (2013).
2. Vietnam has a total of 54 ethnic groups; the Kinh/Vietnamese group is the most prominent, accounting for 80 per cent of the total population of 88 million people. The remaining groups are ethnic minorities, most of whom live in remote mountainous areas.
3. The UN-REDD Programme for Vietnam plans interventions in four pilot provinces to convert degraded natural forest to rubber plantations (11,000 ha, potentially affecting 92,000 households).
4. The FCPF aims to support the reform of FCs, allowing them to obtain global funds for climate mitigation through high-carbon-offset management of tree plantations.
5. Safeguard 4 in REDD+ promotes and supports the full and effective participation of relevant stakeholders, in particular indigenous peoples and local communities.
6. For example, Output 2.3 of the UN-REDD proposal for Phase 2 in VN does not specify indicators for measuring local stakeholder participation in the development of site-based or provincial REDD+ Activity Plans, or indicate how participation will be monitored and evaluated.

Reference

MARD 2013. Decision 1739 dated 31 July 2013 on the Country's forest status until 2012.

Nguyen Van Dang. 2001. *Lam nghiep Viet Nam 1945–1950* (Vietnam Forestry 1945–2000). Hanoi: Agriculture Publishing House.

To Xuan Phuc and Tran Huu Nghi. 2013. *Phat trien cao su va bao ve rung o Vietnam* (Rubber development and forest protection in Vietnam). Hanoi: Forest Trends and Tropenbos International Vietnam.

To Xuan Phuc, Phan Dinh Nha, Pham Quang Tu and Do Duy Khoi. 2013. *Mau thuan dat dai giua cong ty lam nghiep va nguoi dan dia phuong* (Land conflicts between state forest company and local villagers). Hanoi: Forest Trends and CODE.

Vietnam Administration of Forestry. 2012. *Bao cao tong ket thuc hien Nghi quyet so 28-NQ/TW cua Bo Chinh tri ve sap xep, doi moi va phat trien Lam truong quoc doanh* (Synthesis report on the implementation of Politburo's Resolution 28/TW on Structuring, Innovation, and Development of State Forest Enterprise). Hanoi.

World Bank. 2011. *Compulsory Land Acquisition and Voluntary Land Conversion in Vietnam*. Hanoi.