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Effective protection and regeneration of natural production forests in Vietnam

Policy Brief

Central Argument

The governance of *natural* production forests has evolved in the decades following Đổi Mới, including through increased engagement of private actors (e.g. “socialization” through forest allocation and leasing), reform of state forest companies, and financial incentives for protection by local stakeholders of local people (e.g. protection contracts and PFES). However, the results of these governance changes have fallen short of expectations. Indeed, most of the 3.9 million hectares (ha) of natural production forests in Vietnam are today severely depleted¹. In reaction to the continued deforestation, encroachment and illegal logging of natural forests, the Prime Minister imposed a nation-wide temporary logging ban starting in 2015². Moreover, the *Central Committee of the Communist Party* – the highest public authority in the country – issued a scathing directive in January 2017³ blaming authorities at various levels for these failures and calling for urgent action, including a halt to all logging in natural forest (i.e. Directive #13).

With the imminent expiration of the temporary logging ban at the end of 2020, now is the time for Vietnam’s policy makers to discuss and define the future financial and management models for the country’s natural

production forests. Indeed, the achievement of Vietnam’s international commitments on climate change arguably depends on the successful protection and regeneration of the country’s natural production forests.

This policy brief makes the argument that rather than anticipating successful protection and regeneration of natural forests through continued logging bans and an increased reliance on enforcement, policy makers may in fact be more successful in achieving their goals by strengthening the sector’s praiseworthy management and financing mechanisms that have emerged in recent decades. Specifically, this involves (i) improving these mechanisms in order to ensure that they *provide the right incentives to forest owners and authorities* for the protection and regeneration of natural production forests, and (ii) complementing them with measures to *hold the actors accountable for their performance*. Certainly, Directive #13 and the new Law on Forestry provide the opportunity to further continue to evolve forest governance mechanisms based on increased *engagement, accountability* and appropriate *incentives* for various forest stakeholders.

The policy brief (1) provides background information on the state of natural production forests and the commitments and goals of Vietnam for these forests;

¹ “As of 2010, over two thirds of Viet Nam’s natural forests are considered poor or regenerating.” Source: MARD, 2016. *Viet Nam’s Submission on Reference Levels for REDD+ Results Based Payments Under the UNFCCC*.

² PM Decision 2242/2014/QĐ-TTĐ approving the scheme for strengthening the management of natural forest 2014 -2020

³ Directive 13 on enhancing the Party’s leadership in forest management, protection and development (January 2017)

(2) describes some of the key elements of today's governance of natural production forests, and the limitations of these; (3) provides a rationale for why a continued logging ban is not desirable; and (4) proposes some key considerations for adapting the existing forest sector management and financing mechanisms in line with Directive #13.

Background

The state of natural production forests

The total forest area in Vietnam is ca. 14.4 million ha, of which more than 10.2 million ha are natural forests. Production forests cover approximately 6.7 million ha, of which 3.9 million ha are natural forests and 2.8 million ha are plantations⁴. Of the natural forests, only 5% are categorized as "rich" and 17% as "medium" in quality; 73% are "poor" quality because of decades of overexploitation⁵ (MARD 2014). Only 4 of more than 70 forest management units operating in natural forests achieved certification by 2017⁶ (total area certified: ca. 88,000 ha). Much of the exploitation of the natural forests occurred prior to the 1990s when timber was an important source of foreign exchange for food and other vital imports. The volume of timber harvested in natural forests has steadily declined over the past decades, even preceding the current logging ban in natural forests: commercial production declined from about 1 million m³ in 1990 to 200,000 m³ in 2011⁷.

National objectives and commitments

The protection and regeneration of natural production forests is not just a policy goal of the sectoral ministry but represents a key element of Vietnam's international commitments. The national goals and international commitments relevant to natural production forests are further described below:

National Determined Contributions (NDCs): According to the commitment of Vietnam to the Paris Agreement on Climate Change, the protection and regeneration of natural forests is expected to contribute 19% of Vietnam's overall "unconditional" reductions in greenhouse gases by 2030 (i.e. without international support), and 27% of Vietnam's "conditional" reductions (i.e. with international support)⁸. This is an extremely high proportion of the country's overall emission reductions! This is to be achieved, as per the NDC Technical Report, by protecting 1 million ha of

natural forests in an effective manner and regenerating 200,000 ha of natural forests unconditionally by 2030 (with international support the numbers are 2,2 million ha protected and 200,000 ha regenerated)⁹. Considering that natural *production* forests represent > 40% of natural forests and that these are amongst the most depleted and vulnerable forests, it is fair to say that the success of Vietnam in meeting its international pledge to contribute to mitigate climate change depends on the regeneration and protection of natural production forests.

National Action Plan for the Implementation of the 2030 Sustainable Development Agenda: While the Action Plan doesn't have specific goals related to natural production forests, the target includes these forests: "strengthen the implementation of sustainable management of forests of various types, halt deforestation, restore degraded forests, promote afforestation and reforestation, increase the forest cover to approximately 44 – 45% of the country's land area by 2030" (Target 15.2).

Target Program for Sustainable Forest Development 2016-2020 (PM Decision 886/2017/QĐ-TTg): Vietnam's forest sector target program aims at improving the productivity, quality, and value of forests; and contribute to climate change adaptation and livelihood improvement. Targets include the restoration of 15% of poor natural forest by 2020, regeneration of 360,000 ha of natural forest per year, and the reduction in forest violations by 30-35% compared to 2011-2015 by 2020.

National REDD Action Plan by 2030 (PM Decision 419/QĐ-TTg): One of the Policies and Measures (PAM) is to "pilot, evaluate, and replicate sustainable management models of natural production forests." As key output is foreseen that 400,000 ha of natural production forests are "enhanced" (PAM 4.2.2 (a)). Another PAM is to "support civil society organizations, professional associations linked to forest owners, farmers and local communities to organize and access information in order to manage, protect, develop and use forests effectively, and prevent forest law violations" (PAM 4.1.4 (e)).

Governance of natural production forests and existing limitations

⁴ MARD Decision 83/2016/QĐ-BNN-TCLN approving the proposal for the implementation of sustainable forest management and forest certification for the period 2016-2020

⁵ MARD, 2016. *Emissions Reduction Program Document*

⁶ Dak To in Kon Tum Province (2014) Truong Son/Long Dai in Quang Binh Province (2014), Dai Thanh in Dak Nong Province (2015) and Huong Son in Ha Tinh (2016)

⁷ VNFOREST. "Models on Sustainable Forest Management in Vietnam." Presentation made during the Forest Sector Support

Partnership Annual Review Meeting, Hanoi January 2011. Cited in: EFI, Baseline Study 3, VIETNAM: Overview of Forest Governance and Trade (2011).

⁸ Relative to business as usual

⁹ C.f. Options F1 and F4 (unconditional) and F6 and F8 (conditional). MONRE, 2015. *Technical Report: Vietnam's Intended National Contribution*.

A full analysis of the evolving governance of natural production forests in Vietnam is beyond the scope of this briefing, however, some key developments are briefly described below, including reflections on their limitations. The main observations are that whereas laudable changes were introduced in recent decades, the governance system doesn't sufficiently provide *incentives* for effective protection and regeneration of natural production forest; and that measures to hold forest owners, state authorities or contracted parties *accountable* for their performance have been weak or missing. The observations are not new¹⁰ and are generally in-line with the failings of the system described by Directive #13 (see Box 1).

Box 1: Excerpts from Directive #13 regarding limitations in forest governance

"...the main cause of [deforestation, encroachment and illegal exploitation] were limitations and inconsistencies in the awareness and responsibilities of many executive committees, organizations, authority, officials, Party's members and people working in forest management, protection and development, and the wrong mindset of compromising sustainable development for immediate economic benefits."...

"Some executive committees, Party organizations and local governments do not pay enough attention to this issue, thus are not stringent enough in the management of forest, and become undetermined in the leadership, instruction, inspection, supervision and handling of violations in forest management, protection and development."

– Central Committee of the Communist Party. "Directive #13" (January 2017)

The reform of forest companies: Nearly one-third of natural production forests are managed by State Forest Companies (SCFs) (ca. 1.1 million ha). SCFs have been subject to an ongoing reform process since 1990 to address their apparently ineffective land use, low economic performance as well as persisting land conflicts with local communities. This reform process aimed to promote the economic performance of SCFs and reduce their dependency on public budgets, but has arguably focused more on the legal status of the SCFs rather on their operations and management. The continued use of short 5-year planning-cycles and manager appointments – combined with the limited authority of managers to reinvest forest revenues – have arguably not created the incentives for the investments and operational decisions required for long-term sustainable management¹¹. Moreover,

SFCs have rarely been held accountable for forest regeneration.

The allocation of forest user rights to households and communities: Starting in the late 1980's user rights to natural production forests were allocated to local entities, including communities and households. In addition to SFCs, "forest owners" now include private forest companies, Commune People's Committees (CPCs), communities and households. Significantly, households have user rights to > 1.4 million ha of natural production forests (equivalent to 36% of production forests). Communities have user rights to an additional 1 million ha of natural forests, most of this production forests. However, local beneficiaries were often allocated depleted forests in remote areas for which the costs of regeneration and protection is extremely high¹², and they are also not guaranteed any of the benefits of their efforts in 50 or more years' time. Moreover, households and communities were hardly ever held accountable for the effective protection of the forests. In sum, local forest owners generally did not have the capacity nor the incentives to effectively regenerate and protect these forests from encroachment and illegal logging.

Table 1: Overview of production forest user rights (MARD 2017)

Forest owner	Natural production forests	
	ha	%
Households	1,409,911	36
State Forest Companies	1,173,228	30
Communities	?	?
CPCs	?	?
Others	?	?
Total area	3,905,504	100

The disbursement of financial incentives for reforestation and protection: In the 1980s the government instituted large financing mechanisms, including the former Programme 661 ("5 Million Hectare Reforestation Programme") to promote reforestation by communities and households (often with exotic species). Based on this model, the Payment for Forest Environmental Services (PFES) system finances forest owners for the maintenance of existing forest cover. However, the payments are rarely actually conditional on the effective protection of forests, and the system is not designed to provide incentives for sustainable management or forest regeneration (but only for the maintenance of forest cover). Moreover, the annual per hectare PFES payments have on average not been significant enough to compensate required protection efforts. In sum the sector's main financial mechanism arguably

¹⁰ C.f. MARD, 2016. *Emissions Reduction Program Document*. UNREDD, 2016. *National REDD Action Plan Options & Issues paper*

¹¹ Pham Xuan Phuong, Doan Diem, Lê Khắc Côi, Le Hong Hanh, Tran Quang Bao, Nguyen Quoc Dzong, 2013. *Review of the 10*

year implementation of the Forest Protection and Development Law 2004. Vietnam Forest Sector Support Partnership (FSSP)

¹² idem.

does not effectively provide incentives to various forest owners to protect or regenerate natural forests.

The use of protection contracts with local populations: “Protection contracts” with local households were also introduced in the late 1980s to complement the work performed by rangers and forest companies. However, annual payments per hectare have generally been quite small and arguably not sufficient to compensate populations for effective protection. Moreover, protection contracts fall short of actually providing households a stake in the successful protection of the forests. Indeed, contractors are generally paid to “patrol” the forests, but payments are not conditional on their actual performance. Protection contracts also do not engage communities in the actual management of forests, nor provide them with benefits from successful protection. Again, local populations are not held accountable for performance and incentives for actual protection and regeneration remain limited.

The monitoring of forests and forest management: The capacities of the state forest governance apparatus from central to local levels for monitoring both the forests and the effectiveness of forest management has steadily increased in recent decades. The main indicator used for monitoring forests and management are “forest cover,” followed by “number of violations” and “hectares restored and reforested” (Note: these are also the indicators of the Target Program). The quality or intactness of the forest was generally not monitored at higher levels of authority, and thus the gradual degradation of forests and encroachment by agroforestry crops could continue unperceived by higher authorities. Furthermore, the fact that the numbers reported by districts and provinces were not independently verified – nor accessible to the public for verification – created disincentives for accurate reporting. As a result, the accountability (i.e. rewards and sanctions for performance) of state authorities at different levels has been very incomplete. In many cases sanctions are only issued when grave violations are reported by the media.

The reorganization of forest companies: The most recent approach towards SFCs is to split these into two categories based on the quality of their forests. Indeed, authorities have recognized that certain forests are too degraded to be harvested in the short to medium term. As per the implementation of Prime Minister Decree 118¹³ of December 2014, an estimated 10 - 15 SFCs operating in natural forest have enough “rich” to “medium” forests to continue with timber production in the future. However, due to the poor quality of their forests most SFCs (> 50) will undergo “re-organization” away from “timber

production” towards “service provision.” Whereas this reorganization could have very positive effects on the protection and regeneration of natural production forests, it is still unclear what “public services” these forests will provide, how they will be sufficiently funded and how the managers will be held accountable for their performance.

The potential and limitations of logging bans

It has now become clear to the national authorities that the mechanisms for forest governance which were implemented in the recent decades have fallen short of expectations. One of the immediate and most visible reactions has been the temporary logging ban in natural production forests instituted by the Prime Minister as well as the issuance of Directive #13. Logging has now been banned at least until end of 2020 irrespective of the quality of the forest (i.e. rich, medium or poor), the forest management approach (i.e. certified sustainable or not), or the ownership (i.e. community, household, company or other). In other words, the sector’s emerging governance approach based on engagement, sustainable management, and incentivization of stakeholders has been placed on hold.

The rationale provided for the blanket logging ban is that it should serve to stop illegal logging and allow forests to recover. (If logging is illegal it is indeed theoretically easier to identify timber of illegal origin and apply sanctions to violators). However, there are inherent drawbacks to such an approach, including the following:

- *Extremely limited impact on forests’ recovery:* Forests take decades to recover. A temporary logging ban of a few years as instituted will therefore by design have little to no effect on the recovery of the forests. Accompanying measures would be required to accelerate the regeneration of forests.
- *Strong disincentive for sustainable forest management:* The closing of all forests to timber harvesting irrespective of the applied management approach douses all efforts by forest owners to manage their forests sustainably. Already one of the four certified SFCs has not renewed its certification which was terminated in May 2018.
- *Weakened incentives for protection and regeneration:* Vietnamese policy makers have recognized that the state does not have the

¹³ Decree 118/2014/NĐ On Agriculture and Forestry Companies classification, innovation, development and improvement

capacity to protect or regenerate the forests on its own. Hence the allocation of forests to households and communities with the expectation that they manage them sustainably. However, when forest owners cannot extract timber from their forests (and when the incentives for protection, incl. PFES and protection contracts are generally not sufficient), forest owners may be inclined to abandon their forests to illegal logging and agricultural encroachment.

- *Strong reliance on enforcement:* The logging ban by design depends on effective enforcement, notably actions against illegal logging. However, according to Directive #13, enforcement is weak. Fundamental changes in the accountability and incentive mechanisms of the state apparatus would arguably then have to be successfully implemented first.
- *High costs to local forest owners:* Following the allocation process, households and communities are today responsible for a 60% of natural production forests. Whereas SFCs may still be able to protect their forests against illegal logging (and also theoretically receive some compensation to do so), the local forest owners are unlikely to be able to cover the cost of protection without the revenue or benefits from timber exploitation – unless the revenue from PFES, protection contracts and other subsidies increase substantially.
- *Unclear impacts on illegal logging:* Previous studies have shown that whereas the logging ban did put a stop to regulated commercial logging by SFCs and even communities, the impacts of the ban on illegal logging are unclear¹⁴. There is a risk that illegal logging (and imports of illegal timber) will take the place of commercial logging in order to meet the market demands for natural timber.

In sum, a continued blanket nation-wide logging ban in natural production forests post-2020 is arguably not a sufficient nor a desirable solution for the protection and regeneration of natural production forests. Instead, resolving the limitations of the forest governance mechanisms based on increased *engagement, accountability* and appropriate *incentives* for various forest stakeholders – in-line with Directive #13 – is likely to be much more effective.

Key considerations

Vietnam is faced with a formidable challenge to protect and regenerate its natural production forests in order

to meet its national objectives and international commitments. The question of what of management and financing structures will serve to achieve these objectives remains unanswered. The sector has made significant governance reforms in the past, but the forests continue to be depleted. This policy brief offers some considerations which could serve to inform open policy discussions involving various stakeholders. The considerations place an emphasis on the central ideas of (i) strengthening management and financing mechanisms in order to ensure that they *provide the right incentives to forest owners and authorities*, and (ii) complementing them with measures to *hold the actors accountable for their performance*. These ideas are also in-line with Directive #13 which calls for “*incentive mechanisms and creating favorable conditions for participation of individuals and enterprises*” and raising “*the ownership of local authorities by making them bear direct responsibility when unable to prevent forest damage.*” The key considerations include the following:

Logging under certain conditions would create incentives for the protection and regeneration of richer forests: Of the ca. 3.9 million ha of natural production forests, about 800,000 ha are of rich or medium quality. Allowing sustainable logging in these forests would create a strong incentive for forest owners to protect them against illegal logging and agricultural encroachment, and to invest in their long-term regeneration. The requirement for SFCs to be internationally certified (as per Prime Minister Decision 2242) would further serve to mobilize certifying bodies to complement the control performed by verification authorities. However, additional favorable policies are required in order for forest owners to adopt sustainable forest management practices and certification (see Policy Brief: *Overcoming barriers to sustainable forest management in natural production forests*, January 2019).

Owners of depleted forests need additional financial incentives for protection and regeneration: Revenues from sustainable forest management (i.e. harvesting) will not be a sufficient incentive for owners of severely depleted forests to ensure their regeneration and protection from illegal logging and agricultural encroachment. These forests will require investments which forest companies, communities and households will not be able to finance from forest revenues alone. The present PFES and forest protection resources are not sufficient. The process has begun to reorganize SFCs, but the financing mechanisms and performance requirements for these owners are not yet clarified. Similarly, financing and performance monitoring models for the

¹⁴ MARD/GIZ, 2017. *Report: Assessment of the policy impacts of the temporary logging ban in natural forests*. By UNIQUE Forestry and Land Use GmbH

forests owned by communities and households would have to be developed to ensure their regeneration. Large state subsidies and long-term loans will undoubtedly be required, but expanded markets for ecosystem services may also contribute to financing their recovery.

PFES would need to be reoriented and matched with performance monitoring in order for it to provide incentives for forest regeneration: By design PFES is currently oriented to reward the maintenance of forest cover, rather than to reward sustainable management and regeneration of forests. Moreover, PFES resources are largely disbursed through protection contracts based on patrolling efforts, the effectiveness of which for forest protection is uncertain. There is a strong argument to instead use the PFES resources to provide incentives and reward efforts for the sustainable management of natural forests (e.g. higher payments for certified forests) and for the regeneration of natural forests (e.g. payments for assisted regeneration efforts). Such a reorientation of resources would have to be matched by appropriate and transparent performance monitoring mechanisms – ideally aligned with emerging REDD+ monitoring mechanisms.

To incentivize local populations to protect forests they would need to have a stake in the success of their management: The classic protection contract model with households (widely used for the disbursement of PFES resources) has arguably often been ineffective. If this model is to be effective there is a need to transition from contracting to actual involvement of communities in management, including the development of regimes for access to timber and non-timber resources. Subsidies and PFES payments could be used not only to recompense individual efforts, but to organize community-based protection, regeneration and management. Again, monitoring systems are required. The adoption of participatory monitoring and evaluations tools to assess, for example, the change in forest quality would further strengthen the responsibility of local populations in management of their forests.

Opening forest data would serve to increase accountability of forest owners and government authorities: Directive #13 calls for “strengthening the supervision by the people, community and mass media in forest protection.” (see also NRAP PAM 4.1.4 (e) cited above). Indeed, the state has accepted that it cannot monitor the forests on its own, but that communities, individuals and organizations play a role. Yet national information on the forest sector has not been accessible to NGOs, research institutions or other interested parties. Making data from the forest data management system public would allow other actors to play a role in identifying and reporting irregularities and thereby contribute to hold owners and authorities accountable. Vietnam has made

commitments in this direction as part of the Voluntary Partnership with the EU on Forest Law Enforcement Governance and Trade (VPA – FLEGT).

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