

**Ministry of Agriculture and Rural
Development**
FCPF

**Process Framework for Emission Reduction
Program (ER-P)**

August 2018

Contents

- 1 OVERVIEW 3**
 - 1.1 PURPOSE AND PRINCIPLES 3
 - 1.2 VIET NAM LEGAL FRAMEWORK 3
- 2 PROGRAM IMPACTS 6**
- 3 ELIGIBILITY OF TARGET GROUP 7**
- 4 LIVELIHOODS RESTORATION AND DEVELOPMENT 8**
 - 4.1 BENEFIT SHARING MECHANISMS (INCLUDING NATURAL RESOURCE USE AGREEMENTS COVERING USE OF FOREST RESOURCES) 8
 - 4.2 PARTICIPATORY PROCESS 9
 - 4.3 OTHER ALTERNATIVE LIVELIHOOD 9
- 5 IMPLEMENTATION ARRANGEMENT 10**
 - 5.1 CENTRAL LEVEL 11
 - 5.2 PROVINCIAL LEVEL 11
- 6 GRIEVANCE REDRESS MECHANISM 12**
 - 6.1 FEEDBACK AND GRIEVANCE REDRESS MECHANISM 12
 - 6.2 UN-REDD FEEDBACK GRIEVANCE REDRESS MECHANISM 15
- 7 MONITORING AND EVALUATION 17**

1 Overview

1.1 *Purpose and principles*

The Process Framework addresses the eventuality that the program objective of REDD+ and conserving important biodiversity, as documented in the prescribed REDD+ Needs Assessment, necessitates reduction of present uses of natural resources in a given Protection Forest Management Board (PFMBs), Special Use Forest (SUFs) and State Forest Companies (SFCs) and sometimes referred to as simply Forest Management Enterprises (FMEs).

The purpose of the Process Framework is to establish a process by which communities potentially affected by restricted natural resource access to the protection forest which are under the management authority of an FME engage in a process of informed and meaningful consultations and negotiations to identify and implement means of reducing or mitigating the impact of restricted resource access. This will involve a REDD+ Needs Assessment and Social Screening Report, known as the SERNA (Socio-Economic and Environmental REDD+ Needs Assessment).

The PF is prepared to comply with the World Bank policy on involuntary resettlement (OP/BP 4.12) and GoV's laws and regulations. The PF provides guidelines for the development of Action Plans during project implementation that:

- Define the restrictions of access to natural resources in protected areas;
- Identify and quantify the impacts that those restrictions may have on different segments of the local communities;
- Propose, implement and monitor remedial measures to compensate for the loss of those assets and the income associated with them;
- Provide grievance redress mechanisms in order to resolve any issues that may arise due to restrictions of access to resources over the course of the program.

1.2 *Vietnam Legal Framework*

The Constitution of the Socialist Republic of Vietnam (2013) recognizes equality between and among all ethnic groups in Vietnam. Article 5 of the Constitution states *inter alia* that:

- (i) Socialist Republic of Vietnam is the unified state of all nationalities living in the country of Vietnam.
- (ii) The nationalities are equal, united, respect and help each other to develop; prohibits any discrimination, ethnic division.
- (iii) The national language is Vietnamese. The nation has the right to use voice, text, preserving the national identity, promoting traditions, customs, traditions and culture.
- (iv) The State implements a comprehensive development policy and creates reasonable conditions for the ethnic minorities to mobilize resources, along with the development of

the country.

Pursuant to the Constitution, the national economic, social and cultural policies have taken special consideration to the EMs in the mountainous and remote regions. Accordingly, the GoV has developed a series of policies to develop, enhance socio-economic condition of EMs, especially for the extremely difficult districts/communes. The national Socio-Economic Development Strategy (SEDS) and Socio-Economic Development Plan (SEDP) specifically call for attention to the EMs.

Two current major programs targeting EM people include Program 135 (infrastructure in poor and remote areas) and Program 134 (provision of structurally sounder residential houses). After the Program 134 and the Program 135 Phase 1 and Phase 2, the Government has launched Program 135 Phase 3 to enhance socio-economic development in poor communes located in mountainous areas or areas inhabited by EMs. In addition to the overall development programs for EMs, the Government assigned CEMA to guide provinces to prepare projects Development Assistance for ethnic groups with less than 1,000 people, i.e. Si La, Pu Péo, Rờ Mâm, Brâu, and O'Đu, some of which are found in the ER-P Accounting Area. The GoV also conducted the Rapid and Sustainable Poverty Reduction Program in 61 poor districts (Resolution 30a/NQ-CP of the Government), where many EMs live.

The Decree No.84/2012/ND-CP dated October 12, 2012 on the functions, tasks, powers and organizational structure of the Committee for Ethnic Minorities Affairs (CEMA). The Decree stipulated that the CEMA, a ministerial-level agency, performs the functions of state management of ethnic affairs in the country; state management of public services under the jurisdiction of CEMA as stipulated by law.

Along with the Decree No.05/2011/ND-CP dated January 14, 2011 on the works of EM, the Decree No.84/2012/ND-CP was issued as a legal basis for CEMA to continue concretizing guidelines and policies of the State on EMs in the period of industrialization and modernization; promote the means to unite the whole nation for the target of prosperous people, strong nation, social justice, democracy and civilization, in order to ensure and promote equality, solidarity, respect, help each other to develop and preserve the cultural identity of each ethnic minority group living in Vietnam.

The Government's documents on the basis of democracy and the participation of local people are directly related to this EMPF. The Ordinance No.34/2007/PL-UBTVQH11, dated April 20, 2007 (replaced for Decree No.79/2003/ND-CP dated July 07, 2003) on the implementation of democracy in communes, wards, and towns provides the basis for community involvement in the preparation and implementation of development plans and community's supervision. The Decision No.80/2005/QĐ-TTg by the PM, dated April 18, 2005 regulates the monitoring of community investments. Legal Education Program of CEMA (2013 - 2016) aims to improve the quality and effectiveness of legal education, awareness raising on self-discipline, respect, strictly abiding law of officials and public servants, the employees of the organizations for EMs. Policies on education and health care for EMs have also been issued.

The Land Law 2013 affirms that land belongs to all peoples, with the State representing on behalf of all peoples the ownership and management of this land. The State authorizes the land use rights to the land users through land allocation, land lease, recognition and management of land use. For the allocation of forest land the Land Law provides that allocation of production forestland, protection forestland, special use forestland for organizations, households, individuals, community; however, each type of forestland allocated for different user has different rights. Those being allocated by the State are called "land users". Land Law prescribes that land users

are issued with land use certificates, entitled to products from the investment on the land. Households, individuals allocated by the State for production plantation land have the right to transfer, convert, lease, inherit, mortgage and joint venture the value of the land area; forest allocated communities are not able to transfer, convert, lease, inherit, mortgage and joint venture the value of the land area.

The Law on Forest Protection and Development (2004), involves the State granting forest use right for the forest users through forest allocation, leasing and certification.

Households, individuals with natural forests allocated can only utilize the forests without having forest ownership, regarding plantation, the forest owners invest in the forest and through the issuance of LURCs are entitled to land user rights but these LURCs are issued under the auspices of the Land Act of 2013 not the Law on Forest Protection and Development. Forest land allocation is permitted for households, individuals, and a community but it is not a fungible asset and trees in these forests cannot be logged and the purpose of allocation is primarily for forest protection activities. Thus, it is the Land Act of 2013 that determines whether or not users of forest land are entitled to be issued with LURCs and it is very clear for both protection and special use forest land LURCs cannot be issued. Therefore, when mention is made of customary or traditional forest land ownership this is not permitted in Vietnam.

The Biodiversity Law (2008) stipulates that organizations and individuals entitled to exploitation and utilization of “biodiversity” should share the benefits with stakeholders, equalize the State benefits and organizations/individuals’, combine biodiversity conservation, exploitation and utilization and poverty reduction, ensure the livelihoods for households, individuals who legally reside in the conservation areas; stipulating rights and benefits of households, individuals legally reside in the conservation areas i.e. they can exploit legal benefits in the conservation area, participate and enjoy benefits from business and service activities in the conservation area, organizations, individuals use the biodiversity environment services should pay for the organizations and individuals providing the services. The Law creates favourable legal framework for communities living inside and near the forests, taking part in forest protection and development activities and can share benefits while these forests.

The Environmental Protection Law 2014 stipulates that the climate change management agencies are responsible for providing information, organizing activities to increase the community awareness and create good conditions for the community to take part in coping with climate change; one of the activities to manage GHG emission is sustainably manage forest resources, restore and improve forest carbon stock; establish and develop a carbon credit market in the country and participate international markets, returning the bio-diversity, and establishing environment protection fund.

The Forestry Law establishes the legal framework on forest utilization and harvesting in several legal documents such as Decision 186/2006/QĐ-TTg dated August 14, 2006 of the Prime Minister issuing forest management regulations and Circular 35/2011/TT-BNNPTNT dated May 20, 2011 of MARD providing guidance on the harvesting and salvaging wood and NTFPs and elaborates the forest harvesting for each forest owners (organizations, households, individuals and communities), by forest functions (natural forests or plantations) and by investment sources (State, forest owners, international projects). These documents regulate the use of barren land for agro-forestry production in protection forests, production forests, ecotourism based on forest ecosystem.

More recently Prime Minister issued Decision 2242/QD-TTg dated December 11, 2014 allowing for enhancing the management and harvesting of natural forests period 2014-2020. Households with natural forests allocated can extract timber for themselves, the maximum volume is 10m³/household/ton, but should not overuse the forest resources.

The Decree 75/2015/ND-CP dated September 9, 2015 on FPD mechanisms and policies, associated with fast and sustainable poverty reduction and assisting ethnic minorities for the period 2015-2020. This introduced a forest protection contract rate of 400,000VND/ha/year, whether revenue from selling carbon credits is fully used or in part, should be carefully reviewed to avoid conflict with other non-ER-P forests. Decree 99/2010/ND-CP on the Policy on PFES is the primary legislation regulating PFES in Vietnam. The decree identified the forest services for which charges must be paid (including carbon sequestration and storage), and clarified state management of PFES as well as the rights and responsibilities of forest service users and providers.

Following the Law on Forest Protection and Development (2004), Decree 05/2008/ND-CP establishes the Forest Protection and Development Fund to protect and develop forests, raise awareness and responsibility towards forest protection, and build capacity and efficiency in forest management and utilization, and financing sources include initial investment from the state budget and now, as mentioned, particularly hydropower schemes. This provides the legal basis for the Payment of Forest Environmental Services (PFES) whereby the investor is required to set aside an agreed percentage of downstream revenue to pay local communities to engage in forest protection activities in watersheds that have been impacted upon by infrastructure investments. Not all provinces in the ER-P Accounting Area, notably Quang Tri, receive any PFES payments because currently there are no hydropower projects.

As of October 2018, the Government of Vietnam has before the National Assembly a revised Forest Law that legalizes the Adaptive Collaboration Management Approach (ACMA) and the establishment of Forest Management Councils (FMC) involving both the owners/managers of the existing Forest Management Enterprises and local communities. It also reinforces the legality of the Benefit Sharing Mechanism (BSM) on which local Benefit Sharing Plans (BSP) will be prepared to ensure that existing forest-dependent households will be able to derive a range of monetary and non-monetary benefits from a range of programs including the ER-P. Finally, it is proposed that more attention is required to be paid to traditional forest users, including most importantly ethnic minority groups and especially women, is valued to a significantly greater extent than it has been to date.

2 Program Impacts

A full social assessment has been carried out during program preparation under the responsibility of MARD through the development of a strategic environmental and social assessment (SESA). Two teams of independent national and international consultants have assessed the positive and negative social impacts of the main components of the project. The purpose of the social assessment was to address the World Bank's social safeguard policies and other social and gender development issues and to recommend related improvements in the program design. The

social assessments have identified local people, including vulnerable groups, who live in the upland and mountainous forested areas of the six ER-P Provinces. It has been confirmed that some minor land acquisition activities might occur under the project, and that improved management of forests, especially SUFs, will quite conceivably result in some restrictions in resource access. The detail impacts are presented in Table 1.2 of RPF, however, the impacts are mainly: (i) Involuntary acquisitions of agricultural, and garden and encroached forest land affecting livelihood/business activities.

The PF has been prepared to deal with the affected communities or at least Affected Households who, if they participated in the establishment of the ACMA and agree to restrictions to the harvesting of NTFPs in the existing FMEs and other interventions such as extending the production cycle of tree species on land under their control (whether already legalized by virtue of their being in possession of a LURC or able to have land they are utilizing legalizable for such purposes).

3 Eligibility of target group

The individuals and communities who will be able to benefit from the Process Framework are those who utilize natural resources in/from protection forest management boards, special use forests or state forest companies that receives assistance from the ER-P and who have agreed to participate in the FMC and may be adversely impacted by improved conservation measures supported by the fund. They live (i) within an area owned by a PFMB, SUF or SFC and are affected by the improved management measures (which ideally will be positively because of stakeholder collaboration), or (ii) in the vicinity of forest owned by a PFMB, SUF, or SFC and are users of forest resources inside the special use forest affected by the improved management measures.

These communities and individuals are also defined as “displaced persons” under OP 4.12 on involuntary resettlement (Note: the residence of these persons is generally not displaced, but their access to some natural resources may be restricted). It has been agreed that physical infrastructure investments (hydropower facilities, roads, and irrigation systems) will not be undertaken in the ER-P Accounting Area, defined as the forest area under the direct control of the 69 FMEs in the six Northern Central Coastal Provinces.

Individuals and communities considered as illegal occupiers in a FME are eligible under this Process Framework as mentioned in section 1.3 of this Resettlement Policy Framework based on the existing agreement between the Government of Vietnam and World Bank and other providers of ODA.

The provisions of OP 4.10 (Indigenous People/Ethnic Minorities) have also been taken into consideration while preparing the Process Framework. More detail on ethnic minority people likely to be impacted by the ER-P are included in the EMPF.

Possible specific impacts on women are included in the Gender Action Plan but it is also recognized that women as users of the forests and in this ER-P are largely ethnic minority women so specific mitigation measures are included in both the RPF (where ethnic minority women are directly or indirectly affected by involuntary resettlement impacts) and EMPF and the ESMF.

4

Livelihoods restoration and development

4.1

Benefit Sharing Mechanisms

The overall aim of the restoration and mitigation measures is to compensate for and diversify the livelihoods of the affected persons of the forest resources restriction. The program will support the development of modalities that provide an alternative livelihood opportunity for PAPs. The process of developing these alternative livelihoods will be participatory and will be underlined by equity and community driven decision-making as per the collaborative processes embedded in the ACMA.

In many PFMBs, SUFs, and SFCs informal local-level agreements exist on what communities can and cannot collect from the protected areas, although this is not encouraged by the current legislation. This provides opportunities to develop improved methods to protect the important biodiversity resources that are the target of the Emission Reduction Program (ER-P) support, while fostering participation and sustainable resource use instead of prohibiting traditional forest uses that local forest-dependent communities have relied upon in the past and still to varying degrees still rely on.

Since the fund will provide grants of a limited amount (final amount yet to be agreed upon and subject to agreement with the Carbon Fund on 10% advance) to individual PFMBs, SUFs, and SFCs the program will generally not be in a position to fund large scale alternative income generation activities out of these small grants, although via the Benefit Sharing Program (BSP) there is the possibility that forestry-related alternative income generation activities might be funded on a community-wide basis. The Process Framework therefore focuses on alternative mitigation means that must utilize the provisions of OP4.12 as incorporated in the ER-P RPF.

The primary mitigation measure will derive from a formal Benefit Sharing Mechanism (effectively a Natural Resource Use Agreement) relating to permissible levels of natural resource use within the PFMBs, SUFs and SFCs. These agreements are a minimum requirement under the Process Framework. If an agreement on acceptable levels of resource use cannot be reached by year 3 (i.e. before the benefits from the Carbon Fund through the ERPA become available) of the program in PFMBs SUFs and SFCs supported by ER-P restrictions will not be supported by the program and a Resettlement Plan will have to be prepared by ER-P for a households that are affected by involuntary resettlement impacts, whether restrictions on access to NTFPs in existing FMEs or other impacts such as extending the production cycle of commercially harvested tree species in order to compensate for the loss of access to resources. No compensation is payable to existing FMEs but only villagers who are facing restrictions on the harvesting of NTFPs agreed upon by the FMCs of which villagers who use the forests are directly represented.

Restrictions on resource use will not be enforced prior to the finalization of Benefit Sharing Mechanisms (including a Natural Resource Use agreement relating to use of forest resources). But they can only be enforced based on the agreement reached via the FMC. It needs to be noted that all villagers have the option of neither participating in the SERNA and the ACMA and the FME. However, this non-participation will impact upon any carbon benefits payable based on quantifiable restrictions in carbon emissions.

4.2

Participatory Process

The program is totally contingent upon the systemic development of participatory approaches to natural resource management. This includes, but is not limited to, permissible levels of resource use. The Process Framework ensures that such a participatory approach is fostered under the program by setting up a set of steps and conditions that apply to each PFMB, SUF and SFC taking part in the project and to villages either contiguous with these FMEs and/or are systematically accessing forested areas to harvest NTFPs or who are physically residing in boundaries (however imprecise) delimited during the establishment of these FMEs

This will be done through ACMA approach with establishment of FMCs following the participatory processes associated with the SERNA As such, the affected community members with access restriction will be supported to mobilize themselves in order to identify viable livelihoods activities in a participatory manner. The approach will help to ensure that there is equity in the process and that all affected users including vulnerable groups, such as women, elderly and indigenous peoples, have the opportunity to become involved in and benefit from alternative livelihoods assistance being provided by the project.

EMs communities will be fully engaged and their participation promoted to define alternative livelihoods that are culturally appropriate. The project will consider their agreements reached with the participation of their local leaders supporting the preparation of appropriated material for project communication. However, to reiterate the point where restrictions on access to forest resources or extending the production cycle of commercial tree species are involved those APs must be compensated for loss of access to and use via the provisions of the RPF.

If in the event they choose to decline compensation, perhaps because they think that ER-P components such as those associated with climate-smart agriculture might benefit them then this must be clearly documented. It would be unacceptable to simply state that such APs have agreed in principle without documentary evidence in the public domain. Moreover, if these APs realize at a later date that the restrictions have had a negative impact on their livelihoods the ER-P will be required to compensate them according to the RPF.

4.3

Other Alternative Livelihoods

ER-P program has proposed the livelihood activities under Component 3. Promotion of climate smart agriculture and sustainable livelihoods for forest dependent people. Based on the empirical evidence from the SESA the ER-P will target up to 25 households in each FMC (although this will also vary on the size of the FMC and may involve larger households) who during the SERNA have been identified as being responsible to a larger extent for deforestation and degradation activities than other forest-dependent households and who will be identified for initial support. The restrictions that will be applied by agreement with the AHs will be mitigated via this component.

The interventions under this component will focus on the adoption of improved agricultural practices and diversification livelihoods of forest dependent people. These two sub-components will address the key agricultural drivers of deforestation and forest degradation and support the adoption of climate-smart and deforestation free agricultural practices in the upland and mountainous areas the ER-P provinces. It includes the promotion of climate-smart agricultural practices on about 60,300 ha of agricultural land through improved extension services and training

of households in proximity to the deforestation and forest degradation hotspots and strengthening cooperatives that engage in deforestation free commodity value chains.

The participatory SERNA will identify the most vulnerable and forest dependent actors that need to be targeted to reduce deforestation and forest degradation. Based on that, a collaborative management activity will be developed. A grant mechanism will support diversifying and sustaining livelihoods for forest dependent people of vulnerable and forest dependent communities. These efforts will be complimented with funds from current government programs targeting poorer communes (see Table 4.7 of the ER-PD) as well as PFES payments where such payments are made but these will be restricted to the accounting area where infrastructural projects generate PFES payments. This can contribute to improving the socio-economic conditions of ethnic minorities and other poorer groups while reducing deforestation and forest degradation.

Alternative livelihood and livelihood restoration programs will be developed based on the participatory processes embedded in the ACMA through the FMCs. To appropriately and adequately compensate for households that will be adversely affected by access restrictions, the project will develop alternative livelihoods to mitigate negative impacts on their livelihoods. However, successful implementation of the program in a long-run heavily rely on the cooperation with local communities, and FMEs.

Measures to develop alternative community and individual livelihoods will be identified with the participation of the affected communities, which will focus on establishing alternative livelihood and livelihood restoration activities that are environmentally sustainable and culturally appropriate. However, once more if there are impacts that result in a loss of existing livelihoods or diminished livelihoods the provisions of OP4.12 as per the RFP will apply.

5 Implementation arrangement

The Process Framework starts when the management authorities of a PFMB, SUF and SFC and/or their partners (within an Adaptive Collaborative Management structure this will also include members of local forest-dependent communities) prepare to apply for funding from ER-P and BSP with the preparation of specific forest management activities that result in a reduction in carbon emissions. The ER-P is not simply a forest conservation project and must not be depicted as such.

Any application to the ER-P indicates that owners or managers and users of forest resources agree to the principles of the ACMA and the establishment of the FME. This PF is designed to ensure that these processes are broadly followed and without clear buy in from all stakeholder groups the ER-P will not support other approaches. Thus, unequivocally successful application to the ER-P requires a commitment by the FME and other stakeholders, including and especially at the village level to buy into the ACMA, FMC and associated activities including the preparation of locality specific BSPs.

This process consists of a series of four steps (preparation and application, activity launch, implementation, and monitoring and dissemination of lessons learnt) with a number of conditions to be fulfilled at each stage. These steps and conditions can be adjusted during program implementation as new problems and opportunities arise, but any adjustment must be agreed upon in advance by the World Bank-Emissions Reduction Program Agreement (WB-EPRA)

The institutional focal point for this project with the Management Board for Forest Projects (MBFP) within the Ministry of Agriculture and Rural Development (MARD). MBFP will be responsible for

overseeing and managing the overall project. In addition to MBFP, there will be engagement of Vietnam Forests (VNForests) from MARD and also involvement of the relevant departments from within the district, including the District Agriculture and Rural Development (DARD) District Resettlement Committee (DRC) and DONRE (Department of Natural Resources and Environment).

The project implementation structure will involve a modest size central level project management unit (CPMU), and provincial level project management units (PPMUs). The PPMUs will oversee project activities in their respective provinces.

5.1 Central level

Ministry of Agriculture and Rural Development (MARD). MARD will collaborate with donors, related ministries, and departments to steer the project. MARD will consult with relevant departments on appropriate policy, frameworks and project implementation and they will evaluate the project performance.

Central Project Management Unit (CPMU) is responsible for all operational activities and the implementation activities of social safeguard plans conducted by consultants. The consultant entity is required to collaborate closely with the Provincial Project Management Unit (PPMU) in implementing and conducting activities at either the commune or township level

5.2 Provincial level

PPMU will work with Vietnamese stakeholders at provincial, district and commune/village levels on activities related to; social safeguards, training, performance and awareness enhancement. PPMU and the safeguard team of MARD are responsible for monitoring implementation activities under the social safeguard plans.

CPC will support the implementation of the social safeguard plans at the commune level. Mass organizations such as: Fatherland Front, Vietnam Women's Union, Farmers Association, Youth Association, War Veterans Association and Elders Association will monitor project implementation, especially land acquisition and compensation, benefit sharing, land and benefit conflict resolution to ensure the Bank's policies and Vietnamese laws and regulations are followed.

Non-governmental organizations (NGOs) that are familiar with REDD+, activities of the WB or other providers of ODA in Vietnam, and especially with the application of safeguard policies involving ethnic minority groups in the six ER-P provinces will also be invited to participate. However, the cost of their participation will not be borne by the ER-P but by the district or province. Thus, the PF does not insist that NGOs be actively involved although if they are this is likely to represent a form of "good practice" especially if they have demonstrated links with specific ethnic minority groups (e, g, NGOs with a knowledge of ethnic Thai groups may not have a good understanding of the ethnic Hmong and vice-versa). Therefore, seeking NGOs guidance and pertinent lesson learned for project implementation.

6.1 *Feedback and grievance redress mechanism*

The proposed BSM is to be embedded in the collaborative management structure where asymmetrical relations between forest owners and managers and local communities are significantly reduced and the success of the BSM relies on the participatory structures generating win-win outcomes. Vietnam has well-established mechanisms in place to receive and resolve grievances and while these are largely effective if correctly utilized they apply more to stakeholders physically or economically displaced by infrastructure investments that trigger involuntary social and to a lesser extent the environmental safeguards.

The Carbon Fund Methodological Framework requires that for eligibility to receive payments from the Carbon Fund that all forms of feedback and any forms of grievances related to the Program demonstrate the following: legitimacy, accessibility, fairness, rights compatibility, transparency and capability be exemplified in the processes to be followed to receive, screen, address, monitor and report feedback on grievances or concerns submitted by affected stakeholders. Categories of affected stakeholders is assumed not only to include villages but also the PFMBs, SUFMBs and SFCs where there are decisions made by the co-management entities that impact negatively on the latter.

To understand why the FRGM is required and how it would work a range of Project-related examples¹ are necessary to illustrate here.

Scenario 1: There may well be instances where a village (one peopled by a particularly marginalized ethnic minority group) or households within a particular village (perhaps poorer and more vulnerable households such as those belonging to the aged or physically impaired or from a weaker ethnic minority group sharing the village with other ethnic minority groups) are neither consulted nor invited to participate in activities agreed upon at the ACMA Board Meeting where an “elected” representative from the village is ostensibly representing the whole village (s/he being elected in the first instance by the village or based on traditional practices of selection that all villagers accept). Should this occur it is likely to be a typical example of “elite capture”, something the Program is seeking to minimize where possible. Ostensibly the disclosure of information should be adequately disseminated and, in a manner, and terms that are culturally appropriate. Being excluded may result in the denial of benefits such as payment for forest protection services, setting of an agreed upon quota to collect NTFPs, the right to extract timber for house construction purposes, allocated forest land for protection or production purposes, or even a requirement that land being used for non-forest related purposes such as for food crops be surrendered for sustainable forest management purposes. Denial and exclusion in such instances are likely to impact upon the overall livelihood system of such households.

Scenario 2: In yet another instance there may well be disputes as to boundaries between what an existing management board claims is the boundary between forest land it owns or manages and the buffer areas that surround the forest land that a village or villages or even households within a village or villages claim. It is possible that the existing management board refers to cadastral maps or GPS coordinates the accuracy of which is contested by other stakeholders. To

¹ These examples are taken from villages visited by the Program during the course of participatory consultations and while more complex than is being presented here the examples encapsulate the types of issues that might need to be addressed by the FGRM.

overcome this impasse, the elected co-management board that includes a representative from each of the villages decides a more robust mapping exercise is necessary. This exercise finds in favour of the existing management board and villagers are informed they must desist from using this land or in a worst-case scenario vacates their current residence in the forest. However, the affected villagers claim they can demonstrate through their intimate knowledge of the forested area that traditionally they occupied this land or land in general proximity and reflects shifting or swidden land use practices in the past so they are the rightful occupants of this land even though they have not been allocated a LURC.

Scenario 3: Another possible scenario is that in the interests of a more sustainable approach to forest management the elected co-management board might agree that hitherto original forest land that has been converted to agricultural cropping uses with, or without the approval of the local authorities, need to be reforested. Individual households, villages or even local authorities who may have consented formally or more likely informally oppose such a move because they believe existing livelihoods will be threatened and the decision made does not reflect the reality on the ground: people and their stomachs before trees and carbon emissions being reduced. This might occur even though the criteria for the BSM excludes such practices. Hence this is an instance where a group of stakeholders do not accept the decision of the elected co-management board and are seeking to overturn its ruling. Conversely a majority might decide that more forest land is required for agricultural cropping purposes because the short-term gains from agricultural cropping outweigh the benefits from longer-term sequestration of carbon emissions.

Scenario 4: Another scenario, which is highly plausible given the investment in hydropower projects in the Program area is that the ACMA agrees with the investor to support the inundation of some of the forested area and access roads to the facility even if households are not involuntarily displaced. Some villages along with the CPC and DPC might support such an investment because they think there may well be benefits (including under the PFES scheme) while other villages that are even more directly affected oppose this investment because of the impact on their livelihoods. While other villages might oppose the investment because they view the access roads as presenting an opportunity for illegal logging and the over-exploitation of NTFPs by outsiders. Hence there are no sum net benefits only costs but such stakeholders find it difficult to make their voices heard.

Scenario 5: In another instance, outside investors such as eco-tourism investors might be able to enlist the support of the relevant PPC (often are able to do so) to claim access to pristine forest land to construct high-value “eco-tourist” lodges. All members of the ACMA might be opposed to this investment because they fail to see pecuniary advantages for themselves and of equal importance fail to see how such an investment could result in the sustainable management of the existing forest. It is also possible that local villages (even though there might be individual households within these villages that support) do not support such an investment because of its perceived impact on the existing environment including perhaps the watershed area. The situation that exists in this scenario is that the PPC has in the past and is still able to over-rule local authorities and local communities because of its political and economic muscle. The GoV is seeking to welcome investment at the local level but not to the environmental and social detriment of local communities. Additionally, the GoV recognizes that PPCs vary in their approach to such issues but also recognizes the need to be proactive and hence the need for a workable FGRM.

In relation to disputes and grievances² in Vietnam there are established mechanisms that commence at the rural village or urban neighbourhood level whereby all grievances wherever

² There is a difference between disputes and grievances. Disputes typically involve one or more parties disagreeing with one or more parties in relation to some activity, such as access to and use of land that is under the control of the

humanely possible be resolved at this level on an informal basis. If the aggrieved parties cannot resolve their grievance/s at this level on an informal basis they can then take their grievance to the Commune People's Committee. The CPC has 15 days to respond and if it cannot resolve the grievance the aggrieved party/s next course of action is to lodge the grievance with the District People's Committee. As with the CPC the DPC is required to respond in 15 days. Should the grievance not be resolved then it can be lodged with the Provincial People's Committee which has 30 days to respond. If the grievance has not been resolved by the PPC the aggrieved party/s can seek recourse in a Court of Law. It is required to hand down a judgement within 60 days from date of lodgement. Depending on workloads at all levels of the GRM there may be some slippage but the rule-of-thumb is that all grievances should be resolved within 180 days of being initially lodged with the CPC. In the case state investments supported by ODA financing the investor whether public or private or where there is a partnership between the public and private sector is legally obliged to pay all costs associated with seeking grievance redress.

Of the scenarios presented above only *Scenario 4* would possibly trigger the processes described here. The other four scenarios are far more difficult to subsume within the GRM processes that are typically used for investment projects. While this Program is premised on trying to avoid the payment of cash benefits to individual households because the BSPs that will be prepared by each ACMA entity will be able to decide whether individual, group or community payments will be made for defined activities or outcomes the FRGM also needs to pre-empt this possibility. As the field-based studies supported by the Program and their findings accepted by the GoV it is necessary to recognize that not all stakeholders at the village level might benefit from payment for services.

Therefore, it is proposed in line with the joint FCPF /UN-REDD+ Programme for Vietnam that considering FRGM processes that are commonly understood in the Vietnamese context that there should be four relatively simple steps as follows:

1. Receive and Register Grievance by the elected village representative from the aggrieved party where village level constituent is seeking grievance redress for grievances that can be linked to Program activities. This can be undertaken at the monthly meeting proposed or on an informal basis and where a written grievance is to be prepared the elected village representative or a literate member of a village level organization is to assist the aggrieved party if the latter requires a written grievance be lodged. However, ideally all grievances where possible should be resolved at the village level but for reasons stated above this might not be possible.
2. Acknowledge, Assess and Assign involves acknowledging receipt (this assumes it cannot be resolved at the village level) by ACMA entity and it is the responsibility of the elected village representative to ensure it is received by this entity. Although given that a representative of the ACMA entity from the PFMB, SUFMB or SFC should be proactive and visit each village at least once monthly the aggrieved party at the village level could also lodge their grievance during this visit. In acknowledging receipt of the grievance, the

commune (in Vietnam typically CPCs have upwards of five per cent of land in reserve for allocation to "landless" and "land poor" households for which LURCs are not issued), which can and should be resolved at the local level. Vietnamese political culture favours the resolution of such disputes locally and is consistent with the notion of "grassroots democracy" in Vietnam. These disputes often have no basis in Vietnamese law. Grievances on the other hand are linked to entitlements, actual or perceived, by an aggrieved party and for which penultimately if the grievance cannot be resolved locally and informally may be heard in a court of law, usually at the district level, and for whose ruling is legally binding. Grievance Redress Mechanisms are typically used in the case of involuntary resettlement issues when the aggrieved party argues it has not been compensated according to an instrument such as the Detailed Measurement Survey Memo or similar. The GRM is also used when affected people have been denied compensation for assets acquired, transitional living allowances and livelihood restoration measures.

ACMA entity must clearly state how the grievance will be processed, assess the eligibility of the aggrieved party to lodge the grievance (although this should be initially undertaken by the elected village representative), and assign organizational responsibility for proposing a response. For instance, if the grievance involves a land allocation issue and the subsequent issue of a LURC the ACMA entity must assign organizational responsibility to local authorities. Similarly, if the grievance revolves around land conversion than the appropriate authority (namely the Department of Natural Resource and Environment must consider the grievance because this is outside the purview of the ACMA entity³.

3. Propose a Response will involve one of four actions as follows: (i) direct organizational response or action, which may be to CPC, DPC or line agency such as DARD or DONRE; (ii) stakeholder assessment and engagement, which would involve assessing the efficacy of the aggrieved party's grievance and then engaging with the stakeholder; (iii) if not able to be resolved within the existing BSM, such as when involuntary resettlement impacts triggered by infrastructure projects are the cause of the grievance refer to that specific Program GRM; or (iv) based on the agreed criteria BSM decided whether the grievance is ineligible.
4. Agreement on Response is either to agree to the party seeking grievance redress and implement the agreed response resulting in either the grievance being resolved successfully and closed to the satisfaction of the conflicting stakeholders or the grievance unable to be resolved. In this latter instance the grievance staff will be required to consider whether the aggrieved party/s should revise their approach for reconsideration or the grievance closed without further action. Opting for the latter course of action should result in the aggrieved party/s being able to have their grievance if it is considered very important to them adjudicated on in the District Court, which would provide a judgement that would be legally binding on all parties to the dispute or grievance.

It needs to be noted that the FRGM has to be readily accessible to all stakeholders including older ethnic minority people who are not competent in the use of the Vietnamese language, poorer village persons who cannot afford expenses associated with the cost of seeking grievance redress including litigation in a court of law, and on an individual, group or collective village basis. To ensure that the elected village representative is not co-opted by the ACMA entity to the detriment of the village-level constituents s/he is elected to represent if village-level constituents deem their representative to be generating poor outcomes they will have the right to replace this representative. How the latter deals with grievance redress will be an important litmus test for her or his performance as the elected representative. However, the elected representative must be afforded the opportunity to assess whether constituents seeking grievance redress actually have a legitimate grievance.

6.2 UN-REDD feedback grievance redress mechanism

The UN-REDD Programme is developing a national FGRM with cooperation from the FCPF project. The proposed system is still under development but is based on the existing Grassroots Mediation Act 2013, and introduces a Grassroots Mediation Group which is supported by Technical Support Group (TSG) and currently the UN-REDD Program is piloting the TSG in 18 sites in the UN-REDD Programme and is providing trainings for mediation and how the two groups should work together which takes place from July/August 2016, with a review and report due in November-December 2016.

³ This is also an important reason why DONRE at the DPC level should be represented on the Co-Management Entity.

MARD needs to ensure that the proposed process is consistent with FGRMs that are currently being utilized in Viet Nam and that it fully encompasses the need for Broad Community Support (BCS) of not just affected ethnic minority peoples but also the majority Kinh people. It can be noted at this juncture any aggrieved affected person has the full legal right without cost to themselves to pursue grievances in a court of law and there are detailed grievance mechanisms already contained with a number of laws, for example, the Land Law 2013. It can also be noted that if grievance redress requires a court of law judgment this must be completed within 6 months of the aggrieved person lodging their grievance at the lowest administrative level in Viet Nam (Commune People's Committee). However, ideally all grievances should be resolved at the local level (and are often resolved for example at the commune and District level) and most affected people prefer grievance resolution at the local level.

Communities and individuals who believe that they are adversely affected by a World Bank supported project may submit complaints to existing project-level grievance redress mechanisms or the WB's Grievance Redress Service (GRS). The GRS ensures that complaints received are promptly reviewed to address project-related concerns. Program affected communities and individuals may submit their complaint to the WB's independent Inspection Panel that determines whether harm occurred, or could occur, as a result of WB non-compliance with its policies and procedures. Complaints may be submitted at any time after concerns have been brought directly to the World Bank's attention, and Bank Management has been given an opportunity to respond. For information on how to submit complaints to the World Bank's corporate GRS, visit <http://www.worldbank.org/GRS>.

Land disputes

The overall level of formal land disputes is quite limited. Land users, people who are entitled to land use-related rights and obligations are entitled to complain, sue against administrative decisions or administrative acts in land management. The formalities, procedures for settling complaints against administrative decisions, administrative acts on land are implemented in accordance with the legislation on complaints. The formalities, procedures for settling lawsuits against administrative decisions, administrative acts on land are implemented in accordance with the legislation on administrative litigation.

Statistics of land disputes are available in Viet Nam but these are often not complete and only record the more serious or longer lasting disputes that have failed to be resolved locally. Assessments of land issues through the PRAPs, and the Assessment of Land Tenure and Land Resources of the NCC have identified the main sources of conflict, including those land-related risks that the ER Program will need to address. More detailed assessments will be carried out through the SERNA (Socio-Economic and REDD+ Needs Assessments) that will identify key issues at the site-level.

By far the most common form of land-related conflict in the NCC involves disputes related to access to forest land managed by state forestry organizations. In some areas within the NCC, there are historical and on-going disputes related to access to forest and agricultural related encroachment or land boundary disputes. As noted above, PFMBs and SFCs formally control over half the forest land in the NCC. Rural population growth (reported in Nghe An) and local reliance on forest resources, combined with unclear boundaries and an 'open access' situation often encourage encroachment for small scale logging, NTFP collection, or conversion to agriculture.

In most cases the access/encroachment issues are generally resolved locally with a compromise, and in many cases the PFMBs have excised areas of heavily encroached on land as the

biodiversity and conservation value are compromised. SUFMBs are at a particular disadvantage as Forest Protection and Development Law prohibits any collection or removal of forest resources, and SUFs are often looked upon as a public good. However, in many cases the SUFMB has to accept the inevitable that it cannot stop all NTFP collection. Therefore, the PFMB will often try to arrive at a practical solution with a community by agreeing that no commercial quantities are removed⁴ or no further encroachment takes place in return for some NTFP collection. PFMBs and SFCs face similar issues, but these are not so well documented and the PFMBs and SFC have an advantage in that NTFP collection is not prohibited.

Competition over resources and conflicts may be linked to localized migrations due to infrastructure development. While the overall trend in the NCC is a migration from rural to urban areas, in some cases road development can attract new settlements. HPP development, on the other hand, has led to the displacement of people to areas where they may come into conflict with local populations.

Inadequate compensation for resettlement or forest loss is another potential source of dispute, and communities may be particularly disadvantaged where they have no formal rights to their land. Infrastructure, and in particular hydropower, development often requires the acquisition of agricultural and forest lands and the resettlement of villagers. In some cases, affected people are disappointed with the compensation and resettlement schemes. Where land is informally held, it can be particularly difficult for local people to receive adequate compensation. For example, a village in Phong Dien District was reclaimed by the state and granted to a sand-mining company. The compensation for the loss of Acacia trees planted by the villager was estimated to be less than 40% of the full compensation that the villagers would have received if they'd had legal rights to the forest.⁵

Law enforcement activities and restrictions on forest resource use may negatively impact communities, especially the poor and forest-dependent households. Forest resources, such as timber, NTFPs, and wild animals are an important source for domestic consumption for people with high forest dependence. They are also an important source of cash where alternative income opportunities are limited. For this reason, benefit sharing approaches, alternative livelihood development, PFES, and participatory approaches are critical for addressing risks to local communities and help mitigate the problems they face and where necessary in conjunction with the MBs.

7 Monitoring and Evaluation

The Monitoring and Evaluation (M&E) will be the overall responsibility of the MBFP. An M&E officer will coordinate the development and implementation of the M&E system and project staff, implementing partners and contractors will play an important role in M&E activities.

⁴ Problems arise where there are continued local land pressures, i.e. there is not enough adequate land for crop production and there is an increase in the local populations; or where the boundaries are surveyed for cadastral maps (or re-surveyed with a view to putting in markers); there are regulations for the boundaries to be agreed using participatory processes

⁵ However, it need to be noted in infrastructure projects financed either partially or wholly by the providers including the WB (e.g. Trung Son HPP in Thanh Hoa Province) involuntary resettlement impacts are compensated based on the policies of the provider of the ODA.

As the implementation of the project may lead to a change in access to forest resources in areas as a result of protection activities, building capacity for improved monitoring activities is essential. Monitoring should be participatory and include the monitoring of beneficial and adverse impacts on persons within project impact areas.

The PF will require that key performance indicators be developed in relation to related activities. Indicators can be grouped as those that: (i) will demonstrate whether or not the PF is meeting performance expectations; and (ii) demonstrate the status of livelihoods in communities (through household-level indicators). The following indicator groups are suggested as a basis to measure the success and weakness of activities related to affected groups.

Process Framework Indicators to measure the effectiveness of the PF include:

- Number of participants in consultation process
- Number and types of vulnerable groups participating in consultation process
- Number of affected communities included relative to total number of affected communities
- Number of grievances or conflicts recorded
- Number of remedial activities implemented in response to recorded grievances
- Time taken to resolve grievances
- Number of individuals with a positive perception over the level of empowerment in natural resources management
- Number of individuals with a positive perception over the level of empowerment in natural resources management, disaggregated by vulnerable group and user sub-group categories

Community livelihood Indicators to measure status of households and changes in forest resource use and access restriction:

- Change in type of natural resources use, and substitute activities
- Changes livelihood activities of households, by type of activity and amount
- Change in livelihood activities of households, by type of activity and amount, disaggregated by vulnerable group and user sub-group categories