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Vietnam-Finland Forestry Sector Co-operation Programme

**VIETNAM-FINLAND FORESTRY SECTOR
CO-OPERATION PROGRAMME
Phase II: 1999 – 2003**

**COMMUNITY FOREST MANAGEMENT
- A STUDY ON INSTITUTIONAL ASPECTS -**

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EXECUTIVE SUMMARY

This report deals with the findings of a short term input by a mixed team of one national and one international consultant on questions related to institutional issues affecting local management of forest land. The report covers an initial consultant input of one month work. It is expected that additional inputs will be required in the future.

The key questions addressed in the study are related to

- The existing legal framework in forestry of particular relevance for VNFinFor.
- Conflicts and local institutional arrangements of relevance for management of natural resources
- The scope of the programme in relation to institutional aspects of forest land management.
- Land use planning and land allocation.
- Issues in farm forestry and community forestry.
- The programme and its support to policy development.

A study of this kind depends on a common understanding of terminology and classifications used in forestry and in other relevant sectors. This is essential for an informed and meaningful discussions and later in the analysis of problems and opportunities. The report has identified some terms as well as systems for classifications that either are ambiguous or for other reasons frequently misunderstood. These are all related to:

- The classification of forests and forest land
- The concept of forest management
- The distinction and definition of natural forests and plantation forests

One general feature of the Vietnamese legal system is that the laws are complemented with various formal documents such as (1) Ordinances, (2) Resolutions, (3) Orders, (4) Decrees, (5) Decisions, (6) Directives and (7) Circulars. These are either interpretations of the law and/or more detailed regulations as well as changes and exemptions from the law. The overwhelming numbers of these documents for some laws makes it difficult to analyse and fully understand the legal framework. This is e.g. the case for forestry where some 200 legal documents has been issued over the last 10 years.

Because of this and other constraints identified within MARD, a special group of experts has been assigned the task of revising the forest law and the forest sector policy as such. This group also includes representatives from different donor funded projects. Moreover, ADB will support this process with a team of international and national consultants during this year.

In case of economic disputes (e.g. regarding the use of natural resources) the tradition of avoiding settling disputes in a legal process and rather apply some kind of non

formal economic arbitration means that there are not much information available on issues such as

- how disputes have been settled
- if relevant law articles have been of any significance in this process
- how various forms of reconciliation is applied.

However, for the VNFinFor an attempt were made to identify the most relevant legal documents for the following topics (1) Overall forestry law, (2) Land allocation and leasing (access and use of forestland), (3) Management (in a technical sense) of Forest and Forestland, (4) Exploitation or Harvesting in forestry, (5) Transport / Business (6) Roles and responsibilities of authorities, (7) Sanctions, (8) Local rights / Customary traditions and (9) Additional. Some of the documents and topics have been analysed more thoroughly as they were thought to be of more immediate relevance for the Programme.

The effectiveness of local institutional arrangements seem to vary considerably between villages. This is not always due to the content of the rules and regulations. The regulations for grazing and the compensation for damage caused by buffaloes or cattle in agriculture and forestry appears to be rather similar, at least in the few villages visited by the team. Apart from differences in how these rules are enforced there are also other differences between the villages. The location and configuration of the forest land are important for how effectively the land can be monitored and controlled. On the social/cultural side there are sometimes the perception that existing natural regeneration or forest cover does not belong to a particular owner, as opposed to forest plantations. Therefore the compensation for damage to natural forest is not always commonly accepted even when this land has been allocated.

Although not specifically an institutional issue the team took notice of the broader scope of the Programme as compared to the first phase as it now includes agriculture and animal husbandry as well. This will enable the Programme to better address the diversity among all the villages in the Programme area. There is however a need for the Programme to be selective and identify the most effective entry point for initial Programme support in each village. Also for reasons of capacity in terms of providing effective extension support by the Programme and through local organisations, it is important to be selective. In this context it will be important to use Participatory Rural Appraisal (PRA) in both an effective and flexible way. Finally PRA offers the possibility to address and analyse local institutional arrangements that might be required for a number of the constraints identified in this report.

Land use planning and land allocation emerged as a very important institutional constraint during the study. It is of specific significance for the Programme since land allocation is a pre-condition for programme support. There are a number of problems related to the land issue. Apart from the conflicts in some villages as a result of the land allocation or the way this is done, there are also the concerns expressed by representatives from government organisations about the lack of overall land use planning. A major constrain is the difficulties in classifying forest land into (i) production, (ii) special use and (iii) protection forests and more specifically the classification of protection “watershed” forests. This may have an impact even on forest land that already has been allocated.

As regards forestry at village and household level one observation made is that the concept of community forestry is weak in the legislation and consequently also when forest land is allocated. Forest land for production is allocated mainly or almost exclusively to individual households. These individual forest farmers however has to face some difficult problems. Apart from the conflict with livestock as well as other traditional uses of this land, there are constraints in the formal institutional system. Procedures for harvesting, for instance, are not well understood and are under some conditions overly complicated. This is a serious disincentive for forestry.

Moreover, in the management of these forest plots there are scope for improving co-operation among the forest farmers on a number of aspects ranging from institutional questions (e.g. in the development of village regulations of relevance for forestry) to more technical questions (e.g. co-ordinate logging and transport for reasons of efficiency as well as minimising damage from harvesting) and in the marketing of their forest products. A forest farmers association is suggested and this could be seen as an effort to develop something similar to community forestry.

The Programme and its support to policy development needs to be more explicit. One implication is that the programme should agree with relevant authorities on specific tasks that the programme could address not only in terms of themes but also in terms of legislation and/or interpretation of laws and/or development of instructions and/or possibly but not likely other policy instruments. The project also need to establish effective monitoring of activities related to policy development. This will be required to inform and engage different levels of the province in the experiences and efforts of the project.

Recommendations

In summary the conclusions and recommendation in the study are as follows:

- The Programme should adapt to the diversity between villages and households as well as by identifying the “entry point” for programme intervention. Moreover as long as the Programme is involved in both (i) pilot activities related to institutional issues as well as (ii) implementation, adjustments is required to this situation as well. The PRA could be further developed for these purposes.
- The Programme should pay more attention to the development of strong village institutions as well as strengthening the capacity at commune level, in order to ensure continuation and replicability of programme activities.
- The Programme needs to be more involved in land use planning and land allocation. Overall land use planning and related classification of forest land is of particular concern, since a useful system must consider local social and institutional dimensions. The Programme could assist in the development of a system for overall land use planning particularly regarding forest land, if this is endorsed by relevant authorities.

For analysis and development of a classification system the programme is recommended to initially select a village and/or commune where land allocation has not been finalised and where farmers to a considerable extent depend on the forest land for their livelihood.

- The Programme should examine if the land allocation in any of the Programme villages offers opportunities for “allocation” of community managed grazing land

and assist with the development of local systems for controlled grazing. On the technical side the Programme needs to be more active in testing alternatives to free grazing such as cultivation of fodder crops and stall feeding.

It is recommended that a village with reasonable regulations in place for regulating damage on agricultural crops by buffalo or cattle should initially be selected

- To promote controlled grazing full use should be made of different local village associations such as the farmers association, women's union and youth union, where these are known to be effective.
- The Programme should, if endorsed by relevant authorities, assist in the development of more simple and practical procedures related to harvesting in forestry as well as mechanisms for benefit sharing at the local level.
- Co-operation between individual forest farmers should be supported on a number of aspects ranging from institutional issues to more technical problems.

A village with a configuration of individually allocated forest land that facilitates co-operation should be selected for this purpose. Moreover the village should have reasonable developed forest activities as well as favourable conditions for marketing and business development

- The Programme should support the development forestry related activities that generate income or products for self consumption in a relatively short time, in order to encourage the interest for forestry
- The Programme need to establish a monitoring system tailored for the requirement of the pilot activities proposed in this report, so that an effective contribution to policy development can be made

Additional STC input on "institutional" related issues are recommended for the following general topics

- Development and use of PRA
- Strengthening of local village institutions and organisations
- Overall land use planning and classification of forest land
- Development of more appropriate procedures for forestry that are adapted to individual farmers' situation and local conditions

Specific attention from other STC inputs (agro-forestry, extension and monitoring) is recommended for the following issues/topics

- Improving management of grazing areas, cultivation of fodder crops and alternatives to free grazing
- Facilitating co-operation between forest farmers on technical issues
- Support the development of crops/activities that generate benefits in short time
- Development of a monitoring system for pilot activities

ABBREVIATIONS

Abbreviations

ADB	Asian Development Bank
CEMMA	Committee for Ethnic Minorities in Mountain Areas
DARD	Department of Agriculture and Rural Development
EU	European Union
FAO	Food and Agriculture Organisation
FDP	Farm Development Plan
FIPI	Forest Inventory and Planning Institute
FMB	Forest Management Board
GDLA	General Department of Land Administration
GRET	Groupe de Recherche et D'Echanges Technologiques
LTC	Land Tenure Certificate
MRDP	Vietnam - Sweden Mountain Rural Development Programme
NA	National Assembly
NTFP	Non Timber Forest Products
PC	People's Committee
PRA	Participatory Rural Appraisal
MARD	Ministry of Agriculture and Rural Development
MRDP	Swedish Mountain Rural Development Project
PRA	Participatory Rural Appraisal
SAM	System Agriculture Montaigne – regional programme
SFE	State Forest Enterprise
STC	Short Term Consultant
TOR	Terms of Reference
VNFinFor	Vietnam-Finland Forestry Sector co-operation Programme
WU	Women's Union

Currency Equivalentents

USD 1.0 = VND 14,000

1. INTRODUCTION

This report presents the main findings and recommendations of a study on Legal and Organisational Issues of relevance for the Vietnam Finland Forestry Sector Co-operation Programme (VNFinFor).

The report is essentially a study on institutional issues both formal and non-formal and represents a first input of a more comprehensive STC with additional short term inputs over a period of 1.5 years. The first input that also resulted in this report was completed during three weeks in January and beginning of February 2000

This STC is part of a comprehensive effort to address Community-Based Natural Forest Management and is complementary to other STC in the programme - primarily on technical and extension issues. Due to the nature of a somewhat both ambiguous and broad topic like “institutional issues”, the STC also has linkages to other aspects in the programme, something that was a clear finding during this first input.

The term “institutions” has many definitions¹ and is therefore sometime a source of confusion. In this study the team has applied a somewhat self made definition adapted to the Programme as follows:

Institutions are the rules as well as the organisations involved in the development, monitoring and management of natural resources (primarily forests). It includes both non formal and formal organisations and systems of regulations.

The study has been carried out by a national and an international consultant. The study was to a considerable extent planned, guided and supported by the Programme Management Team and it’s international advisors.

2. BACKGROUND

This section provides a brief background to the programme area and the programme itself. For more information and details the reader is referred to the Project Document for Vietnam Finland Forestry Sector Co-operation Programme Phase II. 1999 - 2003 as well as the Annual Plan for year 2000.

Bac Kan Province is one of the poorest provinces in the whole country. Eighty-four out of 122 communes, or 75%, in the province are on the list of the 1000 poorest communes in the country. In 1996, the annual income per capita was about VND 1,100,000 (USD 80), while the average income per capita in Vietnam was USD 250 per year. From 1991 to 1996, the GDP of the province increased 4.85 %, while the national GDP increased about 8%.

¹ See e.g Bass, S. et al (1998), Institutional Change in Public Sector Forestry – A Review of the Issues, IIED

The Vietnamese authorities consider Bac Kan Province as a priority area for inter-sectoral development programmes. Forestry is taken a key potential sector that could contribute to social and economic development in this region. Forestry has a higher development priority in the provincial development plans for the new Bac Kan Province than it did for the former Bac Thai Province.

The Vietnam-Finland Forestry Sector Co-operation Programme phase II has the following overall, long-term development objective:

To contribute to sustainable rural development in the mountainous regions of Vietnam, through the integration of forestry activities in the rural land-use and economy.

The Programme continues from phase I and will expand its field efforts. The project purpose (short-term objective) for the next 4 years shall be:

To continue to support, develop and expand management solutions for sustainable use of forest resources and forest land in order to improve living standards and to protect the environment.

A pre-condition to the Programme – or essential first step – is that forest land allocation is completed in the communes where the Programme will expand activities. It is assumed that village extension workers are willing to collaborate on a volunteer basis with very limited incentives.

The Programme will focus on three key strategies

- ***improving management of allocated forest lands, through improvements in Farm Development Plan process, including related extension support, credit, and assistance with processing and marketing.***
- ***work to develop local (community-based) management approaches for natural forests and other areas used in common, such as grazing areas.***
- ***improve capabilities of existing institutions, through major emphasis on staff training and development, and collaboration with other projects, government programmes, training and research institutions.***

The initial focus of this STC is primarily related to the development of the second strategy above and is one of a series of short term consultancy inputs on different themes identified during the preparation of the second phase.

Geographically the project was initiated in Phase I in Cho Don District as a selected target area of the Vietnam-Finland Forestry Sector Co-operation Programme in Phase I, beginning in 1996. The Programme worked initially in two communes, Ngoc Phai and Dong Lac. In Phase II the Programme is extended in Cho Don District to five additional northern communes– Nam Cuong, Tan Lap, Xuan Lac, Quang Bach, and Bang Phuc, and in Ba Be District to Quang Khe and Cao Tri communes.

3. METHODS

First it could be useful to clarify the definition of the term “institution”, since this has been a focus for this study. In this sense the study has been somewhat broader than part of the title of the ToR imply “legal and organisational issues ” (see Annex 1).

In relation to the ToR some of the specific tasks has not been fully covered. This refers to primarily to the development of a checklist for village institutional arrangements (including village regulations). Since the team did not have the opportunity to more specifically study how the programme apply PRA, it was felt that this part of the ToR should be postponed. On the other hand other institutional aspects not covered in the ToR has been included instead, like the issues related to land use planning and land allocation, which are of critical importance for the programme.

This short study was primarily based on meetings and discussions with different key persons in Hanoi, both at MARD and with various other organisations and donor funded projects. Discussions with knowledgeable and experienced people was also arranged in the province of Bac Kan and in the programme districts - Cho Don and Ba Be district. The programme for this study and the persons met are compiled in Annex 2 and 3.

Field visits were made to commune and villages as well as individual households to find out more about conditions at this level and more specifically farmers experiences and perception about issues related to rules, regulations and how these are managed by local village based as well as organisations from commune up to provincial level. These field visits were not sufficient for a more comprehensive institutional analysis, although they were useful for identifying critical issues.

At the end of the assignment a workshop was organised to discuss some of the “institutional” questions that are important for the Programme. The workshop was also used for presenting some preliminary findings in this study.

Finally a number of documents have been studied during this assignment. Some of the more significant ones are compiled in Annex 4.

4. TERMINOLOGY

Terms and classifications used in forestry in Vietnam is not always sufficiently clear, at least not for an outsider. The team was told that for some specific terms the exact meaning is ambiguous also in Vietnamese. Therefore an attempt is made here to clarify some commonly used forestry terms and classifications.

Classification of forests and forest land

The forest land in Vietnam is at a first level classified into three categories:

- **Protection forest:** which refers to forests that are fully or partially protected because of their environmental significance for e.g. productive land use in general. Watershed (WS) forests, forests to protect against wind erosion (soil dune fixation) are typical protection forests. Watershed forests² are subdivided into three classes (1) Very critical WS forest, (2) Medium critical WS forest where

² Regulation on Management of Protection Forest issued together with the Decision No.(draft without number)/1999QD-TT

offers more information regarding the degree of protection, organisational responsibilities and rights as well as silvicultural requirements for WS forest of different categories.

protection can be combined with some production and (3) Less critical WS forest where production should be combined with some protection. For local communities these forests (if less than 5,000 ha) are sometime allocated and sometime contracted depending on local conditions. There are proposals³ that the regulations (including user rights) applicable to “less critical WS forests” might be the same in the future as for allocated protection forests. For larger areas (more than 5000 ha and 30 000 ha) Forest Management Boards (FMB) should be established and responsible for protection management of the forest. These FMB can in turn organise protection through contracting local farmers.

- Special Use forests which are protected primarily for biodiversity purposes or for other cultural values. National Parks are also usually Special Use forest. Special Use forest are never allocated to local communities, only contracted. National Parks are usually managed by forest rangers directly under the Forest Protection Department of MARD.
- Production forest is set aside for forest production purposes. This is the forest land that normally has been or are being allocated.

Across this classification one need to differentiate between natural forests and plantation forests as well as bare land, since this also influence the regulations associated with forest management.

An observation made during the study in relation to the classification of watershed forests is that the three different categories from less critical to very critical are not clearly defined, although reference sometime is made to the slope factor. In as far that this opens up for local adaptations this might be fine in principle. But since these classifications has not been made at field level in many of the provinces (Bac Kan being one of them) the task is obviously complicated.

One reason for this is the potential impact this may have on farmers living in the area in terms of their user rights to the land and forest. If only physical characteristics in terms of e.g. slope, soil depth etc. would be used it could jeopardise the land allocation that has been done. Whatever confidence the farmers has in their Land Tenure Certificates, be it permanent or temporary, might then be lost.

Land classification is also constrained by the use of at least two systems that are not entirely consistent with each other. This has an impact on forest land allocation as well as leasing and contracting. Through MARD and the Forest Inventory and Planning Institute (FIPI) land is classified for it's intended or potential use, while the General Department for Land Administration (GDLA) classify according to existing land use. In practical terms “bare forest land” in one system can be classified as “unused land” (which in many cases can be shifting cultivation land in fallow) in the other system.

³ See chapter II in draft regulations ”On rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted” issued by MARD in July 1999. If this imply additional allocation of forest land to households etc. or reclassification of some already allocated land is however less clear.

Definitions

What is sometime referred to as the Forestry Act Decree No. 58 – LCT/HDNN8 covers both protection and development and is in some English translation therefore referred to as “forest management”. This term is not only limited to inventories, silviculture and exploitation etc. “Forest management and protection” when used as a term covers environmental, economic and social purposes. This is sometime a reason for confusion when forest management is discussed unless you are very specific about the meaning.

Another example of confusion is the distinction and definition of natural forests and plantation forests. The notion of “man made” forests which that include both plantation and “managed” natural regeneration is not commonly accepted. This has consequences in a legal sense, since plantation forests are not so restricted by regulations as natural forests are, regardless of whether a farmer has used significant resources (usually in labour) to protect and promote certain species as well as thinning and pruning on a plot with naturally regenerated forest. There are different opinions and the issue is under discussion both in MARD and in the provinces.

5. LEGAL INSTITUTIONAL FRAMEWORK IN FORESTRY

5.1 Some attributes of the Vietnamese legal system

This section will only highlight some general but important characteristics of the Vietnamese legal system⁴. A general feature of the legal system is that the laws (e.g. the Forestry Law from 1991) after promulgation over time are complemented with various additional legal documents, the major ones being (1) Ordinances, (2) Resolutions, (3) Orders, (4) Decrees, (5) Decisions, (6) Directives and (7) Circulars.

Some of these are for interpretations of the law to provide guidance for local authorities. Specific regulations are also issued as well as instructions by relevant Ministries and at the provincial level by the Peoples Committee. However this process also includes changes as well as exemptions from the law or previous legal documents. Moreover some of these documents are not legal documents as such but rather policy or strategic documents.

The Constitution, laws and resolutions are adopted by the National Assembly (NA). It is the only authority that may amend the Constitution and enact laws. The authority or competence of different legislative bodies to issue legal documents under the NA is outlined in Figure 5-1.

⁴ An important source of information used for this section is “An Introduction to the Vietnamese Legal System” from 1998 compiled by Per Bergling, Le Thanh Long, Erik Häggkvist, Dang Thanh Son, Erik Persson and Tran Dong Tung, Ministry of Justice and Umeå University). For a more comprehensive description the reader is referred to this book.

Figure 5-1 Competence of the Legislative Bodies⁵

Standing Committee of the National Assembly	Ordinances Resolutions
President	Orders Decrees Decisions
Government	Decrees Resolutions
Prime Minister	Decisions Directives
Ministries, agencies equal to ministries and agencies attached to the Government	Decisions Directives Circulars
Supreme peoples court (Judicial Council) Supreme Peoples Procuracy	Resolutions Decisions Directives Circulars
Peoples Councils at provincial, district and commune level	Resolutions
Peoples Committees at provincial, district and commune level	Decisions Directives

The right to propose new legislation is apart from the NA and its member and committees vested with the President, the Government, the ministries, the Supreme Peoples Court, the Supreme Peoples Procuracy, the Fatherland Front and other mass-organisations. The authority of the provinces in relation to central ministries is also strong, in terms of interpretation of the laws and related to this the instructions issued at these levels. This explains some of the differences in institutional arrangements at the local level and could be seen as adaptation to local conditions. It also illustrates how provinces could prevent or at least delay the implementation of laws they do not approve of.

A review of gazetted legal documents reveals what appears to be a mixture of significant and less significant issues addressed at almost any level in the system. What sometime appears as "less important" issues dealt with at a higher level are usually either exemptions from the law or the means for settling disputes that the local level has not managed to address.

In case of economic disputes (e.g. regarding the use, processing, trade and marketing of natural resources) the system of non governmental economic arbitration is an important function in Vietnam, with its long tradition of avoiding settling disputes in a legal process (litigation). The other side of the coin is that there are less information

⁵ Adopted from "An Introduction to the Vietnamese Legal System"

available of (1) how disputes has been settled, (2) if relevant law articles has been of any significance in this process and (3) how various forms of reconciliation is applied.

All these characteristics of the legal system make it difficult not only for an outside consultant to understand the legal system, but also for many in Vietnam.

5.2 Important documents in forest legislation

The number of legal documents in forestry is somewhat overwhelming. Since 1985 some 220 legal documents has been issued⁶. This only includes documents at the central level i.e. the National Assembly, the President, the Government or the Council of Ministries , the Prime Minister and the Ministry of Agriculture and Rural Development (previously also the Ministry of Forestry) and does not include the Peoples Committee at province, districts and communes.

Most of the legal documents in forestry has been issued from 1991 an onwards. The high number of legal documents reflects to a large extent different views on Vietnam's efforts to move from a centrally planned economy to a market oriented economy. In figure 5-2 a schematic structure of legal and policy documents of particular relevance for forestry is illustrated⁷.

As there are no efficient revision system in place and few implementation decision there are sometime difficulties to apply these legal documents as they can contradict each other. Moreover sector co-ordination is not well developed even on simple issues like the information between ministries, which is insufficient. Therefore decisions, directives and circulars from different ministries can contradict each other. One important example is the already mentioned classification of land (see section on Terminology) by MARD and FIPI on the one hand and the GDLA on the other, which has been a cause of confusion in the land allocation process. The policy in Bac Kan to

⁶ Information from the GTZ assisted project "Support to the reform of Forestry Administration System"

⁷ Based on a figure presented by Mr. To Dinh Mai, senior policy expert at MARD at a workshop in Bac Can province / Cho Don district on "Community Based Natural Forest Management and Institutional Issues on 28 January 2000.

Figure 5-2: Schematic Description of Laws, Bylaws and Policies of Relevance to Forestry⁸

⁸ Based on a figure presented by Mr. To Dinh Mai, senior policy expert at MARD at a workshop on community management in Bac Can province January 2000

promote buffalo and cattle raising simultaneously with forestry is another example that calls for more sector co-ordination at provincial level.

Other special features of relevance for the Programme is that there is no Wild Life Act, which potentially could be important for use of NTFP⁹ - nor any legal documents on the relations between grazing and forestry, other than very general guidance in some articles. The last example has proved to be a problem for the Programme since it provides funding for forestry activities on allocated land. In a considerable number of villages this has come into conflict with seasonal grazing. Of importance is also that customary traditions and regulations so far only is recognised to a limited extent in the forest law. The absence of clear support for community management of land resources is another significant feature.

5.3 Legal Documents Used in this Review

The documents listed below constitute a limited selection of legal documents¹⁰ that has been considered as relevant for VNFinFor and this study. Although reference is made to some of these legal documents elsewhere in this report, a few short comments in *italics* are included here.

The organisation of the legal documents under the headings here is an attempt to clarify for which topic these documents provide information. The documents were organised under the following headings: Overall forestry law, Land allocation and leasing, Management (in a technical sense) of forest and forest land, Exploitation and harvesting in forestry, Transport and business, Roles and responsibilities, Sanctions, Local rights and customary traditions and Additional. Some legal documents appear under more than one heading.

Overall forestry law

Decree No. 58 – LCT/HDNN8, promulgated by the National Assembly in August 1991: The Forestry Protection and Development Act. This could be considered as a framework document although the degree of details varies throughout the document.

Decree No. 17-HDBT of the Council of Ministers on the implementation of Decree No. 58 – LCT/HDNN8.

Land allocation and leasing (access and use of forestland)

Decision 02/CP form October 1994 by the Vice Prime Minister on allocation of forest land to organisations, households and individuals for long term forestry purposes.

⁹ although there are endangered species listed in different regulations, which normally are not allowed for exploitation.

¹⁰ The reader should be aware of the risk for interpretation errors in these legal documents. The team came across some very obvious mistakes, while less obvious mistakes are likely to have remained unnoticed.

Decree No. 163/1999/ND-CP by the Government on “Forest land allocation and lease for long term and permanent use by organisations, households and individuals aiming to develop forestry production.

Comment: Decision 02/CP is now replaced by Decree 163

DRAFT Regulation on Management of Protection Forest issued together with the Decision No... /1999QD-TT

Management (in a technical sense) of Forest and Forestland

DRAFT Regulation on Management of Protection Forest issued together with the Decision No... /1999QD-TT

General comments: There appears to be very limited legal documents guiding forest management in a more technical sense such as silviculture. This may explain differences and difficulties in clarifying what forest owners are obliged to do on allocated land. The draft regulation mentioned here includes some limited technical guidance related to wind breaks for reducing wind erosion

Exploitation or Harvesting in forestry

Regulation on exploitation of timber and forest products (issued together with Decision No.02/QD-BNN-PTLN of January 5 1999 of MARD

DRAFT regulations July 1999 from MARD on rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted.

Comment: This draft is now being circulated for comments. It includes significant changes in how natural forest will be considered on less critical watershed forest e.g. natural forest without forest cover will basically enjoy the same status as plantation forests if these regulations are approved.

Transport / Business

Decision No.47/1999/QD-BNN-KL of march 12 1999 issuing the regulations on inspection of the transportation, production and business of timber and forestry products

Roles and responsibilities of authorities

Decree No. 39 – CP, dated 18 May 1994 by the Government on the system of organisation and the tasks and power of the Forest Ranger Service

Comment: Regulate among other things delegation of responsibilities to commune levels

Decision No. 245/1998/QD-TTg from December 1998 by the Prime Minister on the Exercise of State Managerial Responsibilities of Various Levels concerning Forests and Forest Land

Comment: Describes responsibilities for among other things guidelines and instructions for the implementation of these legal documents by relevant departments and sections by MARD at central level and then by the Peoples Committee at Province, District and Commune level.

Sanctions

Decision 77/CP November 29, 1996 on sanctions against administrative violations in the field of forest management and production and forest product management

Decree No.04-CP of January 10 1997 of the Government on sanctions against administrative violations in the domain of land management and use

Circular No. 56/1999/TT-BNN-KL March 1999 by MARD Guiding the elaboration of the convention on protection and developing forests in the population communities in the hamlets and villages in plains and mountain area.

Comment: Through this document some sanctions may be handled by the community

Local rights / Customary traditions

Circular No. 56/1999/TT-BNN-KL March 1999 by MARD Guiding the elaboration of the convention on protection and developing forests in the population communities in the hamlets and villages in plains and mountain area.

Comment: This circular should serve as a guidance in relation to Decree No. 29/1998/ND-Cp from May 1998 promulgating the regulation on democracy to be implemented at the communes

DRAFT regulations July 1999 from MARD on rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted.

Additional

Decision No.661/OD-TTg of July 29, 1998 on the target, task, policy and organisation for the implementation of the project of planting five million ha of forest.

Comment: This is not a legal document but a policy document outlining the strategies and requirement to implement the objective of this programme

An overall assessment indicates that there are comprehensive legal documents available for different important aspects for smallholders forestry. The problem is rather the high number of legal documents that has been issued lately (particularly in 1997 and 1998) and the overlap and contradictions this creates in interpreting legal documents into more operational guidance.

5.4 Forestry policy issues

Forest policy issues are high on the agenda within Vietnam today. In discussions with the consultants the following general weaknesses in the forestry legislation has been highlighted partly reflecting the constraints already mentioned.

- Division of responsibilities and distribution of benefits from forestry is unclear at the local level (farmers, villages, communes, SFE etc). Division of mandates and responsibilities between various organisations in the administration is sometime unclear. A case in point is Land Administration on the one hand and FPS and DARD on the other.
- The logging ban on natural forest which with farmers need for fuel wood and construction wood (e.g. house construction) is unrealistic. Moreover it discourage productive investments in management of natural regeneration as there are ambiguities regarding how this type of forest should be considered¹¹. The general division is made between planted forest and natural forest but this division fails to recognise that a naturally regenerated forest can still be man made (manipulated through thinning, pruning etc) to increase the benefits or future value at the time of logging. The problem is that there are more restrictions linked to this type of man made forest than to a pure plantation.
- A lack of clear definitions on what should be regarded as agricultural land and forest land. At the moment there are approximately 8 million ha of agricultural land and 19 million ha of forest land out of which about 9 million are classified as barren forest land. However a substantial if not most of this land is used for agriculture (shifting cultivation) and are in essence fallow land¹². This is also has implication for how forest land with forest cover should be considered i.e. the definition of “forest cover” (see section 4. on terminology)
- The notion of “community forestry or community management of land resources” as opposed to the “state” and “private forest owners” (e.g. farmers) is unclear in the legislation¹³. This may have implication for the legal status of common land and how this could be used. The only and previously common examples of forests managed by the “community” was through the old collective and co-operative system.
- A strictly controlled market for certain forest products in spite of the general rhetoric about a transition to market economy. This could have serious implications for the farmer at the local level, which limits his/her influence regarding forestry and moreover the need to go through a cumbersome process of

¹¹ The DRAFT regulations of July 1999 from MARD “on rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted” clarify this and compares natural regenerated “man made” forest with forest plantations.

¹² In the land allocation this fallow land is sometime not recognised as being used and hence not allocated! This is also the land which is targeted for the 5 million ha programme.

¹³ In e.g. Decree No. 163/1999/ND-CP by the Government on “Forest land allocation and lease for long term and permanent use by organisations, households and individuals aiming to develop forestry production” - the only specification given for organisations is “organisations belonging to various economic sectors”

approvals for logging under certain conditions (see section 6.1) . All this serves as an important disincentive for sustainable forestry at the local level.

The forest law is about to be revised in the near future. A group of experts has been assigned for this task in MARD. ADB will support a review of the forest sector during 2000 and co-operate and support this process of revising the legislation.

In terms of interpretation of the law into regulations and guidance for implementation the Department for Forest Development in MARD plays a key role. These regulations, which are developed in co-operation with the Provinces and the Department for Policy Development are provided with more detailed instructions at the provincial level before issued by the chairman of the Provincial Peoples Committee. At provincial level the administration is therefore usually rather well informed or updated on new legal documents.

For the implementation of these legal documents by relevant departments and sections, guidance and directives - in accordance with Decision No. 245/1998/QD/TTg being a recent significant document that regulates the roles and responsibilities - should be provided at all levels first by MARD at central level and then by the Peoples Committee at Province, District and Commune level. It can however be problematic with the follow up of instruction and guidance as we move through to the district and commune level.

In operational terms one could argue that the commune level, being the closest state administrative level to the villages, is the most important level because they could exercise a more direct influence on the farmers. At the same time this level is weak in terms of staff capacity and resources to perform this role.

However, Decision No. 245/1998/QD/TTg is not very specific on certain aspects regarding the division of responsibilities e.g. between DARD and the Land Administration Office – this is left to the provincial administration to decide. The problem with this approach is how these organisations at provincial level should relate and receive effective support from their counterpart ministry at the central level, if institutional arrangements varies too much in the provinces.

The most significant document at the village or household level related to forestry is the Land Tenure Certificate (LTC). In the Programme area only temporary LTC has been issued so far. This document sets out the rights and responsibilities of the farmer on the allocated production forest land. In principle the land could be reclaimed if it is not put into proper use. What should be regarded as not acceptable use is however not sufficiently clear in the legislation.

Complementary to the LTC is a recent document¹⁴ now being used in Bac Kan, where the farmer commit themselves to follow a number of rules. This document which also cover protection forests does not specify anything about the rights of the farmers. Moreover it may be contradictory to some future legal documents or MARD regulations¹⁵, since the farmer also commit themselves not to practise shifting

¹⁴ The title is "Commitment – Regulations on forest and protection and development"

¹⁵ See e.g. Draft regulations July 1999 from MARD "on rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted" accepts shifting cultivation on part of the allocated land, but the commune and district peoples committee should decide/approve.

cultivation. Perhaps most important is that these regulations are not widely disseminated in the village and also poorly understood by those committing themselves to these regulations.

6. LOCAL EXPERIENCES OF MANAGEMENT OF NATURAL FOREST AND GRAZING LAND

6.1 Forest management by farmers

The focus of the programme and its activities has been on forestry, as a reflection of the long term objective “To contribute to sustainable rural development in the mountainous regions of Vietnam, through the integration of forestry activities in the rural land-use and economy”. One of the three key strategies address farm forestry¹⁶ more specifically by “improving management of allocated forest lands, through improvements in Farm Development Plan process, including related extension support, credit, and assistance with processing and marketing”, but without specifically addressing institutional constraints.

However forestry on allocated land is not always a feasible first entry point to support households in developing their farms and household economy. Apart from aspects like the access to a market for forest products there are also other factors influencing how attractive forestry is. The fertility of the land, size of the plots as well as the overall configuration of forest land and allocated individual land influence the degree of difficulties in managing the forest land. Moreover poor farmer are usually disadvantaged in the land allocation process itself, the argument being that these households does not have enough resources (labour and capital) to develop allocated forest land.

This being said there are also conditions where farmers believe that the investment in forestry is worthwhile and the team met with two innovative farmers that had or were developing impressive forest farms. One of these farmers in Dong Loc commune had - mainly through his own efforts - established a forest farm (or forest garden) with a combination of short term species (mainly bamboo) and more long terms tree species together with fish ponds. Another farmer in the same commune had more of a pure forest plot with different short and long term rotation tree species.

One constraint for farmers with forest land though is the procedures involved for formal approval to harvest or log the forest. The information about these procedures are not only inadequate, they are also for certain situations overly complicated.

Procedures for permission to harvest depend on:

- The purpose/use of the forest

¹⁶ In this report “farm forestry” includes forestry on allocated land to individual households both what in Vietnam sometime is referred to as “forest garden”, which normally is situated close to the farm itself as well as forest land situated far away from the house

- Source of funding
- Distinction between planted forest and natural forest
- Forest status at time of allocation

It was also said that these procedures often require “fees” to obtain necessary permissions, although this is not being part of the formal system. The procedures are illustrated in Figure 6-1. The Figure is based on the assumption that the farmers own resources has been used to develop the forest land. If other investment resources has been used e.g. (i) preferential loans or (ii) aid funds, other formalities may apply¹⁷.

When asked how a programme like VFFinFor is considered in this context, it seemed to be a general assumption that the credit provided should be seen as the farmers own investment resources. This may however require a more formal clarification between the parties of the programme.

As can be seen in Figure 6-1, the procedures under some conditions are very complicated and constitutes a serious disincentive for more long term investments in forestry. The two extremes are plantation forestry for own use, which are as simple as possible, while natural forest allocated with forest cover is very complicated. These procedures also works against the intention of other policies of the Government e.g. to encourage the use of indigenous species and the development and management of natural forests.

At the same time the argument that it would not be fair to allocate land, where the status of the forest (and hence the value of the standing stock) could differ considerably for different farmers, is a valid argument. The question is how to strike a balance with reasonable procedures and at the same time make the allocation as fair as possible. Moreover an estimation of the volume, number of trees of different species etc. and by implication the value at the time of allocation and at the time of harvesting respectively is technically complicated. For instance, issues such as....

- How to separate the efforts (protection, enrichment planting, thinning etc) of the farmer from what would have been the result if the land had not been allocated and...
- How to assess any damage that could affect the forest and how these costs should be internalised are two examples.

¹⁷ See Regulation on exploitation of timber and forest products article 25, issued together with Decision No. 02/1999/QD-BNN-PTLN - January 5, 1999. See also article 26 on thinning, when outside sources of funds are involved

Figure 6-1

6.2 Conflicts in the use of natural resources

A useful approach in an assessment of conflicts over resources is to analyse different situations and places in terms of:

- the character of the resource e.g. the land use and the location, amount and quality of the different land use categories. In relation to forest land the remoteness in relation to the farm is a significant factor,
- the social side which includes differences and similarities between ethnic groups as well as villages and households within the same ethnic group regarding e.g. their livelihood systems, traditions, perception of ownership etc.
- institutional arrangements both locally as well through the administration in terms of effectiveness, possibility to monitor, compliance etc.

Regarding the natural resource itself there are variations on how much of different kinds of land (paddy land, rainfed agricultural land, grazing land and forest land) that are available. In areas with shortage of agricultural land there might not be any immediate alternative than to continue with shifting cultivation on forest land for reasons of food security¹⁸. Attempts to introduce or develop alternative systems for land use on these slopes like agroforestry or SALT will take time¹⁹. Even when there are agricultural land available the location of the forest land might be close or far away from the household with implication for how intensive the households wish to manage the forest land

On the social side there are differences between ethnic groups as well as between villages and households within the same ethnic group. Some villages have a strong sense of solidarity and identity with strong village institutions and village leadership. The most significant social arrangement in some ethnic groups like the H'mong is a strong patri-clan type of organisation rather than the village.

Finally institutional arrangements varies both locally in the village as well through the administration. There might be effective regulations in place which are possible to monitor regarding compliance. Other villages may have system of rules which are clear enough but where there might be difficulties in implementation because the resource itself is difficult to monitor.

¹⁸ Draft regulations July 1999 from MARD “on rights and responsibilities for households, individuals and village communities who receive land and forest for protection, regeneration and plantation, both allocated and contracted” accepts shifting cultivation on part of the allocated land, but the commune and district peoples committee should decide/approve.

¹⁹ There are many attempts in Vietnam to introduce technologies based on experiences in other countries. These models, established with considerable outside support, has however not been very successful in terms of being possible to follow by poor farmers not enjoying the same support. It appears as if many of these attempts has not fully recognised that these models were reasonably successful from where they originated, because they were developed together with farmers in a particular context. This context is often not similar to the situation where they are introduced in Vietnam.

Land allocation is an essential process influencing the management of natural resources. In some villages visited, land allocation had not been completed, due to internal conflicts within the villages as well as changes in the boundaries between communes and villages.

There are many and complex reasons for this. Much of this forest land has been used for shifting cultivation. Each household has traditionally used a number of plots in a rotational fallow system (on average 3 plots but with large variations one household using 15 plots!). The attractiveness of these plots varies on different aspects. Some are more fertile than others, some plots are fairly close to the house and others are far away.

For reasons of rationality and in attempt to avoid too much fragmentation of the forest land there are usually a minimum area required for allocation (in e.g. Ba Be the minimum area was set to 1 ha). This means that farmers will not always be allocated the same plots as they have used traditionally. This is one reason why land allocation sometime comes to a standstill in the villages, since there are difficulties in assessing and comparing different plots.

Another reason is that some households are simple not interested to receive forest land on the terms offered, since they have to give up shifting cultivation. In the absence of insufficient agricultural land these plots are needed for reasons of food security, at least in a short term perspective for poor farmers with little other alternatives.

There are in other words locally individual recognised user rights to these shifting cultivation plots at least during the cropping season (mainly upland rice). During the rest of the year this land is usually managed as a “common resource”²⁰ for grazing, collection of NTFP and fuel wood. When land is allocated, farmers will not have formal access to this common resource anymore, which again is more problematic for poor farmers. They are not only likely to receive less land – they are also excluded from the common goods of the land under forest fallow. Another category of households are those who are not practising shifting cultivation at all, but still enjoy the benefits of the forest land when it is used as a community resource.

In general the notion of community forestry and common property (an established regime for managing a community resource) is weak in the formal institutional system of Vietnam. This is somewhat surprising with Vietnam’s experiences from collectivisation and the co-operative period, perhaps an indication that the experiences from this period should not be repeated. However attention for this form of property arrangement could be useful, particularly in shifting cultivation areas where food security is a concern and alternatives are not immediately available.

6.2.1 Causes of conflicts between forestry and grazing

Of particular immediate concern for the project is the damage caused by the free grazing buffaloes and cattle during parts of the year. This was also confirmed by farmers during the field visits. In one village it was reported that up to 50 – 60 % of the forest plantations made has been destroyed by buffaloes, while in the more

²⁰ To what extent this common pool of resources is used as an open access or regulated in the village were not assessed in particular. Experience from other places suggest that there usually are rules governing the use although they will vary depending on e.g. how abundant the resources are.

“successful” plantations only 30 – 40 % were destroyed! With this rate of damage one can question how much that will last after one or two more years of the resources invested in forestry by these farmers, not to mention the impact on the credit-scheme introduced by the Programme.

This has evolved into a situation of conflict in some villages, where the farmer who catch a buffalo grazing in his forest land cut the Achilles tendons of the legs. Moreover these experiences is not a very effective demonstration for other farmers of why one should invest funds and labour into forestry.

The team has not been able to establish if there are any particular characteristic of households who are prepared to invest in forestry or for that matter, households who invest in a high number of buffaloes or cattles²¹. What is likely to be more important is that free grazing is part of the farming system. A similar pattern previously characterised the farmers in the midlands of northern Vietnam as well, but with increasing population density it became necessary to introduce 2 crop rice or in other ways more intensive agriculture . As a consequence the farmers had to find alternatives to free grazing. In other words crisis in the farming system facilitated changes.

In some villages there are well developed institutional arrangements to deal with the damage caused by buffalo and cattle on agricultural and forest land during the period of free grazing. In e.g. Na Chom village in Xuan Lac commune there were reasonably clear regulations on how to deal with damage caused by buffalo or cattle. If the damage to a crop occurs in the hamlet the buffalo owner should compensate the corresponding amount of the damaged crop. If a similar accident would happen outside the hamlet but within the village the buffalo owner would have to pay a fine of 20 000 dong per buffalo apart from compensating the crop. The rules seemed to function at least for agricultural land, since there were evidence that these sanctions also were implemented.

The problem when the forest is far away is that it will be much more difficult to catch the intruder when the damage actually takes place. In other words - the resources required to control and protect your forest plot is more than for agricultural land. The characteristics of the resource is sometime more important than institutional arrangements. In other villages it seemed as if village regulations were less developed or not effectively implemented e.g. where farmers cut or kill the buffalo causing the damage.

This imply the need for flexibility when working with local communities and the need to develop the process of how to approach this rather than developing a kind of a “blueprint“ solution, something that is not likely to be very effective. Any method of

²¹ One assumption discussed during the mission although not confirmed was that the conflict primarily is between resource strong farmers (relatively speaking) - where those who have enough labour resources invest in forestry and those who primarily can mobilise capital, but have little labour invest in buffalo/cattle raising. For them the labour is not a constraint as long as they can practise free grasing.

working need to be adapted to resources and capacity at hand. A “process” approach will require a reasonable balance between flexibility and clearly identified steps.

7. STRATEGIC ISSUES FOR THE PROJECT

7.1 The scope of the project

The program’s approach so far has been to address poverty through forestry. A prerequisite or assumption in the project is that land allocation should be completed. At the same time the project are involved or intends to be involved 9 communes and in up to 76 villages, where conditions differs substantially. In terms of supporting implementation at household level the project provides credit for forestry related activities such as tree planting (reafforestation, fruit trees, special product trees), agroforestry, bee keeping, sericulture, small scale processing etc. The steering committee has recently also approved the expansion of the project into agriculture and animal husbandry by allowing credit support for these activities as well.

A characteristic of the programme area is the diversity between villages in many different aspects related to the (1) natural resources, (2) the social conditions and (3) institutional arrangements. Since the number of villages has increased it makes sense to be able to offer a more diverse menu of project support activities. However to be more effective the project may need to be more selective regarding project activities in different villages. There are different reasons for this:

1. It will be impossible for the programme to operate and provide relevant and good extension support in all activities that the programme now has a mandate to work with.
2. Some of the activities may not be appropriate for some of the farming systems or livelihood systems that characterises different villages and different households²²
 - In order to establish good relations and confidence in the programme and it’s extension support, it is important to include some activities that provides benefits in a short time period

The question is to identify the “entry point” for project intervention. The PRA practised by the project offers potential opportunities. The team has not had the chance to study (i) how PRA is done, (ii) for what purpose and (iii) how it is used by the programme and others.

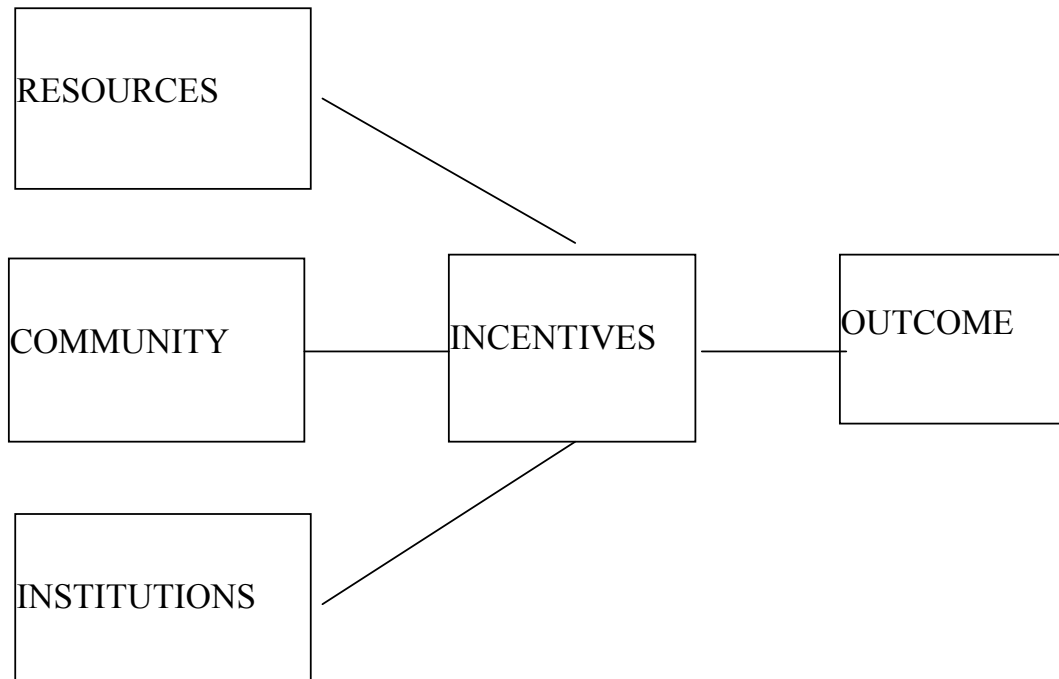
With the limited exposure the team had to the use of PRA in the project, the team would still challenge the present use of PRA. It appears at this stage that a more flexible and focused approach is required. The programme is both piloting new ideas as well as expanding into many new villages primarily for implementation. Closely

²² SAM project may offer relevant experience on this matter

linked to this is the need to develop strong local institutions in order support, maintain and possibly expand activities after the programme has been phased out.

Regarding institutional issues per se , it could be useful to develop a simple framework for analysis of incentives and disincentives based on the approach illustrated in Figure 7-1

Figure 7-1



7.2 Land use planning and land allocation

What is an overall serious institutional issue for the project is the question of access and user rights on forest land²³. This has implication not only for forestry but also for farming activities in general. Although land allocation has been completed²⁴ or at least initiated in a number of villages, there are a number of questions that has not been properly addressed. This includes:

- Internal conflicts among villagers related to the identification of plots and the need to address the question of fragmentation of traditionally used plots.
- The impact on the traditional farming system, where this land is traditionally used both for shifting cultivation on household controlled plots as well as a common “open acces” or “regulated” resource for seasonal grazing and for collection of fire wood and other NTFP (this includes land under forest fallow).
- The equity aspect, where the conditions for land allocation favours resource strong farmers and works against resource poor households.

On a larger scale the land allocation is constrained by the lack of land use planning. This generally refers to the lack of clear demarcation of different land use categories as well as administrative boundaries and more specifically:

1. The different systems for land classifications applied by DARD (classification of forestland developed by FIPI) and by Provincial Land Administration (classification of all land including forest land developed by GDLA)
- The lack of a clear system for classification of forest land into the three categories of (1) Protection Forest, (2) Special Use Forest and (3) Production Forest. In the project area it is primarily the identification of protection “watershed” forests and the three categories of “very critical, critical and less critical” which is a concern.
 - The classification of the quality of the forest on allocated land with natural forest at some stage of regeneration and/or depletion, since the use is more restricted and accompanied with more complex regulations for the use of the wood in comparison with plantation forests.
 - The demarcation of village boundaries, which is not based on any officially recognised system in the same way as commune boundaries and therefore not always coincide with villagers conception of village boundaries.

This is a serious issue for the Programme as well and is not only a technical question, since it has institutional implications for the farmers in terms of their rights and responsibilities, apart from jeopardising the land allocation already done. It also has

²³ With respect to forest management, the Review Mission recommended that more attention should be devoted to management of natural forests and forest lands not yet allocated. They also highlighted the need to clarify local rights and responsibilities vis-à-vis the management and use of natural forests.

²⁴ According to official statistics quoted in the Annual Work Plan, allocation of forest land ranges from 76% - 100% in Cho Don district, while the two communes in Ba Be district has allocated 40 and 67 % respectively. Allocation here refers to a temporary certificate referred to as the “Blue Book” and not the permanent certificate or the “Red Book”.

an impact on the administration and their credibility representing the formal institutional system.

The question of which land classification system (FIPI or GDLA) that should apply is beyond the scope of the Programme and is more of a political question. As regards the classification of forest land the Programme may be of assistance. It is primarily the question related to (1) identifying what should be regarded as protection forest in general and (2) the classification of this into (i) very critical, (ii) critical and (iii) less critical watershed areas, that is urgent. It is the social and institutional dimension of this question that makes this into a difficult issue, since farmers are already using these areas to a large extent²⁵, out of which some may have been allocated already.

In as far as there are existing issues regarding demarcation of village boundaries in the project areas, it might be useful for the programme to monitor how these are dealt with and even take the opportunity to be involved. This may be relevant for the conflict between grazing and forestry.

7.3 Conflict between forestry and grazing

Regarding the conflict between grazing and forestry it is important to remember, as has been concluded elsewhere in this report, that this is not only a question about institutional arrangements, which was clearly exemplified during field visits. Even when reasonable rules and regulations are in place the character of the forest land may not easily lend itself to controlled grazing. Moreover, if the issue of land for grazing was not considered during land allocation there is always a risk that buffaloes and cattle will cause damage in allocated forest plots.

A number of interventions may be considered:

- The project may engage itself in land allocation together with relevant authorities and together with villages identify suitable and large enough areas for controlled grazing. This is suggested under the assumption that this is a realistic option in terms of how far land allocation has proceeded. This should go together with the development of village regulations for community grazing .
- The issues and importance of controlling the buffaloes and cattle during the season of “free grazing” can also be promoted through different local village associations such as the farmers association, women’s union and youth union, where these are known to be effective .
- Strengthen co-operation with research on fodder crops which could be tested both to improve quality of grazing land as well as cultivated for hay making (or silage) and eventually used for stall feeding²⁶.

²⁵ The Sida supported MRDP may have some useful experiences regarding institutional management arrangement with local farmers regarding protection forests

²⁶ The opportunity is particularly favourable in Bac Kan with the presence of the projects under the SAM program. There are studies being planned for, regarding the importance of buffalo and cattle for the household economy. In the neighbouring province Cao Bang, Helveta is doing a similar study.

Given the short time available, the team has not been able to identify a suitable particular village for this. In general it would appear as if a village that already have reasonable village regulations in place for regulating damage on agricultural crops by buffalo or cattle would be more suitable to select. The team was also informed that there are examples of controlled grazing exercised by the Dao ethnic group and this may justify further assessments by the programme, before a village is selected.

7.4 Community forestry

The other alternative for community management addressed in this study was for management of natural forests. As has been concluded elsewhere in this report the concept of “community forestry” is weak. In the communes and villages land is allocated to individual households and not to villages or groups of households. However there are existing problems and those that can be foreseen, which offers opportunities for co-operation between households. This could possibly be labelled as community forestry:

- First the land that is allocated is usually fragmented with an average number of some 3 – 4 plots allocated per household. In many cases the land is situated far from the house and therefore difficult to control from buffaloes and firewood collectors etc. If farmers could co-operate and assist each other the labour that goes into this kind of work could be reduced.
- Secondly, there might be potential for co-operation for some of the technical management aspects required for the forest plots. This include e.g. raising seedlings, transfer of technologies (indigenous as well as outside techniques).
- Thirdly thinning and harvesting may offer opportunities. It may prove difficult for a single farmer to harvest without causing damage to neighbouring forest plots during felling and transport of the wood. If for sale the farmers could ideally organise felling and transport over a somewhat larger area involving more than one household only. Moreover the work with harvesting procedures could be rationalised (see also next section on farm forestry)

Even if it is not likely that the programme would be immediately involved in harvesting, the foundation for something that is similar to community forestry or rather a Forest Farmers Association could be initiated by support for the examples²⁷ mentioned. The criteria for selecting a suitable village would apart from demonstrated interest from the farmers, be a configuration of forest land which corresponds to the first point mentioned above. Ideally one would look for one or two villages where this could be combined with the effort to develop grazing systems in the project.

7.5 Farm forestry

To be effective the project need to be more selective regarding villages where there are suitable conditions for farm forestry²⁸ as for any new activity that may be

²⁷ The experiences of “interest groups” in MRDP may be useful for the programme

²⁸ Farm forestry is here related to activities on land allocated to individual households

included. Land allocation is far from the only factor determining if forestry is a meaningful activity to start with.

What is of particular importance is to look for ways of simplifying many of the procedures involved in farm forestry particularly related to harvesting. The procedures involved in natural forest as opposed to plantation forests are important particularly since it is Government policy to promote the use of natural forest regeneration, enrichment planting and the use of indigenous species.

The project could contribute ideas for more realistic procedures for testing by some farmers in some villages and communes and relevant authorities. It seems obvious that households in easy accessible villages that already have developed farm forestry for some time would be good candidates for this.

One guiding principle for simplifying these procedures should be to internalise them within the village and/or commune as much as possible. Accepting the argument that all the benefits from forestry on land that was allocated with forest cover should not go to the farmer exclusively, procedures could be developed where benefits are shared and used for common goods and services within the village/commune. This could be anything from schools, drinking water, allowance for commune forest staff etc., something that needs to be discussed at the local level.

Another issue of a more technical nature is to develop activities that generate income in a relative short time period for which formal procedures for harvesting and marketing are as simple as possible. This could potentially be of more interest for poorer households. Various NTFP may be of interest here such as bamboo, medicinal plants, mushrooms, spices, fruits etc.

The whole question of simplifying procedures and making forestry into a more attractive alternative is also closely linked to the ambition of the project to support business development. Moreover it could be combined with the proposals in the previous section on “Community Forestry” regarding co-operation between farmers.

7.6 Support to policy development

As the Programme has the ambition to “contribute to improved policies at national, provincial and community levels” (community levels is understood by the team as district and commune levels) there must be explicit support for this within the province.

One implication for some of the issues mentioned in this report where there may be a case for testing new approaches, is that this initially must be limited to a few villages only. Another implication is that the programme should agree with relevant authorities on specific tasks that the programme could address not only in terms of themes but also in terms of legislation and/or interpretation of laws and/or development of instructions and/or other policy instruments (than legislation) that act as incentives or disincentives etc.

The project also need to establish effective monitoring of these activities, also in the sense that the specific issues relevant for policy development are addressed. This will be required to inform and engage different levels of the province in the experiences and efforts of the project. The programme may also establish a special reference group with participants from commune, district and province level.

8. CONCLUSIONS AND RECOMMENDATIONS

This section is mainly a reflection of the previous section on strategic issues. The main recommendations are related to major strategic issues in the previous section

The scope

1. The wider scope that now is or will be a future character of the Programme, makes it necessary to be more selective regarding project activities in different villages. The question is to identify the “entry point” for project intervention. The PRA practised by the project offers potential opportunities for this.
2. Based on the limited exposure the team had to the use of PRA in the project, it appears as if PRA could be used more for analysis and not just as a standard procedure for planning project intervention.
3. The need to develop strong local institutions and organisations will need more attention, when the project expand the number of villages beyond the pilot stage, in order to support and maintain project activities. Eventually the PRA itself may need to be streamlined in order to reduce costs for the programme - and more important the organisations that are expected to continue without future programmes support.
4. Additional STC inputs should assist in the development of a more dynamic use of PRA both as a tool for piloting and testing new approaches and methods as well as for implementation in a larger number of villages. The need for a simple framework for institutional analysis is also an important aspect of this.

A suitable time for this appears to be when the programme plans for and implement the next period of PRA exercises i.e. May – June. Estimated time required for this are two weeks

Land use planning and land allocation

1. In the absence of overall land use planning the rights and responsibilities of the farmers are at best ambiguous. Without necessarily favouring overall land use planning as such, the fact that this is an issue for the administration is a strong argument for the project to be more involved in this process.
2. It is primarily the question of classification of protection “watershed” forests and it’s social and institutional dimension rather than the physical characteristics that require attention, when a classification system is developed. In this context the project needs to ensure from the Provincial Authorities enough freedom and support for piloting innovative and practical approaches for overall land use planning and watershed classification.
3. In as far as there are existing unsolved problems regarding demarcation of village boundaries in the project areas, it might be useful for the project to monitor how

these are dealt with and even take the opportunity to be involved. This may also be relevant for the conflict between grazing and forestry

4. A STC should assist with additional analysis of the formal system related to the user rights of watershed protection forests as well as the systems for classification of protection forests being on the agenda in the administration as well as in other donor funded projects.

Analysis of local systems for regulating and protecting natural resources will be required and could be combined with part of the suggested short term input under point 4 above e.g. by including this issue as a practical exercise for institutional analysis in a selected new PRA village.

Moreover the STC should further clarify the main constraints for over-all land use planning in general and more specifically those related to classification of watershed protection forests as well as provide proposals for how the programme could address this question further with relevant authorities.

The time for this STC input should ideally be as soon as possible. If appropriate it should co-ordinates and interact with the activities related to land allocation during May – September. This is likely to be an issue that will require considerable attention from the programme for some time.

Grazing and forestry

1. In relation to grazing the project should as a first alternative identify if there are villages, where the land use situation allow for allocation of a large enough grazing area that could be allocated as a common land for controlled grazing.
2. The Programme could assist with the development of appropriate and adequate village institutions and arrangements. Regardless if there is sufficient grazing land available the traditional practise of free grazing need more attention during land allocation.
3. To promote controlled grazing full use should be made of different local village associations such as the farmers association, women's union and youth union, where these are known to be effective.
4. The opportunity to co-operate with research should be developed. The conditions for this is particularly favourable in Bac Kan with the presence of the SAM programme which includes both research related to farming systems as well research on fodder crops. This is relevant for the programme both for improving existing grazing areas as well as trying to introduce new practises e.g. stall feeding and hay making based on cultivated fodder crops and/or rice straw.

There may not be any need for specific institutional STC inputs for this issue, partly since the programme will have other more technically oriented STC inputs in the near future (e.g. on agroforestry) and could strengthen co-operation with research in general. However as part of developing capacity for institutional analysis the question of grazing could be included as a practical exercise in the STC under point 4 above. It could also be included as a specific issue in overall land use planning

Community and farm forestry

1. The Programme should promote co-operation between forest farmers on questions such as co-operation in protection of the plots (identifying e.g. buffaloes causing damage so that sanctions in village regulations become more effective), strengthening of village institutions and the enforcement of relevant sanctions as well as on more technical aspects of farm forestry.
2. There is a need to clarify in general and simplify many of the procedures involved in farm forestry particularly related to harvesting. The Programme could contribute ideas for more realistic procedures for testing by some farmers in some villages in one selected commune. This could also promote co-operation between farmers
3. The team recommend the Programme to specifically assist in the development of more simple and adequate procedures together with relevant authorities for sharing the benefits from individually allocated forest land with forest cover. The aim should be to have a system that share the benefits at the local village level (involving household, hamlets and/or village level) and commune level rather than with the provincial and/or state level.

This is related to the overall issue of user rights and responsibilities and therefore related to land use planning and land allocation. An example is that less critical watershed forests may be considered as production forest in terms of rights and responsibilities.

4. The need to develop forestry related activities that generate income or products for self consumption in a relatively short period of time is urgent, in order to encourage the interest for forestry. These should preferable not be constrained by formal difficult procedures.
5. A STC should assist primarily with the development of more simple procedures and alternative mechanism for benefit sharing at the local level and commune level and if possible the testing of those as well. Included in this is also the need to improve methods for dissemination of rules and responsibilities at the local level

A STC (but not necessarily under the present institutional STC input) could also assist with the development of alternative forest related production activities (see point 16) and / or the information and training as required

The time for this STC input seem to be less urgent than the others proposed in this section. It could be done in May if appropriate in relation to other STC or early autumn.

Support to policy development

1. When there are more specific guidance from concerned authorities as to what the programme should focus on, the programme need to establish a monitoring system tailored for the requirement of the pilot activities proposed in this report, so that an effective contribution to policy development can be made.
2. A special STC will address overall programme monitoring and the team recommends that the specific monitoring needs for pilot or methods development activities are addressed by this STC as well.

Selection of pilot villages

The criteria for selecting suitable villages for piloting some of the activities should be guided by the following criteria's:

- Demonstrated interest from the farmers and relevant authorities
- In relation to 5 – 7 the project is recommended to select a village and/or commune where land allocation has not been finalised and where there are both needs for overall land use planning and where farmers to a considerable extent depend on the forest land for their livelihood.
- In relation to 9 - 12, it appears as if a Tay village which already have reasonable village regulations in place for regulating damage on agricultural crops by buffalo or cattle would be more suitable to select. As an alternative or as an additional pilot village it could be useful for the project to select a Dao village
- In relation to 13 – 15 a configuration of forest land which facilitates and eventually may require co-operation. In practise this means a reasonable number of farmers with their forest plots near or bordering each other
- Since the issue under 13 - 15 is to develop co-operation and demonstrate more immediate results from farm forestry, the selected village should be relatively easy to access and the forests reasonably well developed.

Future STC input

A proposal for ToR for additional STC input is attached in annex 5. It covers mainly additional support for institutional related issues. Some of the STC inputs mentioned sections are better handled by other STC inputs already planned for and it is proposed that their ToR are adjusted accordingly

The proposed ToR does not differentiate between the work to be done by a national or international consultant. What is important is to find sufficiently qualified people, regardless whether this will be a national or international consultant or a combination of both.

Additional

There are special procedures for forestry, when funds has been provided through preferential loans, donors and other investors. It seemed to be a general assumption that this would not apply in a programme like VNFinFor. This may however require a more formal clarification between the parties in the Programme.