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Key messages

- Viet Nam is developing an equitable, transparent and efficient benefit distribution system as part of its preparations for the Reducing Emissions from Deforestation and Forest Degradation (REDD+) scheme.
- The studies build on lessons from Viet Nam's extensive past experience with benefit distribution systems in the forest sector.
- Viet Nam's development of a benefit distribution system that will comply with the new REDD+ requirements raises sensitive human and indigenous rights issues that will be addressed partly through free, prior informed consent. However, issues of carbon, land and forest tenure remain.
- Providing local communities with a meaningful role in the benefit distribution system preparatory process is vital for safeguarding social and economic benefits for local and indigenous communities.

Author:

Katherine Lofts
Centre for International Sustainable
Development Law

Distributing the benefits from REDD+: The case of Viet Nam

Viet Nam has a rich history of benefit distribution systems for decentralised forest management. It can draw clear policy options from this experience to build a benefit distribution system that will be compliant with the Reducing Emissions from Deforestation and Forest Degradation (REDD+) programme being developed under the United Nations Framework Convention on Climate Change (UNFCCC). By participating in international capacity building programmes, Viet Nam has taken the first steps toward designing such a system. This brief highlights key lessons learned from the Vietnamese experience, outlines the process of preparing such a system in the country, and lists the challenges that remain.

Currently, Viet Nam is participating in several initiatives to prepare for a REDD+ financial mechanism. In July 2008, the country was one of the first to receive approval for its Readiness Project Identification Note under the Forest Carbon Partnership Facility. In March 2009, it was one of nine pilot countries selected for the Quick Start Initiative under the UN-REDD Programme. Viet Nam is now drafting its National REDD+ Strategy and has established a National Readiness Management Arrangement, including a Viet Nam REDD+ steering committee, network and dedicated office.

It is estimated that REDD+ could generate benefits of \$80–100 million per year in the country – roughly three to four times the amount of aid money currently supporting the Vietnamese forestry sector.¹ However, the country's ability to attract this finance will depend on the development of a REDD+ compliant benefit distribution system.

Those who undertake forest management – including indigenous and forest-dependent communities – need clear incentives for adopting REDD+ activities. Equitable and transparent benefit distribution systems are an important

part of providing such incentives. At the same time, investors find security in transparent and accountable systems that are monitored, reported and verified. Furthermore, performance-based or other conditional payments can motivate communities to achieve and sustain results, leading to further carbon reductions. For these reasons, Viet Nam considers the design of a compliant benefit distribution system to be a priority in its preparations for REDD+.

While REDD+ has not yet been fully informed by best practice – the international mechanism remains under negotiation – there are nevertheless certain key aspects common to the Cancun Agreements, UN-REDD Programme and Forest Carbon Partnership Facility, such as the preparation of a national REDD+ strategy or action plan. In this paper, 'REDD-compliant' refers to compliance with the general requirements that have been agreed through the international negotiations to date, even though the fine detail of the REDD+ mechanism is still to be finalised and approved by the parties to the UNFCCC. Viet Nam situates its benefit distribution system efforts within a national REDD+ strategy that aims to align with these emergent international norms and expectations. The country has also undergone several expert studies of existing policies, legislation, institutions and experiences with benefit distribution systems in the forestry sector.

Efforts to prepare for a benefit distribution system that is REDD+ compliant

In late 2009, a team of 15 international and national experts convened under

the leadership of the Department of Forestry of the Ministry of Agriculture and Rural Development to conduct a study on the design of a REDD-compliant benefit distribution system for Viet Nam.² A follow-up to this study was released in December 2010 by the UN-REDD Viet Nam Programme. In March 2011, under the auspices of the Forest Carbon Partnership Facility, Viet Nam produced a Readiness Preparation Proposal (R-PP) addressing benefit distribution issues.

An independent review followed, leading to a report commissioned by UN-REDD and the Forest Carbon Partnership Facility.³ In each case, Viet Nam's past experiences with benefit distribution systems in the forestry sector, as well as existing legal and institutional frameworks, were reviewed to draw out lessons learned and identify recommendations for an improved benefit distribution system in the context of REDD+.

Past experiences with benefit distribution systems

Since the 1980s, Viet Nam has encouraged the decentralisation of forest restoration, conservation and management to households and communities through a number of initiatives. Lessons have been drawn from the 661 Programme (also known as the 5 Million Hectares Rehabilitation Programme), payment for ecosystem services pilot projects, forest restoration projects, community forest management projects, and Clean Development Mechanism afforestation and reforestation projects. These initiatives adopted differing approaches to benefit

distribution systems and achieved varying degrees of success, thus providing a strong empirical basis for prospective system designs.

Recommendations for the design of future benefit distribution systems

The experts considered a number of issues related to the design and implementation of an effective benefit distribution system. Viet Nam's experience has shown that a system of fixed payments per hectare (such as that employed by the 661 Programme) results in the inefficient use of funds and fails to recognise differences in local forest quality and ecosystem services.⁴

One solution to this problem is performance-based payments. For example, the 'K-factors' used in Viet Nam's previous payment for ecosystem services pilot projects represent a model that could be adapted to meet REDD+ objectives. These are factors used to weight payments in a manner that takes into account the relative value (type and quality) of different forest areas. Building on the concept of K-factors, the first report proposed a system of 'R coefficients' that would differentiate payments according to carbon stocks, while also taking into account other goals, such as poverty alleviation.

Payments must be set at a level that does not merely offset the opportunity costs incurred by forest users, but also offers clear incentives for participation in REDD+.⁵ The timing of fund disbursement is also important in creating effective incentives. While *ex-post* payments for REDD+ services

can be linked clearly to performance, some pre-investment is needed to meet start-up and opportunity costs. Periodic disbursement of payments, combined with micro-financing schemes, can also be used to overcome high start-up costs while motivating forest managers to keep delivering results.⁶

Another issue examined in the studies is eligibility to receive REDD+ benefits. Pilot projects concerned with payment for ecosystem services have demonstrated that paying benefits to communities tends to result in more equitable disbursement, lowering the risk of 'elite capture', in which the powerful few retain the best land and receive disproportionate payments at the expense of the many poor.⁷ This is therefore preferable to disbursement to individual households, state-owned companies, or protected area management boards. However, legal constraints currently prevent village communities from being eligible for REDD+ payments, as discussed below.

Mechanisms for managing dedicated REDD+ revenues (i.e. revenues that are kept separate from government budgets) were also considered. REDD+ revenues are best collected in a dedicated national fund that is firewalled to prevent the leakage of funds into general government revenues, with equivalent funds at the provincial and district levels.⁸

Two such off-budget mechanisms already exist in Viet Nam. The Forest Protection and Development Fund was established in 2008 to receive funding from Payment for Forest Environmental Services projects, but it lacks the civil society participation in its management

likely to be required in REDD+. The Trust Fund for Forests pools funding from international sources and allows non-governmental participation in its governance, offering a more appropriate model for REDD+.

Among the other issues considered in the expert studies are the appropriate institutions for monitoring REDD+ interventions and actions, mechanisms for revenue retention to cover administrative costs, the need to strengthen forest law enforcement, and the establishment of an equitable recourse mechanism to address disputes arising from REDD+ activities.

Pilot projects: tailoring the design benefit distribution systems and implementing free, prior and informed consent

Viet Nam has 53 ethnic minority groups constituting 16 million people,

many of whom live in and around forests. Based on past experiences with payment for ecosystem services, Viet Nam's R-PP acknowledges that no single benefit distribution system can apply to all provinces. In response, the Government will seek to implement pilot projects in a number of provinces throughout the country, the first being Lam Dong Province in the Central Highlands.

As a precursor to the implementation of these pilot projects, Viet Nam has pioneered projects for free, prior and informed consent in the Lam Ha and Di Linh districts of the province. The concept of free, prior and informed consent recognises the primacy of participation, inclusion and safeguards as key human rights that must guide sustainable development projects. Free, prior and informed consent is now enshrined as a right in Article 19 of the United Nations Declaration of



Indigenous and forest-dependent communities need clear incentives for adopting REDD+ activities Photo: Panos Pictures.

the Rights of Indigenous Peoples. By implication, it extends beyond those who identify themselves as indigenous, entitling all peoples to free, prior and informed consent.

The free, prior and informed consent projects initiated in Lam Dong Province involved an eight-step process, implemented over a five-month period at the beginning of 2010. This process included raising awareness, recruiting and training interlocutors, preparing and conducting village meetings, recording decisions on consent, documenting and reporting to UN-REDD Viet Nam, and conducting independent verification and evaluation.

Viet Nam's application of free, prior and informed consent to REDD+ activities is novel and has already faced challenges. Civil society organisations (CSOs) have expressed concerns that scheduled village meetings were too short to fully inform villagers about the issues, and that no time was allotted for internal discussions within villages. Also, information provided through official channels, such as posters and leaflets, raised concerns about objectivity, as no alternative sources or views on REDD+ were made available. Information about the risks and costs of participation in REDD+ to local people was lacking, as was planning for an independent grievance mechanism. These challenges provide important lessons for Viet Nam's future pilot projects, as well as for other countries seeking to implement free, prior and informed consent to protect the interests of indigenous and local communities.

Safeguarding social and economic benefits for local and indigenous communities

The Cancun Agreements require that parties undertaking REDD+ activities safeguard the rights of indigenous peoples and local communities throughout planning and implementation processes. Moreover, in developing their national REDD+ strategies or action plans, governments are requested to address the issues of land tenure and forest governance, gender considerations, and the full and effective participation of stakeholders. Despite participating in studies to design a REDD+ compliant benefit distribution system, and pilot projects on free, prior and informed consent, Viet Nam still faces significant challenges in aligning its legal and institutional frameworks to ensure the equitable distribution of social and economic benefits. The exclusion of indigenous and local communities from national policy and legal planning processes must also be addressed.

One paramount issue concerns the eligibility of village communities to receive the benefits of REDD+. Although the 2004 Forest Protection and Development Law recognises communities as forest owners and therefore eligible to receive payments for carbon credits, the Civil Code fails to recognise communities as legal entities. Without the legal status needed to spearhead REDD+ planning and implementation, communities' ability to access its benefits is uncertain.

Related to this is the uncertainty surrounding the carbon rights of forest

landowners and users. Under the Constitution of Viet Nam, as well as the 2003 Land Law, the State is deemed to own all land and forest resources, which it allocates to individuals and organisations for their use and benefit. However, carbon ownership and transfer rules arising from REDD+ activities have yet to be defined in general, let alone with detailed provisions for the rights of those implementing activities at the local level. This could pose a challenge to establishing an equitable benefit distribution system, in so far as the benefits of REDD+ activities are to be performance-based and tied to carbon sequestration on specific areas of forested land.

Local communities have lacked decision-making power in previous benefit distribution system projects. The role of CSOs in the current preparatory process for a benefit distribution system has also been very limited, and some CSOs have criticised proposed solutions as being overly complicated. It is vital that these shortcomings are remedied in Viet Nam's ongoing benefit distribution system design process.

Lastly, Viet Nam must establish an effective recourse mechanism to address grievances from individuals or entire communities. The country's political system seems relatively open to public complaints; its environmental protection system is described as a complaints-based system, and civil society is increasingly active in environmental monitoring. A recourse mechanism for a future benefit distribution system should include the participation of CSOs to ensure transparency.

Lessons and implications

Viet Nam's experiences in planning for a REDD+ compliant benefit distribution system provide the following lessons:

- **Be open to addressing sensitive governance issues.** Viet Nam's development of a REDD+ compliant benefit distribution system has opened itself up to a national debate on potentially sensitive governance issues, including the legal status of local communities, the rights of minorities and indigenous groups, and the challenges posed to law enforcement and accountability. But issues such as land, forest and carbon tenure remain to be addressed.
- **Learn from existing benefit distribution systems.** As one of the few countries to embark on a process to examine how benefits should be distributed, Viet Nam's experience provides valuable insights for future benefit distribution system projects in other countries. The expert studies carried out in preparation for designing a REDD+ compliant benefit distribution system draw on Viet Nam's rich history in forest governance, and provide viable design options. These highlight the importance of a clear legal framework, decentralisation, dedicated funds, community empowerment, performance-based payments, and independent monitoring and enforcement.
- **Funding mechanisms must be flexible and transparent.** Off-budget mechanisms for managing REDD+ revenues – particularly those that allow for non-government participation – provide a good model for a future benefit distribution system. As Viet Nam's history with such schemes demonstrates, payments are likely to be most effective when they are performance-based and set at a level that motivates participation beyond merely offsetting opportunity costs.
- **Adapt the system to local needs through pilot programmes.** The design of a benefit distribution system will differ for each province and district, as each area has different capacities and requirements. The implementation of pilot programmes at the provincial level is crucial to the adaptation process required to meet the needs of people in different regions. Pilot programmes can then be scaled up or further adapted, depending on their success.
- **Make free, prior and informed consent more effective.** Viet Nam's initiative in implementing free, prior and informed consent as a precursor to its REDD+ pilot projects is vital to ensuring the participation and equitable treatment of local people, particularly indigenous and minority groups. But to be effective, these projects must be conducted within a realistic timeframe that allows for proper communication of the issues, internal discussions and informed consent – or the withholding of it. There needs to be sufficient, objective information about the risks and costs of REDD+ projects, and an independent grievance system to cover both the planning and implementation phases.
- **Safeguard benefits for communities.** In addition to free, prior and informed consent, the rights of local and indigenous people must be safeguarded by other means. The legal right of local communities to receive equitable benefits must be unambiguously established. This in turn implies the determination of complex issues of land and carbon rights, which may be difficult for the Government to tackle. An accessible recourse mechanism – friendly, local and affordable – is also essential. All of these issues must be resolved if Viet Nam is to maximise the social and economic benefits of future REDD+ activities. Communities must be encouraged to participate fully in the planning and implementation of REDD+ activities beyond the initial free, prior and informed consent consultation process.

Viet Nam's experiences hold broader implications for other countries:

- Communities require clear and sufficient legal status and rights to participate independently and effectively in REDD+ contracts and the carbon market. A decentralised institutional structure helps develop a sense of ownership.
- Community forest management may offer cost, equity and social benefits over management by individual households or state agencies, including a lower risk of elite capture, the inclusion of marginalised households, and improved social cohesion.
- REDD+ funds should be kept separate from general government revenues, and fund managers should be able to account for all administrative costs.
- Payments can be linked to performance by using a formula to assess the actual and potential carbon stock of local forests and to measure progress towards REDD+ social and environmental objectives.
- Periodic disbursement of fund payments can be used in combination with micro-financing schemes to overcome the problem of high start-up costs, while motivating forest managers to keep delivering results.
- Effective recourse mechanisms are needed to address grievances arising over the differentiated payment scheme.
- Independent third-party monitoring is critical to ensuring that REDD+ funds are delivered to forest owners who achieve real and lasting carbon storage results.

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Endnotes:

- 1 UN-REDD Programme and MARD (2010)
- 2 UN-REDD Programme and MARD (2010)
- 3 Costenbader (2011)
- 4 UN-REDD Programme (2010) 'Design of a REDD-compliant benefit distribution system for Viet Nam', 110 and 117.
- 5 UN-REDD Programme (2010) 'Design of a REDD-compliant benefit distribution system for Viet Nam', 107.
- 6 UN-REDD Programme (2010) 'Design of a REDD-compliant benefit distribution system for Viet Nam', 144.
- 7 UN-REDD Programme (2010) 'Design of a REDD-compliant benefit distribution system for Viet Nam', 135 and 169.
- 8 UN-REDD Programme (2010) 'Design of a REDD-compliant benefit distribution system for Viet Nam', 93–98.

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www.cdkn.org

e: enquiries@cdkn.org

t: +44 (0) 207 212 4111

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