Matrix for analysis of legal framework

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### Matrix for analysis of legal framework

#### Key to assess the instrument

- 🔷️ Indicator covered by the instrument
- 🔴 The instrument partially addressed indicator
- 🔴 Instrument does not address/cover the indicator

### Safeguard A

**Criteria A.1. Complement or be Consistent with the Objectives of National Forest Programmes**

**Diagnostic Question:** to what extent do PLRs require consistency with the objectives of national forest programmes?

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs set out clear objectives for national forest programmes¹</td>
<td>🔷️</td>
<td>The legal framework² sets out clear objectives for national forest programmes. Is important to highlight that the Constitution³ sets out the fundamental principles for Vietnam’s development, which includes social justice and the rational use of natural resources, setting out the strategic long-term vision that informs all the objectives of national forest programmes.</td>
</tr>
</tbody>
</table>

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¹ Builds upon criteria (a) 1 of the first version of the roadmap


³ The Constitution, art 3, 29.
PLRs require consistency with national forest programmes

The legal framework requires new programmes or policies to be consistency with national forest programmes

The Constitution requires all Vietnamese individuals and organisations including the State agencies to strictly comply with the principle of rational use of natural resources, of which forestry resources are part, in legal and policy making. This would imply that any new laws and policies (including those related to REDD+) developed by any State agencies must be consistent with this principle and hence with the national forest programmes.

**Additional Information to consider:**

**Recommendation:** As this safeguard requires that REDD+ activities be consistent or complement the objectives of national forest programmes, it will be important to ensure that REDD+ activities are also complementary or consistent with the objectives of Vietnam’s national forestry programmes and therefore with the Constitution.

Additionally is important to note that from the PLRs examined the extent of consistency between their objectives varies.

**Safeguard A**

**Criteria A.2. Complement or be Consistent with the Objectives of Relevant International Conventions and Agreements**

**Diagnostic Question:** to what extent do PLRs require consistency with objectives of relevant international conventions and agreements, and this is applicable to the forestry sector?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Number of relevant of international agreements that Vietnam is Party to</td>
<td></td>
<td>Vietnam is Party to at least 18 international legal treaties or conventions, which are relevant and applicable to the safeguards. See annex III in the roadmap for the list.</td>
</tr>
</tbody>
</table>

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4 Builds upon criteria (a) 2 of the first version of the roadmap

5 The Constitution, art 29
The Constitution (from 1992 and revised 2001)\(^6\) vests the power to conclude, access and
denunciate international treaties in the National Assembly, the President and the Government.

The 2005 Law on Conclusion, Accession and Implementation of International Treaties\(^7\)
refers to both methods of ‘incorporation’ of international law into domestic law. Accordingly,
international treaties can be directly applied in whole or in part or either be implemented by
enactment of new law(s)/regulations or revision of the current laws or regulations to ensure the
conformity with international law and further secure the fulfilment of international treaties.\(^8\)

Under Vietnamese law, international treaties take precedence over domestic legislation.
To the extent of any inconsistency, international treaties apply.

In accordance with the 2005 Law on Conclusion, Accession and Implementation of International Treaties, in cases were there are different or contradictory provisions in domestic law in relation to an international treaty to which the Socialist Republic of Vietnam is a party, the provisions of such an international treaty are to be applied.\(^9\) Additionally, the 2005 Law on Conclusion, Accession and Implementation of International Treaties\(^10\) requires the newly enacted legal norms cannot become a barrier to the implementation of international treaty to which Vietnam is a party in regard to the same matter. In accordance, the 2008 Law on Enactment of Legal Normative Documents\(^11\) incorporates the above-mentioned principle of the 2005 Law on Conclusion, Accession and Implementation of International Treaties requiring not to prejudice the implementation of an international treaty relating to the same matter while making and enacting a new law.

However, it is important to note that it is unclear if treaty’s provisions can be applied directly in

| How the national legal framework incorporates international law | The Constitution (from 1992 and revised 2001)\(^6\) vests the power to conclude, access and
denunciate international treaties in the National Assembly, the President and the Government. |
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>The current hierarchy of laws (the status of international agreement within the legal framework)</td>
<td>Under Vietnamese law, international treaties take precedence over domestic legislation. To the extent of any inconsistency, international treaties apply.</td>
</tr>
</tbody>
</table>

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\(^6\) The 1992 Constitution (revised 2001), arts 84 (13), 103 (10), 112 (8).
\(^7\) The 2005 Law on Conclusion, Accession and Implementation of International Treaties, art 6 (3).
\(^8\) Article 6 provides that based on the requirements, content and nature of international treaty, the National Assembly, the President and the Prime Minister (while making the decision to be consent to an international treaty) also decide to apply directly partly or wholly that international treaty to agencies, organisations, individuals, and also decide or propose to revise, promulgate, denunciate legal normative documents for the implementation of that international treaty.
\(^9\) The 2005 Law on Conclusion, Accession and Implementation of International Treaties, art 6 (1)
\(^10\) The 2005 Law on Conclusion, Accession and Implementation of International Treaties, art 6 (2)
\(^11\) The 2008 Law on Enactment of Legal Nomative Documents, art 3(5).
cases were there are no provisions in the domestic laws/regulations.

Finally, is important to note that the Constitution 1992 (revised 2001) does not include any provisions on the hierarchy of international law within Vietnamese legal framework. Moreover, the 2008 Law on Enactment of Legal Normative Documents \(^{12}\) does not list the international treaties or international customs within the hierarchy of Vietnamese legal normative documents.

Legal framework makes references to international legal framework \(^{13}\)

Some sectoral or specific PLRs \(^{14}\), for example 2005 LEP, \(^{15}\) the 2003 Law on Land \(^{16}\) the 2006 Law on Gender Equality, \(^{17}\) the 2010 Law on Administrative Law Procedures, \(^{18}\) require to apply the provisions of international treaties to which Vietnam is a party in case of differences between these international treaties and Vietnamese law in regard to the same matter.

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Safeguard B

Criteria B.1. Transparency

Sub-Criteria B.1.1. Right of Access to Information \(^{19}\)

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize the right to access to information</td>
<td>✖️</td>
<td>The legal framework recognises the right to access to information in several PLRs either explicitly or implicitly. The degree of their recognition varies.</td>
</tr>
</tbody>
</table>

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\(^{12}\) The 2008 Law on Enactment of Legal Normative Documents, art 2.

\(^{13}\) Builds upon criteria (a) 3 of first version of the roadmap

\(^{14}\) Forest Protection and Development Plan, the NRAP, Forest Protection and Development Law, Decree No.99/2010/ND-CP

\(^{15}\) The 2005 LEP, art 2;

\(^{16}\) The 2003 Law on Land, art 3(2).

\(^{17}\) The 2006 Law on Gender Equality, art 3.

\(^{18}\) The 2010 Law on Administrative Law Procedures, art 2(3).

\(^{19}\) Builds upon criteria (b) 6 of first version of the roadmap
Although the **LEP 2005** does not directly recognize the right to access information, there are a number of provisions in the **2005 LEP** and the **Decree 80/ND-CP dated 9 August 2006 Detailing and Guiding the Implementation of Several Provisions of the Law on Environmental Protection**, which can be inferred as recognizing the right to access to information by the public. The Law and Decree create a legal environment for ensuring implementation of this right. For example, the Law and Decree require the provincial specialized environmental State agencies at different levels to provide environmental information within the territories under their administration, regulating the disclosure of the environmental information and also the formalities and the procedures to disclose the environmental information and data. Specifically, the Law also creates a legal foundation for implementing the grassroots democracy in the field of environmental protection. Nevertheless, the 2005 LEP and its implementing Decree appear to provide a narrow definition for 'environmental information', which may impact the implementation of the right to access to information in practice.

**Is important to note that the 2013 Draft LEP (Draft of 30 August 2013)** creates a more solid and clearer legal mechanism for recognition and ensuring the right to access to information, which appears to address the above-mentioned problems relating to the right to access to information.

**The 2008 LBD** recognizes the right to access to information implicitly. The Law provides that

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21 The Decree 80/ND-CP, art 23 (2).
22 The 2005 LEP, art 103-105.
23 The 2005 LEP, art 103-105; the Decree 80/ND-CP of 9 August 2006, art 23
24 The 2005 LEP, art 105.
25 See analysis in the next indicator on the definition of environmental information.
26 The 2013 Draft LEP (Draft of 30 August 2013), art 3 (24), Chapter XI, especially articles 131-133.
the State has responsibility for securing the participation of the public in making and planning biodiversity conservation. In fact, beyond the requirement of publishing both national and provincial biodiversity planning, the Law also requests to consult with local communities and concerned people while preparing the project for the establishment of protected areas.

The 2003 Law on Land, which regulates land use, including the forestland use, does not explicitly recognize the right to access to information. Among its relevant provisions the Law on Land requires the competent State agencies at different levels to publish the land use planning and plan and also the formalities for publishing the information.

The Law on Fighting and Preventing Corruption (2005 Anti-corruption Law) has a number of provisions relevant to the recognition of the right to access to information. For example, it provides the principles, the formalities and the content to be disclosed by the State agencies and their chairmen in regard to their activities. Specifically, in the field of land use and management, the Law requires to disclose and be transparent the information relating to land use planning and plan including their planning, approval and revision, the compensation price for acquired land etc.

The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships recognizes this right at the lowest level of administration.

The Decree No.99/2010/ND-CP on the policies for payment of forest environmental

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27 The 2008 LBD, art 5 (2).
28 The 2008 LBD, art 11, 15.
29 The 2008 LBD, art 22 (2.b).
30 According to the land categories in the Law on Land, special-use forestland, protection forest land and production land are listed amongst agricultural land. The 2003 Law on Land, art 13 (1, c, d, d).
32 The 2005 Law on Fighting and Preventing Corruption (hereinafter referred as the 2005 Anti-corruption Law), arts 31-32.
33 The 2005 Anti-corruption Law, Chapter II, Section 1, art 11-33.
34 The 2005 Anti-corruption Law, art 21.
35 The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships, art 2 (2)
<table>
<thead>
<tr>
<th>PLRs provide a definition of ‘information’</th>
<th>The current legal framework does not provide a clear definition or criteria to determine which ‘information’ should be provided.</th>
</tr>
</thead>
</table>

**services** recognize the right to access to information, requiring that service providers provide access to information of PFES, and the clients will be informed by FPDF on the existing forest status, forest protection and development status and results of PFES towards the forest owners.

**Decision No.126/QD-TTg on benefit sharing pilot in the sustainable management, protection and development of special use forests** requires that the management council should inform households and communities on the benefit sharing agreements and other information related to implementation of benefit sharing agreement, and information sharing with other programs in the locality.

At present, the 2013 Draft Law on Access to Information clearly indicates the recognition of the right to access to information in the objective and the scope of the law and concreticises the right by providing the principle to secure the right to access to information, the form, the contents of information to be disclosed. Specifically, the Law contributes a whole Chapter IV to deal with the assurance of the right to access to information.

The current legal framework does not provide a clear definition or criteria to determine which ‘information’ should be provided.

The 2005 LEP defines ‘environmental information’ as all statistics and data on the environment. However, it is unclear if the definition of ‘information’ covers information received by the State environmental agencies or if it only covers information developed by the State agencies. Additionally, is important to note the LEP contains inconsistent definitions of

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36 Article 20, provision b on the rights and responsibilities of service providers and article 19- 1a
37 The Prime minister Decision No.126/QD-TTg dated on February 2, 2012 on Benefit sharing pilot in the sustainable management, protection and development of special use forests
38 Decision No.126/QD-TTg Article 1.8
40 The 2005 LEP, art 3 (18) defines environmental information as all statistics and data on environment such as environmental components, on reserves and ecological and economic values of natural resources, on environmental impacts, on wastes, on the severity of environmental pollution and degradation, and on other environmental issues.
'environmental information’, in which in some cases the definition encompasses environmental data, and excluding it other cases.

Is important to note that the 2013 Draft LEP provides a definition of ‘environmental information’ that seems to broaden the scope of the term of the current LEP. In this case it clarifies the concept of statistics and materials to include all forms (e.g. symbol, in writing, etc.). Data is excluded from the scope of the notion of environmental information.

The 2008 LBD does not explicitly define ‘information’. Nevertheless, several provisions in the 2008 LBD regulate different aspects of biodiversity information to be published such as information relating to biodiversity planning, invasive alien species, and the information relating to the genetic resources that has been received or developed by the State agencies.

The 2003 Law on Land does not explicitly define ‘information’. Nevertheless, several provisions in 2003 Law on Land regulate which information is to be published such as land use planning.

The 2005 Law on Fighting and Preventing Corruption does not clearly provide a definition of ‘information’. Nevertheless, the 2005 Law requires disclosure and transparency regarding the activities of the State bodies and of all laws and policies, except those relating to State secrets and those that are not permitted.

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41 The 2005 LEP, art 3 (18).
42 The 2005 LEP, art 104.
43 The 2013 Draft LEP (Draft of 30 August 2013), art 3 (24).
44 2008 LBD, art 11, 15.
45 2009 LBD, art 54.
46 Decree 65/ND-CP dated 11 June 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity, art 20
47 Law on Land, art 28.
48 The 2005 Law on Fighting and Preventing Corruption, arts 31-32.
The **2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships** provides an long list of information (including plans on socio-economic development, schemes on economic restructuring and annual budget estimates and settlement of the communal level, implementation schedules, schemes on compensation and support for ground clearance and resettlement related to projects and works in communal-level localities, detailed land use plans and adjustment schemes and planning on population quarters in communal-level localities including to be publicized), which can be inferred to as definition of information.

The **Law on Forestry Protection and Development** does not provide a definition, but stipulates that technical information and forest policies must be regularly updated and available to local people living in or around the forest areas.

Importantly, the **2013 Draft Law on Access to Information** provides a clear definition of ‘information to be accessed’ including the information developed and received by the State agencies. The definition draws on international good practice, for example, from the Model Inter-American Law on Access to Information. The enactment of this law would address the gaps identified above.

<table>
<thead>
<tr>
<th>PLRs require the active distribution of information</th>
<th>The legal framework requires the active distribution of information.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <strong>2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships</strong>, art 5.</td>
<td><strong>The legal framework requires the active distribution of information.</strong></td>
</tr>
<tr>
<td>The <strong>Law on Forestry Protection and Development</strong>, art 13</td>
<td><strong>The 2005 LEP and its implementing Decree</strong> requires the active distribution of information, by requiring the provincial specialized environmental State agencies at different levels to provide environmental information within their administrative localities. Additionally, the</td>
</tr>
<tr>
<td>The <strong>2013 Draft Law on Access to Information</strong>, art 3(1)</td>
<td><strong>The 2005 LEP and its implementing Decree</strong> requires the active distribution of information, by requiring the provincial specialized environmental State agencies at different levels to provide environmental information within their administrative localities. Additionally, the</td>
</tr>
<tr>
<td>The Model Inter-American Law on Access to Information, article 1 defines ‘information’ as ‘any type of data in the custody or control of a public authority’</td>
<td><strong>The 2005 LEP and its implementing Decree</strong> requires the active distribution of information, by requiring the provincial specialized environmental State agencies at different levels to provide environmental information within their administrative localities. Additionally, the</td>
</tr>
<tr>
<td>The Decree 80/NĐ-CP, art 23 (2).</td>
<td><strong>The 2005 LEP and its implementing Decree</strong> requires the active distribution of information, by requiring the provincial specialized environmental State agencies at different levels to provide environmental information within their administrative localities. Additionally, the</td>
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</tr>
</tbody>
</table>
| PLRs require/guarantee passive access to information | The legal framework requires/guarantees passive access to information, but in many cases in an ambiguous manner.

The 2005 LEP regulates the passive access to information in an ambiguous manner. There are a few provisions that can be inferred as requirements for passive access to information, such as in case for environmental dialogue or explanation requested by the public to the specialized environmental agencies and authorities. The 2013 Draft LEP addresses this ambiguousness and provides clearer legal mechanisms for ensuring the passive access to information. This includes the right to request access to information as provided by law. |

55 The 2005 LEP, art 103-105; the Decree 80/NĐ-CP of 9 August 2006, art 23.
56 The 2008 LBD, art 11, 15.
57 The National Biodiversity Strategy toward 2020, Vision to 2030, Section III (1.a), Implementation measures.
59 The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships, art 5.
60 The 2005 LEP, art. 105.
61 The 2013 Draft LEP, art 132. art 133.
The Law on Fighting and Preventing Corruption (2005) recognizes the right to request access to relevant information of the authorities and State agencies and the authorities and State agencies.

Decree No.99/2010/ND-CP on the policies for payment of forest environmental services support clients and service providers to access information.

The 2013 Draft Law on Access to Information provides a comprehensive mechanism for securing the right to request to the information, including the content of the information to be accessed, the forms, formalities of the requesting and providing information, the procedure to providing the information.

### Safeguard B

**Criteria B.1. Transparency**

**Sub-Criteria B.1.2. Institutions to Ensure Access and Distribution of Information**

**Diagnostic Question:** To what extent does the legal framework require public institutions to ensure the access and distribution of information?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs create dedicated institutions for distribution of information, or create clear mandates</td>
<td>☛</td>
<td>The legal framework does not create dedicated institutions for the distribution of information. Instead the legal framework provides clear mandates to several existing institutions, leaving some institutions without a clear mandate or responsibility.</td>
</tr>
</tbody>
</table>

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62 The Law on Fighting and Preventing Corruption (2005), art 31, 32
63 Article 19, Provision 1a and b (Rights of Clients) and Article 20, Provision 1b (Rights of the service providers)
64 The 2013 Draft Law on Access to Information, Chapter III.
2005 LEP does not create a dedicated institution for the distribution of environmental information. Instead, the 2005 LEP creates clear mandates to existing 'specialized environmental State agencies' at different administrative levels and in sectoral fields to publish the environmental information.

The Decree 80/ND-CP of 9 August 2006 concretizes the responsibilities of a number of State agencies, including MONRE and other relevant Ministries or PPCs in relation to the distribution of information and data on environment, which is listed in the 2005 LEP, such as the report of environmental impact assessment, the decision approving the report of environmental impact assessment and the plan for implementation of requirements of the decision. Nevertheless, it is important to note that the Draft LEP of 30th August 2013 does not incorporate the provision of the Decree that clearly regulates the State agencies in charge distributing environmental information.

The 2008 LBD requires the MONRE, MARD and PPCs, customs authorities and mass media authorities to publish the information relating to invasive alien species within their competence. MONRE and PPCs are responsible for providing the biodiversity planning information at national and provincial levels. In addition, Decree 65/ND-CP dated 11 June 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity also requires the MONRE to provide the information relating to the genetic resources that it has received or developed. Hence, the LBD creates clear mandates for all relevant State agencies regarding the publication/distribution of biodiversity information.

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65 The 2005 LEP, art 103 (3)
66 For more detail on the provision of 'the specialized environmental State agencies', see 2005 LEP, art 123 (1,2,3)
67 The Decree 80/ND-CP of 2006, art 23 (1)
68 The 2005 LEP, art 104 (1).
69 2008 LBD, art 54.
70 2008 LBD, art 11, 15.
71 Decree 65/ND-CP dated 11 June 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity, art 20
<table>
<thead>
<tr>
<th>PLRs create a central registry for gathering information related to forest management</th>
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<tbody>
<tr>
<td><strong>The 2003 Law on Land</strong>(^{72}) creates a clear mandate for competent State agencies to publish the information relating to land use planning and/or plan. For example, the People's Committees of communes, wards or townships are responsible to publicize the detailed land use planning, the detailed land use plans of their respective localities at their offices, whilst the land management agencies at all levels have the responsibility to publicize the land use plans of their respective localities at their offices and on the mass media.</td>
</tr>
</tbody>
</table>

**The 2013 Draft Law on Access to Information** lists a comprehensive system of the State agencies, which are responsible for providing information at all levels including Office of the National Assembly, Office of the President, Office of the Government, Ministries and Ministry-level agencies, the Supreme People's Court, the Supreme People's Procuracy and provincial State agencies from the communal level upward to district and provincial level.\(^{73}\) Additionally, the draft Law\(^ {74}\), creates clear mandates and responsibilities over both active and passive access to the information. |

The legal framework does not create a central registry for gathering information related to forest management, but provides clear mandates and competences to existing institutions to gather and archive information related to forest management. |

**The 2005 LEP**\(^ {75}\) assigns MONRE as the key figure at central level to gather and archive all environmental information, including that related to forest management. |

\(^{72}\) The 2003 Law on Land, art 28 |

\(^{73}\) The 2013 Draft Law on Access to Information, art 4 (1). |

\(^{74}\) The 2013 Draft Law on Access to Information, art 4 (2). |

\(^{75}\) The 2005 LEP, art 102.
| PLRs address how authorities must disseminate information (When, who, how) | The legal framework regulates how several authorities (State agencies) must disseminate and disclose information. Considering that several authorities do not have a clear mandate or responsibility for distributing information, these same institutions are therefore not regulated in terms of how to do it.  

The **2005 LEP** and it implementing Decree\(^\text{79}\) require relevant State agencies in all sectors and at both national and provincial levels to disclose environmental information in an easily accessible manner. The State agencies must also be responsible for the accuracy, truthfulness and objectivity of disclosed information.  

The **2008 LBD**\(^\text{80}\) requires the authorities to publish both national and provincial biodiversity planning on their websites within 30 days. |

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\(^{76}\) The 2008 LBD, art 71.

\(^{77}\) The 2003 Law on Land, art 53.

\(^{78}\) Accordingly, the People’s Committees at all levels are required to report on the land statistics and inventory results in their respective localities to the immediate superior People’s Committees; the People’s Committees of the provinces and centrally-run cities shall report on their land statistics and inventory results to the Ministry of Natural Resources and Environment. At central level, the Ministry of Natural Resources and Environment is obliged to sum up the country’s results on annual statistics and five-year inventory and reports to the Government. The Government is then required to report to the National Assembly on the five-year land inventory results simultaneously with the five-year land use plan for the whole country.

\(^{79}\) The 2005 LEP, art 104 (2,3) and the Decree 80/NĐ-CP of 9 August 2006, art 23 (2).

\(^{80}\) The 2008 LBD, art 11, 15.
The 2003 Law on Land\textsuperscript{81} clearly defines how to publish the land use planning information. For example, within 30 days after approval of the land planning and plans, the People’s Committees of communes, wards or townships are responsible to publicize the detailed land use planning, the detailed land use plans of their respective localities at their offices while the land management agencies at all levels have the responsibility to publicize the land use planning, plans of their respective localities at their offices and on the mass media, such as websites and local newspapers.

The Law on Fighting and Preventing Corruption (2005)\textsuperscript{82} recognizes the right to request access to relevant information of the authorities and State agencies and the authorities, and State agencies concerned are required to provide the requested information within 10 days since the acceptance of the request.

The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships\textsuperscript{83} regulates how the State agencies at communal levels should distribute the information.

The MARD Circular 35/2011/TT-BNNPTNT\textsuperscript{84} regulates how authorities must disseminate information on timber harvesting application.

FPDL stipulates\textsuperscript{85} that approved forest protection and development plans should be disclosed by local authorities in the office during the plan period.

The 2013 Draft Law on Access to Information provides in detail the content of information to be disseminated, the methods and formalities for disseminating the information\textsuperscript{86}

\textsuperscript{81} The 2003 Law on Land, art 28.
\textsuperscript{82} The Law on Fighting and Preventing Corruption (2005), art 31, 32
\textsuperscript{83} The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships, art 2 (2)
\textsuperscript{84} Dated on May 20, 2011 guiding implementation of timber and NTFPs harvesting, article 16-25
\textsuperscript{85} Article 20
\textsuperscript{86} The 2013 Draft Law on Access to Information, art 10-13.
The legal framework does not establish clear procedures for requesting and accessing information.

The **2005 LEP and it implementing Decree** do not establish clear procedures for requesting and accessing information. There are a few provisions, which may be inferred as regulating the procedures for requesting and accessing information.  

The **2008 LBD** requires the authorities to publish both national and provincial biodiversity planning on their websites within 30 days.

The **2003 Law on Land** modestly regulates procedures for requesting and accessing information. The **Law on Fighting and Preventing Corruption (2005)** also modestly regulates procedures for requesting and accessing information. It regulates that State agencies concerned are required to provide the requested information within 10 days since the acceptance of the request.

The **2013 Draft Law on Access to Information** establishes clear processes and procedures to deal with request and access to information including those relating to the time-frame and fees for receiving an accepting the request, providing the information requested in a time-frame provided and also the information requested that may be refused.

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87 The 2005 LEP, art 105 (3).
88 The 2008 LBD, art 11, 15.
89 The 2003 Law on Land, art 28.
90 The Law on Fighting and Preventing Corruption (2005), art 31, 32
### Safeguard B

**Criteria B.1. Transparency**  
**Sub-Criteria B.1.3. Promoting Public Awareness on Access to Information**

**Diagnostic Question:** To what extent does the legal framework require public institutions to promote access to information?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs require public institutions to promote awareness about the right of access to information | 🐒                                                                               | The legal framework does not require institutions to promote awareness about their right to access information.  
While the **2013 Draft Law on Access to Information** establishes clear mechanisms to ensure the right to access to information, there is, however, no provision requiring public institutions to promote awareness about the right of access to information. Hence, it could be beneficial to contemplate a provision requiring public institutions to promote awareness about the right of access to information into the Draft Law. |
| PLRs require public institutions to provide information explaining the laws, regulations and procedures related to forest management in an easily understandable language for | 🐒                                                                               | The legal framework does require institutions to provide information explaining the laws, regulations and procedures related to forest management in an easily understandable language for forest users.  
The **2012 Law on Legal Dissemination and Education** has a relevant provision requiring |
Forest users. Public institutions to provide information explaining the laws, regulations and procedures related to forest management in an easily understandable language for forest users. The Law requires the PPCs in collaboration with the Custom, the Vietnam Border Defence Force or the relevant public agencies to organise legal dissemination and education for ethnic minorities, mountainous, remote people or people at extremely difficult areas. The government supporting these people by providing free information or legal materials in the ethnic minorities’ languages or the use of the traditional cultural activities for dissemination of the legal information.

However, it is important to note that the relevant PLRs examined, including the 2003 Law on Land, the LBD  and 2005 LEP do not contain specific provisions requiring or mandating public institutions with the responsibility for providing information explaining the laws, regulations and procedures related to forest management in an easily understandable language for forest users.

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**Safeguard B**

Criteria B.1. Transparency

Sub-Criteria B.1.4. Accountability

**Diagnostic Question 1:** To what extent do PLRs promote fiscal transparency in the forest sector?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>

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92 The 2012 Law on Legal Dissemination and Education, art 17
93 The 2008 LBD, art 73 (3,e)
94 The LEP, art 122
95 Please note information compiled under this criterion will be especially relevant to inform recommendations on institutional arrangements over a potential REDD+ FUND
| PLRs create institutions or agencies in charge/responsible for promoting transparency of forest sector activities | The legal framework creates dedicated institutions with competence for promoting transparency of the forest sector activities.  

The Administration General of the Administrative Procedures Control or the Administration General for Legal Control, the two State bodies under Ministry of Justice, have competence for promoting the transparency of forest sector activities, by controlling the constitutionality, legality and consistency of PLRs in Vietnam. |
|---|---|
| PLRs assign clear authority, roles and responsibilities for the collection, commitment and use of public funds in the forest sector | The legal framework assigns clear authority, roles and responsibilities for the collection, commitment and use of public funds in the forest sector  

The Forest Protection and Development Plan assigns the Ministry of Finance (MOF) in cooperation with MARD to appraise annual budget plan, to allocate recurrent fund for the forest sector; to guide organizations, individuals to follow existing financial provisions.  

Decree No.99/2010/ND-CP assigns MARD in cooperation with MONRE, MOF and other related ministries with the responsibility over the preparation and implementation FPES plan, mobilization of resources and levels of payments, and PPCs for establishing mechanisms for fund management and utilization.  

Prime minister Decision No.126/QD-TTg regulates that the management council is to establish operational regulation, benefit-sharing agreements, and manage, supervise the implementation of the benefit sharing agreements, including use of the funds.  

Decree 05/2008/ND-CP set out a forest protection and development fund with responsibilities for the collection, commitment and use of public funds in the forest sector. |

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96 Part IV. Organizational arrangements, Provision 2c: Task of MOF  
97 Decree No.99/2010/ND-CP on the policies for payment of forest environmental services Article 21.1a and d; Article 22.2d  
98 Prime minister Decision No.126/QD-TTg dated on February 2, 2012 on Benefit sharing pilot in the sustainable management protection and development of special use forests Article 1.6  
99 Decree 05/2008/ND-CP of the Government dated 14/01/2008 on Forest protection and development Fund Article 4 (Principles of fund establishment), Article 5 (Conditions for fund establishment), Article 6 (Tasks and rights of Fund management); Article 7 (Organizations of Fund management); Article 8 (Relationship between central and provincial funds)
| Decision No. 24/2012/QD-TTg\(^\text{100}\) regulates the investment policy to enhance forest protection.  

Decision No.07/2012/QD-TTg\(^\text{101}\) regulates the Forest Protection and Development Fund at commune level assigning clear authority, roles and responsibilities for the collection, commitment and use of the public funds.  

**National Biodiversity Strategy toward 2020** and the Vision up to 2030\(^\text{102}\) regulate the authority, roles and responsibilities for the collection, commitment and use of public funds in the forest sector to some extent. For example, the Strategy\(^\text{103}\) gives responsibility to the Ministry of Planning and Investment for distribution of the investment resources to other ministries for implementation of the Strategy. |
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Budget proposals are presented to the legislature and the public with adequate time for deliberation</strong></td>
</tr>
<tr>
<td><strong>All relevant information about the forest agencies budget are publicly available</strong></td>
</tr>
<tr>
<td><strong>The forest budget is scrutinized by a parliamentary procedure</strong></td>
</tr>
</tbody>
</table>

\(^\text{100}\) **Decision No. 24/2012/QD-TTg of Prime Minister dated on investment policy for SUF development in the period 2011-2020.** To support fund for CPCs to protect local forests (Article 3), Co-management policy (Article 4), policy towards local forest protection forces (Article 5), Policy to strengthen capacity of FPD (Article 6) and organizational arrangements (Article 7) with tasks for MPI and MOF in cooperation with MARD to establish mechanism, policies ensuring budget for forest management and protection within this Decision  

\(^\text{101}\) **Decision No.07/2012/QD-TTg of the Prime -mister dated on February 8, 2012 on promulgating some policies to strengthen the forest protection art. 3.2**  

\(^\text{102}\) Approved by the Decision of the Prime Minister Number 1250/Q Đ-TTg of the Prime Minister dated 31 July 2013  

\(^\text{103}\) National Biodiversity Strategy toward 2020 and the Vision up to 2030 Aapproved by the Decision of the Prime Minister Number 1250/Q Đ-TTg of the Prime Minister dated 31 July 2013, Chapter IV.  

\(^\text{104}\) Forest Protection and Development Plan, Forest Protection and Development Law, Vietnam Forest Development Strategy
PLRs create funds that feature robust auditing mechanisms

| The legal framework requires supervision and monitoring of funds, and requires auditing for any investment project in Vietnam.105 |

PLRs require that independently audited reports must be prepared for the legislature and the public showing clearly how public funds have been used by the forest agency

| The legal framework does not have any relevant provisions requiring that independently audited reports must be prepared for the legislature and the public showing clearly how public funds have been used by the forest agency contains no relevant provisions in the legal framework. |

diagnostic question 2: To what extent do PLRs adequately address corruption in the forest sector?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs require addressing corruption in the forest sector</td>
<td>The Law on Fighting and Preventing Corruption (2005)106 regulates the corruption in the forest sector. It requires that officials and civil servants declare their assets and income, including land use rights, through an assets inventory.107 Those who abuse their powers and break the law shall, depending on the nature and seriousness of their violations, be disciplined or subject to penal liability according to legal provisions.108 The 1999 Penal Code lists money laundering under the crime of legalizing money or property obtained through the crime.109 In Vietnam, such activities often involve assigning forestland use rights in the name of family members. The maximum penalty for such a crime is 15 years imprisonment. Convicted offenders may also be fined, have their property confiscated, or be barred from holding certain posts or practicing certain occupations for up to five years.</td>
<td></td>
</tr>
</tbody>
</table>

105 Forest Protection and Development Plan, Decree 05/2008/ND-CP of the Government dated 14/01/2008 on Forest protection and development Fund, Vietnam Forest Development Strategy 2006-2020, Decision No. 24/2012/QD-TTg of Prime Minister dated on investment policy for SUF development in the period 2011-2020, Decision No.07/2012/QD-TTg of the Prime minister dated on February 8, 2012 on promulgating some policies to strengthen the forest protection.

106 The Law on Fighting and Preventing Corruption (2005), art 21

107 Law on Anti-Corruption 2005, Article 45

108 LL, Article 141; FPDL, Article 86

109 Art, 251
### Safeguard B

#### Criteria B.2. Effective National Forest Governance

**Sub-Criteria B.2.1. Appropriate Legal Framework** *(NOTE: this criteria is to be assessed at the end of the analysis and not per instrument)*

**Diagnostic Question:** To what extent are forest laws relevant to safeguards (covering the ones analyzed in this gap analysis) clear and consistent within and among themselves?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>Laws are clear and unambiguous, minimizing need for discretion and interpretation</td>
<td>🗓️</td>
<td>Most of the legal framework is clear; however there are several PLRs that require for discretion and interpretation. Additionally most of the PLRs are made in a form of ‘framework law’, which conventionally require decree and other regulation for its interpretation and guiding its implementation.</td>
</tr>
<tr>
<td>Laws are seen to be based on a sound and coherent policy framework</td>
<td>🗓️</td>
<td>In general, they are based on sound coherent policy framework.</td>
</tr>
</tbody>
</table>

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| 110 Builds upon criteria (b) 1 and 2 of first version of the roadmap |
| 111 Forest Protection and Development Plan, Decision No.799-QD-TTg, Decision No.750/QD-TTg, Decision 661/QD-TTg, Forest Protection and Development Law, Decree 186/2006/ND–CP, among others. |
### Sub-Criteria B.2.1.2: Clear Land Tenure Rights

#### Diagnostic Question:
To what extent do PLRs recognize and protect a variety of types of forests tenure rights?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize different types of rights over forest land and resources, which are legally and clearly recognized (Statutory and customary ownership or use rights)</td>
<td>![Mark Icon]</td>
<td>The legal framework regulates that all land in Vietnam belongs to the population as a whole, with the State administering the land on its behalf, and citizens and organizations can hold ‘land-use rights’ but do not have ownership rights (ownership is provided only for planted production forests only using the forest user’s fund).</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>The Constitution 1992 (revised)</strong> recognizes one type of ownership, which is the ownership of the entire people over land, forest and other resources.&quot;</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>The Law on Land 2003</strong> restates the ownership of land to the entire people. It also recognizes land use rights that can be transferred to different stakeholders. Forest flora and fauna, landscapes and the environment are uniformly managed and disposed of by the state; the owners of planted production forests may be corporate, collective or individual.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>Draft Land Law 2013</strong> takes the same approach as the current Law on Land.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The FPDL defines forest use rights as “the forest owner’s rights to exploit the utilities of, and enjoy yields as well as profits from, forests; and to lease forest use rights via contracts in accordance with the provisions of forest protection and development legislation and civil</td>
</tr>
</tbody>
</table>

112 Builds upon criteria (e) 4, 5 and 6 of first version of the roadmap
113 The Constitution, art. 17.
114 The Law on Land 2003, art. 13.
115 Article 3, Clause 6
Rights to use forest and land belong to seven categories of forest users:\(^{116}\) (i) management boards for protection or special-use forests; (ii) economic organizations; (iii) domestic households and individuals; (iv) army units; (v) organizations involved in forestry-related scientific research and technological development, training or vocational training; (vi) overseas Vietnamese investing in Viet Nam; and (vii) foreign organizations and individuals investing in Vietnam.

<table>
<thead>
<tr>
<th>PLRs provide fair and equitable legal procedures for the recognition of the land tenure rights</th>
<th>Not applicable in Vietnam, as land tenure rights are not granted, only land use rights.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs regulate land tenure security, through the establishment of fair procedures to govern the expropriation of forest land by the state (including free, prior and informed consent, compensation or resettlement)</td>
<td>Not applicable in Vietnam as land tenure rights are not recognized, only land use rights. Only one PLR regulated the case of expropriation of land use rights. The Prime minister Decision No.126/QD-TTg regulates that FPIC should apply, but there is no mention of compensation or resettlement.(^{117}) Is important to note that by issuing (forest) land use titles, also known as Red Book Certificates or RBCs (from the colour of their cover page), the state guarantees tenure security for land users. The holder of a land use title is legally entitled to compensation from the state for any land reclaimed for public use.(^ {118})</td>
</tr>
</tbody>
</table>

\(^{116}\) FPDL 2004 Article 5

\(^{117}\) Prime minister Decision No.126/QD-TTg Art. 1.4a

\(^{118}\) LL 2003, Article 42
The FPDL also stipulates that forest owners will be compensated when the state reclaims part or all of their allocated forests. Compensation will take the form of allocation of other forests, assignment of land for new plantations, or compensation in kind or cash.\textsuperscript{119}

Security of land tenure is also provided by the 2005 Law on Investment (LI), under which the state guarantees that investment capital and the legitimate property of investors will not be nationalized or seized. This provision also applies to domestic and foreign individuals or organizations who invest in forestry in Vietnam.

<table>
<thead>
<tr>
<th>PLRs recognize indigenous peoples and local communities rights over forests lands and/or resources that they have traditionally managed</th>
<th>Not applicable in Vietnam as land tenure rights are not recognized, only land use rights based on statutory law.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize collective forest ownership by indigenous peoples and local communities/and or recognition of adequate forest use and management rights</td>
<td>The legal framework recognizes collective forestland use rights, not ownership.\textsuperscript{120}</td>
</tr>
</tbody>
</table>

The 2003 Law on Land\textsuperscript{121} recognizes collective forest land use rights by local communities. However, the following legal issues related to community use rights must be noted which can have implications for the effective exercise of their rights:

- The Civil Code of 2005 does not recognize the community as the subject of civil legal relationship, though legislation provides for common ownership by the community. Accordingly community members can manage, use and dispose of common property for the community's interest following agreement or custom, but not breaching law.

- The LL gives the community the same rights and responsibilities as other land users (i.e. it can exploit the utility and enjoy of the benefits of the resource), except it cannot exchange, transfer, lease or donate its land use rights. In addition, it cannot mortgage, provide

\textsuperscript{119} Art. 26 provision 2  
\textsuperscript{120} Forest Protection and Development Plan and Forest Protection and Development Law art. 30  
\textsuperscript{121} The Law on Land, art 117
guarantees or use the land under its management as a contribution to joint investment.

- According to the FPDL, the community cannot divide its forests among its members; nor can it convert, transfer, donate, lease, mortgage, or provide guarantees or contribute investment capital with the value of its assigned rights.\(^{122}\)

### PLRs ensure gender equality in forest/land tenure arrangements

**The legal framework promotes gender equality in forest tenure rights.**

**The 2003 Law on Land**\(^{123}\) promotes gender equality in land tenure use rights. In accordance with the Law, in cases where the land use rights constitute the common property of the husband and the wife, the land use right certificates must be inscribed clearly with the full names of both the husband and the wife.

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### Safeguard B

**Criteria B.2. Effective National Forest Governance**

**Sub-Criteria B.2.1.3: Equitable Distribution of Benefits**\(^{124}\)

**Diagnostic question 1:** to what extent do PLRs recognize and protect the equitable distribution of benefits?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs guarantee the fair and equitable distribution of benefits</td>
<td>(\checkmark)</td>
<td>The legal framework requires guaranteeing the fair and equitable distribution of benefits arising from the use of forest resources.(^{125})</td>
</tr>
</tbody>
</table>

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\(^{122}\) FPDL 2004 Article 30

\(^{123}\) The 2003 Law on Land, art 48 (3)

\(^{124}\) Builds upon criteria (e) 1 of first version of the roadmap
Is important to highlight that Decision No.178/2001/QD--TTg promotes the equitable distribution of forests resources (by regulating the rights and responsibilities of the households or individuals who are allocated, leased, and contracted forest land).

The 2005 LEP\(^{126}\) require guaranteeing the fair and equitable distribution of benefits arising from the use of forest resources by setting a principle that the protection of biodiversity must be implemented based on the assurance of the rights and legitimate benefits of local residential communities and other categories concerned.

The 2008 LBD\(^{127}\) creates a solid legal framework for guaranteeing the fair and equitable distribution of benefits arising from the use of forest resources by providing the principle of equitable sharing between the State, the manager of resources and those who are permitted to access to, for example, genetic resources.

PLRs regulate benefit sharing arrangements

The legal framework regulates benefits sharing arrangements in several PLRs.\(^{128}\)

PLRs guarantee the effective participation in the decision-

The legal framework promotes the effective participation in the decision-making processes over benefit sharing arrangements in certain PLRs.\(^{129}\)

\(^{125}\) Decision No.178/2001/QD--TTg Chapter II (Benefit rights and responsibilities of allocated or leased households and individuals), Chapter III (Benefit rights and responsibilities or households and individuals, who are contracted for forest protection, natural regeneration or forest planting by state organizations).

\(^{126}\) The 2005 LEP, art 30 (1)

\(^{127}\) The 2008 LBD, art 4(4), Chapter V, section 1

\(^{128}\) The 2008 LBD, art 58-60, Decision No.178/2001/QD--TTg dated 12 November 2001 by the Prime Minister issuing Regulation on the benefit right, responsibilities of the households, individuals who are allocated, leased, and contracted forest land, Chapter II and III. Decree No.99/2010/ND--CP on the policies for payment of forest environmental services article 11 (Level of PFES), Article 12 (Objects to remiss, reduce PFES), Article 15 (Uses of PFES), Article 16 (Payments though FPDFs for different forest users), Article 19 (rights and obligations of clients), Article 20 (rights and obligations of service providers).

\(^{129}\) The 2008 LBD, art 59. Decree No.99/2010/ND--CP on the policies for payment of forest environmental services Article 20 stipulates that service providers can request clients or FPDFs to pay for the services according to provisions of this Decree; to supply information on values of PFES; and to inspect and monitor PFES implementation together with state agencies.
<table>
<thead>
<tr>
<th>Making Processes over Benefit Sharing Arrangements</th>
<th>The Legal Framework Promotes Gender Equality Regarding the Equitable Distribution of Benefits</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs promote/require gender equality in setting equitable distribution of benefits</td>
<td>The legal framework promotes gender equality regarding the equitable distribution of benefits.</td>
</tr>
<tr>
<td></td>
<td>The 2003 Law on Land\textsuperscript{130} recognizes gender equality between husband and wife in land tenure through the land use right certificates, which must be inscribed clearly with the full names of both the husband and the wife in cases where the land use rights constitute the common property of the husband and the wife.</td>
</tr>
<tr>
<td></td>
<td>The 2006 Law on Gender Equality\textsuperscript{131} requires a complex State and non-state organizations, especially the Vietnamese Women Union,\textsuperscript{133} and individuals to promote and enhance gender equality and women empowerment including equitable benefit sharing. For example, the Law directly requires setting the ratio between men and women or an appropriate portion of women in benefit-sharing as a measure to secure the gender equality.\textsuperscript{134}</td>
</tr>
</tbody>
</table>

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**Safeguard B**

**Criteria B.2. Effective National Forest Governance**

**Sub-Criteria B.2.1.4: Gender and Equality\textsuperscript{135}**

**Diagnostic Question:** To what extent do PLRs promote and protect gender and equality?

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\textsuperscript{130} The 2003 Law on Land, art 48 (3) 
\textsuperscript{131} The 2006 Law on Gender Equality, art 6-7 
\textsuperscript{132} The 2006 Law on Gender Equality, art 9 and Chapter IV 
\textsuperscript{133} The 2006 Law on Gender Equality, art 30 
\textsuperscript{134} The 2006 Law on Gender Equality, art 19 (1,a) 
\textsuperscript{135} Builds upon criteria (c) 2 of first version of the roadmap
<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs promote and enhance gender equality and women empowerment, especially with regards to benefit sharing, participation, and land tenure</td>
<td>✔️</td>
<td>The legal framework promotes and enhances gender equality and women empowerment, especially with regards to benefit sharing, participation, and land tenure. The Constitution(^{136}) sets up the constitutional principle for the promotion and enhancement of gender quality, while requiring the State and society to create all necessary conditions for women to raise their qualifications in all fields and to fully implement their roles in society. The 2006 Law on Gender Equality(^{137}) provides the principles and State policies of gender equality. Additionally, the Law also creates a comprehensive and solid mechanism including the measures for securing gender equality, a complex State and non-state organizations(^{138}) especially the Vietnamese Women Union(^{139}) and individuals for promoting and enhancing gender equality and women empowerment including benefit sharing and participation. Specifically, the Law directly requires setting the ratio between men and women or an appropriate portion of women in participation and benefit-sharing as a measure to secure the gender equality(^{140}). The 2003 Law on Land(^{141}) recognizes the gender equality between husband and wife in land tenure. In accordance with the Law, in cases where the land use rights constitute the common property of the husband and the wife, the land use right certificates must be inscribed clearly with the full names of both the husband and the wife. The National Strategy on Gender Equality for the period 2011-2020 approved by the Decision of the Prime Minister Number 2351/Q Đ-TTg of the Prime Minister dated 24 December 2010 specifies the constitutional principle by creating mechanisms for the promotion...</td>
</tr>
</tbody>
</table>

\(^{136}\) The 1992 (revised) Constitution, art 63  
\(^{137}\) The 2006 Law on Gender Equality, art 6-7  
\(^{138}\) The 2006 Law on Gender Equality, art 9 and Chapter IV  
\(^{139}\) The 2006 Law on Gender Equality, art 30  
\(^{140}\) The 2006 Law on Gender Equality, art 19 (1,a)  
\(^{141}\) The 2003 Law on Land, art 48 (3)
and enhancement of gender equality and women empowerment including benefit sharing and participation. For example, the Strategy requests the enhancement of the collaboration of every individual and organizations including the CPV as leader, socio-professional organizations, businesses, families in gender works. Specifically, the Strategy promotes and enhances gender equality and women empowerment in regard to benefit sharing and participation. For example, the Strategy sets an objective to reduce the gender gap in all fields, especially in the field of leadership and State administration through the incorporation of gender into the future PLRs, strengthening the access of the poor rural women to the economic resources or labor market. In order to effectively meet the strategy objectives, the Strategy requests to mobilize all the resources, including the human resources, especially those of the State agencies, financial ones. The gender Strategy requires ministries and provinces to be responsible for building and issuing Action Plans on gender equality to implement the Strategy. As of 10th June 2013, 37 of 63 provinces and 10 ministries have adopted such action plans. In short, the Strategy provides a rather comprehensive mechanism for promoting and enhancing gender equality and women empowerment, particularly those relating to benefit sharing and participation. Nevertheless, the Strategy does not include land tenure, which is clearly addressed by Law on Land.

Programme on Gender Equality for the period 2011-2015 approved by the Decision of the Prime Minister Number 1241/Q Đ-TTg of the Prime Minister dated 22 July 2011 develops programmes and projects to perform the Gender Strategy. Moreover, the Decision of the Prime Minister Number 49/QD-TTg dated 12 March 2013

142 Decision of the Prime Minister Number 2351/QĐ-TTg of the Prime Minister dated 24 December 2010 Approving National Strategy on Gender Equality for the period 2011-2020 hereinafter referred as Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 1(1,a), art 2.
143 Decision of the Prime Minister Number 2351/QĐ-TTg of the Prime Minister dated 24 December 2010 Approving National Strategy on Gender Equality for the period 2011-2020, art 1(2,b). Objective 1, 2
144 Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 2.
145 Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 2 (3) requesting the Ministry of Finance to provides the State budget for implementation of the Strategy.
146 Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 1 (4,a)
147 LEAF, Review from Gender Perspective –LEAF Input for the Roadmap for Environmental and Social Safeguards for the Vietnam’s National REDD+ Action Programme, 10 June 2013, at 12.
148 Decision of the Prime Minister Number 1241/Q Đ-TTg of the Prime Minister dated 22 July 2011 Approving Programme on Gender Equality for the period 2011-2015, Section 3(a)
### Approving Strategy for Ethnic Affairs by 2020

Promotes and enhances gender equality and women empowerment amongst ethnic minorities by setting one of the key tasks to effectively implement the gender equality policy and women’s advances.

**Circular No. 191/2009/TB-TBTC dated 1/10/2009** guides the management and use of funds for gender equality activities and activities for the advancement of women while setting up benefit sharing systems in REDD+.

### PLRs address gender discrimination

**The legal framework addresses gender discrimination.**

- **The Constitution** strictly prohibits all acts of discrimination against women and all acts damaging women's dignity.

- **The 2006 Law on Gender Equality** comprehensively addresses the issue of gender discrimination within its scope. More specifically, the Law clearly states that the goals of gender equality are to eliminate gender-based discrimination, create equal opportunities for men and women in socio-economic development and human resource development, strive to reach genuine equity between men and women, establish and strengthen cooperative and supportive relations between men and women in all aspects of social and family life.

### PLRs require public institutions to raise awareness on gender equality (through programmes for gender sensitization, focal points, etc.)

**The legal framework requires public institutions to raise awareness on gender equality**

- **Decision of the Prime Minister Number 1241/Q Đ-TTg of the Prime Minister dated 22 July 2011 Approving Programme on Gender Equality for the period 2011-2015** requires raising awareness on changing behaviours on gender equality. Accordingly, a number of State agencies are required to raise awareness on gender equality.

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149 Decision of the Prime Minister Number 49/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020

150 The 1992 (revised) Constitution, art 63

151 The 2006 Law on Gender Equality, art 4.
**Criteria B.2. Effective National Forest Governance**

**Sub-Criteria B.2.1.5: Law Enforcement**¹⁵²

**Diagnostic Question:** To what extent do PLRs require effective law enforcement in the forest sector?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs establish clear mandates and adequate authority for forest law enforcement |                  | **Legal framework regulates forest law enforcement through the establishment of clear mandates and adequate authority for forest law enforcement.**

FDP has the role of protecting forests and assisting MARD and the chairmen of People's Committees at all levels in exercising state control over forests and ensuring forest law compliance. Forest owners may also organize forest protection staff, though these have no authority to handle legal violations. Only households, community, state companies, management boards of large SUFs and protection forests can establish forest protection unit similar to FPD).

**Land Law 2003** includes several articles establishing legal basis for handling land law related offences including offences relating to forestland management. It identifies: - common features of land law related offences committed by any individuals or by responsible managers and common features of land law related offences causing damages to the State or to other parties; - forms of legal liabilities burdened on persons who commit land law related offences.¹⁵³ **Land Law 2003** also establishes responsibilities of Chairpersons of local people’s committees in discovering, preventing and handling land law related offences.¹⁵⁴

**Law on Environmental Protection 2005** prescribes responsibilities for all concerned state agencies for environmental protection, in which the Ministry of Agricultural and Rural Development (in collaboration with other concerned state agencies) is specifically assigned to

¹⁵²Builds upon criteria (b) 8 of first version of the roadmap

¹⁵³ Arts 140, 141, 142 and 144.

¹⁵⁴ Art 143
supervise the implementation of the law on environmental protection relating to forest reservation zones (subsection 4). This provision, however, is still abstract and needs to be further clarified in subordinate legislation.\textsuperscript{155} Law on Environmental Protection 2005 also includes several general provisions on responsibilities of relevant state agencies for supervision of environmental protection and handling environmental protection related offenses. To implement them in practice, those provisions, of course, need to be further detailed.\textsuperscript{156}

The LBD sets up a general responsibility of the Government, Ministries and their equivalent bodies and local people's committees for law enforcement.\textsuperscript{157} The LBD includes some general provisions relating to compensating biodiversity damages. However, those provisions are still abstract and no detailed provisions relating to clear mandates and adequate authority for forest law enforcement can be found in the LBD.\textsuperscript{158}

Decree 65 /2010/ND-CP dated June 11 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity specifies cases where People's Committees at the provincial level shall withdraw certificates of institutions for biodiversity. Except for this article, no more provisions in this Decree specify clear mandates and adequate authority for forest law enforcement.\textsuperscript{159}

The Forest Protection and Development Law regulates law enforcement responsibilities of society, forest users, people committees of different levels, and ministries.\textsuperscript{160}

\textsuperscript{155} Art 121 (4).
\textsuperscript{156} Arts 126, 127.
\textsuperscript{157} LBD Art 6
\textsuperscript{158} Art 75
\textsuperscript{159} Decree 65 /2010/ND-CP dated June 11 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity Art 17
\textsuperscript{160} Forest Protection and Development Law Chapter III , Article 36-39 (Responsibilities of society, forest users, People committees of different levels, ministries; Article 40-44 on content of forest protection; Chapter VI Forest Protection Department; Chapter VII (Dispute resolution, penalties, compensations)
| PLRs clearly define forest-related offenses and appropriate/corresponding penalties | The legal framework defines forest-related offenses and appropriate/corresponding penalties, more specifically in forest related PLRs. The measures available to tackle violations of forest law include administrative sanctions, penal sanctions and civil actions.

The administrative jurisdiction of FPD covers fines of between 5 and 1,500 euros (VND 100,000 to 30 million) depending on staff level (forest protection agent to Director of FPD). The Chairman of the People's Committee may also levy fines of between 25 and 1,500 euros (VND 500,000 to 30 million) depending on the level from commune to province. Supplementary sanctions may also be applied, including confiscation of forest products, vehicles or other materials used in relation to the offence, restoration of damaged forest, and compensation for damage caused.

Penal jurisdiction against forest crime lies with the court of the district where the crime is committed. Civil violations of forest law are the responsibility of the People's Court at each level. The 1999 Penal Code stipulates a maximum penalty for the crime of destroying forests of 15 years imprisonment and a fine of 500 euros (10 million VND).

The Decree 99/2009/ND-CP of the Government dated on November 2, 2009 on administrative penalties in forest management, protection and forest products management regulates violations and penalties.

The Forest Protection and Development Law defines forest-related offenses.

The Law on Environmental Protection 2005 includes only some general provisions on environmental protection related offences.

The 2008 LBD provides some general provisions relating to responsibilities for compensating biodiversity damages. Beyond that, there are no provisions, which clearly define forest-related

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161 Forest Protection and Development Law Art. 73. Decree No.99/2010/ND-CP on the policies for payment of forest environmental services art. 20.2
162 Chapter II (Violations, Types of violations and levels of penalties – Article 8 to 22)
163 Article 73
164 The 2005 LEP, art 127.
Decree 105/2009/ND-CP dated on November 11 2009 on Handling Land Law Related Administrative Offenses clearly define forest-related offenses as unlawful changing land for special use forests and protection forests into lands for other purposes (without adequate permission) and provides appropriate/corresponding penalties.

Decree 117/2009/ND-CP dated December 31, 2009 on Handling Environmental Protection Related Administrative Offenses clearly defines forest-related offenses as breach of regulations on environmental protection relating to tourism and natural conservation.

PLRs establish clear procedures for collecting evidence and documentation on a specific incident as the basis for arrests, judicial proceedings, etc.

<table>
<thead>
<tr>
<th></th>
<th>Legal framework establishes clear procedures for collecting evidence and documentation related to forest related offences.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Clear procedures for collecting evidence and documentation on a specific incident as the basis for arrests, judicial proceedings, etc. are provided in Law on Handling Administrative Offences 2012 (provisions on measures for preventing and ensuring to handle administrative offenses), Criminal Procedural Code (evidence and measures for preventing crimes); Civil Procedural Code, proving and evidence and temporary urgent measures).</td>
</tr>
</tbody>
</table>

Additional Information to consider: An effective enforcement mechanisms have been set up under the forestry PLRs. Hence, the non-forestry PLRs either set up the general enforcement mechanisms or modest law enforcement in the forestry-related PLRs. There is a need for an integration of the two mechanisms, namely forestry and non-forestry enforcement mechanisms.

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165 The 2008 LBD, art 75.
166 Art 8(3)
167 Art 26.
168 Law on Handling Administrative Offences 2012 Part IV, Chapter 2
169 Criminal Procedural Code, Part I, Chapter V (evidence) and Chapter VI (measures for preventing crimes); Civil Procedural Code, Part I, Chapter VII and Chapter VIII.
### Safeguard B

**Criteria B.2. Effective National Forest Governance**

**Sub-Criteria B.2. Appropriate Institutional Framework**

**Diagnostic Question:** To what extent do PLRs promote appropriate institutional frameworks for forest management?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs provide public authorities with clear authority, mandate and power under the law (including law enforcement)</td>
<td></td>
<td>Legal framework establishes clear mandates to public authorities. However, the mandates appear to be very general and require further interpretation or elaboration.</td>
</tr>
</tbody>
</table>

**Law on Environmental Protection 2005**\(^{172}\) includes several provisions relating to mandates of concerned state agencies to perform activities for conserving and reasonably using natural resources, including forests.\(^{173}\) It prescribes responsibilities of all concerned state agencies for environmental protection in which the Ministry of Agricultural and Rural Development (in collaboration with other concerned state agencies) is specifically assigned to supervise the implementation of the law on environmental protection relating to forest conservation zones/protected areas. However, details relating to state bodies that are responsible for making plans for natural conservation, establishing and managing natural conservation zones are still limited.\(^{174}\)

The **Law on Environmental Protection 2005** also includes several general provisions on responsibilities relevant to law enforcement by relevant state agencies. These include the

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\(^{171}\)Builds upon criteria (b) 1 and 2 of first version of the roadmap

\(^{172}\) Art 121 (4)

\(^{173}\) Art. 29

\(^{174}\) Art. 29
supervision of environmental protection and handling environmental protection related offences. To implement them in practice, those provisions need to be further detailed.\textsuperscript{175}

The LBD sets up a general legal basis to identify responsibilities for state management over biodiversity of the Government, Ministries and their equivalent bodies and local people’s committees, including the responsibility for law enforcement.\textsuperscript{176} In particular, the 2008 LBD\textsuperscript{177} provides details relating to mandates of MONRE, concerned Ministries, People’s Councils and People’s Committees at the provincial level to make plans for biodiversity conversation and manage biodiversity conversation zones.

The LBD includes some general provisions relating to responsibilities for compensating biodiversity damages. However, those provisions are still abstract.\textsuperscript{178}

The 2003 Land Law sets up a legal framework for land management including forestland management. Particularly, several provisions in the 2003 Land Law\textsuperscript{179} deal with state management of production forest lands, protection forest lands and special use forest lands in which mandates of concerned state bodies to manage forest lands are provided.

The Forest Protection and Development Law sets up the responsibilities for forest protection and development planning.\textsuperscript{180}

| PLRs provide forest-related agencies mandates that are mutually supportive | The legal framework does not fully guarantee mutually supportive mandates to forest related agencies. |

\begin{itemize}
  \item Arts 126, 127
  \item \textsuperscript{176} The 2008 LBD, art 6.
  \item \textsuperscript{177} The 2008 LBD, art 10.
  \item \textsuperscript{178} The 2008 LBD, art 75
  \item \textsuperscript{179} The 2003 Land Law, art 75-77
  \item \textsuperscript{180} Article 17(Responsibilities for forest protection and Development planning), Article 28 (Authority for forest all conversion, leases, recovery and conversion) Article 32(Forest inventory and forest monitoring), forest protection responsibilities of forest users( Article 37), of people committees of different levels (Article 38), of different ministries( Article 39); Timber harvesting in production forests (Article 55.3/4; Article 57.2), Forest Protection Department (Article 79-83) |
\end{itemize}
| **PLRs provide judiciary agencies with clear authority, mandate and power under the law to prosecute forest crimes**<sup>184</sup> | **The legal framework provides judiciary agencies with a mandate to prosecute forest crimes.**

Penal jurisdiction against forest crimes lies with the court of the district where the crimes is committed. Civil violations of forest law are the responsibility of the People's Court at each level. The 1999 Penal Code stipulates a maximum penalty for the crime of destroying forests of 15 years imprisonment and a fine of 10 million VND.

The judiciary agencies provided in the **2003 Criminal Procedural Law** are of general authority, mandate and power under the law and are competent to prosecute all crime regulated by the 1999 Penal Code, including forest crimes. There are several provisions in the **1999 Penal Code (revised)**<sup>185</sup> relevant to the forest crimes, including the crimes relating to the use of land and forest management, destroying forests, breaching regulations on the protection of precious and rare wild animals or reaching the special protection regime for nature preservation areas. |

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**Criteria B.2. Effective National Forest Governance**

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<sup>181</sup> The 2005 LEP, art 121 (4)
<sup>182</sup> The 2008 LBD, art 27
<sup>183</sup> The Decree 65/ND-CP of 11 June 2010, art 3-9
<sup>184</sup> Builds upon criteria (c) 5 of first version of the roadmap
<sup>185</sup> Penal Code, arts 173-176; 189-191.
### Sub-Criteria B.2.3 Participation in Decision-Making Processes that Affect the Environment\(^{186}\)

**Diagnostic Question:** To what extent do PLRs guarantee effective public participation in forest related policymaking?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize the right to participate</td>
<td>✧</td>
<td>The legal framework recognizes the right to participate(^{187}), but does not provide specific provisions to guarantee the effective implementation of this right.</td>
</tr>
</tbody>
</table>

**Findings**

- **The 2005 Law on Environmental Protection**\(^{188}\) recognizes the right to participate by setting up an important State policy to encourage and facilitate all organizations, population communities, households and individuals to participate in environmental protection activities. The LEP also set out the rights of people to participate in Environmental Impact Assessments (EIAs) for projects located in their areas.\(^{189}\)

- The **FPDL** states that forest development planning and plans must be democratic and public.\(^{190}\)

- **The 2008 LBD**\(^{191}\) seeks to ensure local people’s participation in the process of formulating and implementing biodiversity conservation planning.

- **The 2003 Law on Land**\(^{192}\) requires gathering comments of people in the course of elaborating the detailed land use planning. The **Decree 181/2004/ND-CP**\(^{193}\) establishes a mechanism for

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\(^{186}\)Builds upon criteria (b) 5 of first version of the roadmap

\(^{187}\) Decision 661/QD-TTg chapter II. Decree No.99/2010/ND-CP art. 15. Decree 163/1999/ND-CP art. 4 and 5

\(^{188}\) The 2005 Law on Environmental Protection, art 5(1)

\(^{189}\) LEP art. 20

\(^{190}\) FPDL art. 13

\(^{191}\) The 2008 LBD

\(^{192}\) The 2003 Law on Land, art25 (5)

\(^{193}\) The Decree 181/2004/ND-CP, art 18 (1).
securing the effective public participation in land use planning. Accordingly, the draft detailed land use planning must be introduced to every urban population group, village, hamlet and other population quarters; and at the same time must be posted up at the offices of the People’s Committees of the communes, wards or townships where exists the land; the receipt of opinions can be contributed directly by people or through representatives of population quarters, or other institutions such as Vietnam Fatherland Front and/or local mass organizations; to gather comments of the Standing Offices of the People’s Councils of the communes, wards or townships where exists the land. More importantly the opinion must be sum up and be accepted while finalizing the draft land use planning.

The **Ordinance on Grassroots Democracy** states that local people and communities have the right to comment on important policies relevant to their rights and obligations.

The **Resolution N 41/TW-BCT** of the Politics Bureau stipulates that all individuals and organizations have an obligation to participate in, and contribute to, environmental protection.

<table>
<thead>
<tr>
<th>PLRs provide opportunities to participate in a timely and culturally appropriate manner</th>
<th>Considering that the legal framework does not provide specific provisions for ensuring participation, only a few PLRs seek to ensure opportunities to participate are provided in a timely and culturally appropriate manner. The 2003 Law on Land and the Decree 181/2004/ND-CP provide opportunities to participate in a timely and culturally appropriate manner. <strong>The Decree 181/2004/ND-CP</strong> requires introduction of the detailed draft planning to every local people and also post at the PC’s websites within a time limit for gathering people's comments under the provisions of Clause 1 of this Article shall be thirty (30) days.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs set accountability provisions to ensure inputs</td>
<td>Considering that the legal framework does not provide specific provisions for ensuring participation, only a few PLRs seek to ensure inputs provided are effectively addressed.</td>
</tr>
</tbody>
</table>

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The Decree 181/2004/ND-CP, art 18 (2)
<table>
<thead>
<tr>
<th>provided are effectively addressed</th>
<th>The 2003 Law on Land(^{195}) and the Decree 181/2004/ND-CP (^{196}) set accountability provisions to ensure inputs provided are effectively addressed. For example, the Law requires the agencies that elaborate the detailed land use planning of communes, wards or townships must to sum up and accept people’s comments for finalization of the draft detailed land use planning.</th>
</tr>
</thead>
</table>
| PLRs ensure/promote gender equality in public participation | The legal framework promotes gender equality in public participation.  
  **The Constitution\(^{197}\)** sets up the constitutional principle for promotion and enhancement of gender quality while requiring the State and society to create all necessary conditions for women to raise their qualifications in all fields and to fully implement their roles in society.  
  The **2006 Law on Gender Equality** provides the principles and State polices of gender quality.\(^{198}\) Additionally, the Law also creates a comprehensive and solid mechanism including the measures for securing gender equality, a complex State and non-state organizations,\(^{199}\) especially the Vietnamese Women Union,\(^{200}\) and individuals for promoting and enhancing gender equality and women empowerment including benefit sharing and participation. Specifically, the Law directly requires setting the ratio between men and women or an appropriate portion of women in participation and benefit-sharing as a measure to secure the gender equality.\(^{201}\)  
  **The 2003 Law on Land**\(^{202}\) indirectly promotes gender equality in public participation. In accordance with the Law, in cases where the land use rights constitute the common property of the husband and the wife, the land use right certificates must be inscribed clearly with the full names of both the husband and the wife. |

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\(^{195}\) The 2003 Law on Land, art 25 (5)  
\(^{196}\) The Decree 181/2004/ND-CP, art 18 (3)  
\(^{197}\) The 1992 (revised) Constitution, art 63  
\(^{198}\) The 2006 Law on Gender Equality, art 6-7  
\(^{199}\) The 2006 Law on Gender Equality, art 9 and Chapter IV  
\(^{200}\) The 2006 Law on Gender Equality, art 30  
\(^{201}\) The 2006 Law on Gender Equality, art 19 (1a).  
\(^{202}\) The 2003 Law on Land, art 48 (3)
The National Strategy on Gender Equality for the period 2011-2020 approved by the Decision of the Prime Minister Number 2351/Q Đ-TTg of the Prime Minister dated 24 December 2010 specifies the constitutional principle by creating mechanisms for promotion and enhancement of gender equality and women empowerment including benefit sharing and participation. For example, the Strategy sets an objective to reduce the gender gap in all fields, especially in the field of leadership and State administration through the incorporating the gender issue into the future PLRs, strengthening the access of the poor rural women to the economic resources or labor market. In order to effectively meet the strategy requirements, the Strategy requests to mobilize all the resources, including the human resources, especially those of the State agencies, and financial ones. The gender Strategy requires ministries and provinces are responsible for building and issuing Action Plans on gender equality to implement the Strategy. As of 10 June 2013, 37 of 63 provinces and 10 ministries have adopted such action plans.

The Decision of the Prime Minister Number 49/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020 ensures/promotes gender equality of ethnic minorities in public participation by setting one of the key tasks to effectively implement the gender equality policy and women’s advances.

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**Safeguard B**

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203 Decision of the Prime Minister Number 2351/QĐ-TTg of the Prime Minister dated 24 December 2010 Approving National Strategy on Gender Equality for the period 2011-2020, art 1(2,b). Objective 1,2.

206 Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 2.

207 Decision 2351/QĐ-TTg of the Prime Minister of 24 December 2010, art 1 (4,a).

208 LEAF, Review from Gender Perspective – LEAF Input for the Roadmap for Environmental and Social Safeguards for the Vietnam’s National REDD+ Action Programme, 10 June 2013, at 12.

209 Decision of the Prime Minister Number 49/QĐ-TTg of 12 March 2013 Approving Strategy for Ethnic Affairs by 2020
### Criteria B.2. Effective National Forest Governance

#### Sub-Criteria B.2.4: Adequate Access to Justice

**Diagnostic Question:** To what extent do the PLRs guarantee adequate access to justice in the context of forest management?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs recognise the right to access to justice | ✅ | The legal framework recognizes the right to access to justice

**Law on Complaints** provides a comprehensive legal framework for citizens to access justice relating to administrative decisions, including forest management related ones.

**Land Law 2003** provides several specific provisions relating to the right to access to justice on land management related decisions and the right to denounce offences against land law.\(^\text{211}\)

**Law on Environmental Protection 2005** provides a general provision on dealing with complaints and denunciations relating to environmental protection.\(^\text{212}\)

No provisions relating to the right to access to justice can be found in the LBD of the FPD.

| PLRs provide dispute resolution mechanisms to address disputes at all levels | ✅ | The legal framework grants access to dispute resolution mechanisms at all levels.

**Law on Complaints 2011** provides steps for dealing with complaints including forest management related ones at all levels.\(^\text{213}\) A complaint can be made directly to the decision maker; and an appeal process is provided at the immediate higher level. Additionally, the complaint can be brought to an even higher level in accordance with the **Administrative Court Procedure Law 2010**.

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\(^{210}\) Builds upon criteria (c) 4 and 5 of first version of the roadmap  
\(^{211}\) Art 138 (dealing with complaints about land management) art 139 (dealing with denunciations on land law offences)  
\(^{212}\) Art. 128  
\(^{213}\) Art. 7 of the Law on Complaints 2011
**Land Law 2003** provides several specific provisions relating to dispute resolutions of land law disputes, including the ones relating to forestland management.\(^{214}\) For example, land law disputes can be solved through the means of mediation; by the administrator through a mechanism for solving complaints; and can also be solved by courts.

**Law on Environmental Protection 2005** includes several general provisions on environment related complaints, denunciations and legal proceedings as well as disputes over environmental matters.\(^ {215}\) To some extent those provisions address disputes at all levels.

PLRs provide mechanisms for resolving disputes that are not cost prohibitive

<table>
<thead>
<tr>
<th>The legal framework requires the payment of fees to access justice, but which are not cost prohibitive.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <strong>Law on Complaints 2011</strong> does not have provisions requiring the payment of fees that the complainant must pay for bringing a case forward.</td>
</tr>
<tr>
<td>According to <strong>Administrative Court Procedure Law 2010</strong>, solving administrative disputes through the court requires court fees and charges, and other procedural fees.(^ {216}) Similarly, the <strong>Civil Procedural Code 2004</strong> requires court fees and charges, and other procedural fees for resolving civil cases.(^ {217})</td>
</tr>
<tr>
<td>The list of detailed court fees, administrative fees and other procedural fees is attached to the <strong>Ordinance on Court Fees and Charges 2009</strong>. In general, the fees and charges are very reasonable. For examples, the current law requires only 200,000 VND (about 10 USD) for the fees of resolving an administrative law case.</td>
</tr>
</tbody>
</table>

\(^{214}\) Arts. 135, 136 and 138  
\(^{215}\) Arts. 128 and 129  
\(^{216}\) Art. 27  
\(^{217}\) Chapter IX, Part I of the Code.
<table>
<thead>
<tr>
<th>PLRs provide access to legal services and other support for the local communities</th>
<th>The legal framework provide access to legal services</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <strong>Law on Complaints 2011</strong> clearly expresses the right to access to legal services through lawyers or legal aid staffs (if the complainant is entitled to enjoy legal aid services in accordance with the <strong>Law on Legal Aid 2006</strong>).(^{218})</td>
<td></td>
</tr>
<tr>
<td>Similarly, <strong>Administrative Court Procedure Law 2010</strong> (art 11) and <strong>Civil Procedural Code 2004</strong> (art 9)(^{219}) provide that parties have the rights to ask lawyers or other people to defend their legitimate rights and interests.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLRs provide access to appeals</th>
<th>The legal framework guarantees access to appeals</th>
</tr>
</thead>
<tbody>
<tr>
<td>The <strong>Law on Complaints 2011</strong> clearly expresses that if the complainant is not happy with the decision dealing with the complaint by decision maker then he or she has the right complaint about the decision to the superior of the decision maker at the immediately higher level.(^{220})</td>
<td></td>
</tr>
<tr>
<td>Right to appeal is clearly provided in the 2010 <strong>Administrative Court Procedure Law</strong> (art 49 (15)) and the 2004 <strong>Civil Procedural Code 2004</strong> (art 58 (2) (o)).(^{221})</td>
<td></td>
</tr>
<tr>
<td><strong>Decree 99/2009/ND-CP</strong> of the Government dated on November 2, 2009 on administrative penalties in forest management, protection and forest products management also guarantees right to appeal.(^{222})</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLRs provide access to remedies (remediation and compensation)</th>
<th>The legal framework provides access to remediation and compensation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Law 2003</strong> guarantees the land user has a right to remediation and compensation in</td>
<td></td>
</tr>
</tbody>
</table>
accordance with the law in the case their land is acquired by the State. The Law also states the responsibilities for compensation relating to land law related offences.

**Law on Environmental Protection 2005** includes provisions stating that individuals, organizations and related authorities are responsible for compensating if they cause damages to the environment.

LBD also regulates responsibility for compensating biodiversity related damages.

PLRs provide special consideration for local communities in guaranteeing their right to access to justice

The legal framework provides special consideration to certain people in guaranteeing their right to access to justice.

The **Law on Legal Aid** clearly expresses the list of individuals who are entitled to legal aid free of charges, including poor people and indigenous people.

The **Administrative Court Procedure Law 2010**, the **Civil Procedural Code 2004** and the **Criminal Procedural Code 2003** recognize the right of ethnic people to use spoken and written languages of their own nationalities and guarantees that interpretation services must be provided for ethnic people involved in court procedures.

PLRs provide dispute

The legal framework regulates the enforceability of access to justice decisions

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223 Art. 42
224 Art 142
225 Art 127
226 Art 75
227 Art 10
228 The Administrative Court Procedure Law 2010, art 22
230 The Criminal Procedural Law 2010, art 24
All court decisions and decisions dealing with complaints are enforceable. Court contempt can lead to administrative or criminal liabilities of anyone who commit offences.

### Safeguard B

#### Criteria B.2. Effective National Forest Governance

#### Sub-Criteria B.2.5: Integration of Social, Economic and Environmental Considerations

**Diagnostic Question:** To what extent do PLRs require/promote the integration of social, economic and environmental considerations in forest management?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs determine that land and forest laws and policies will need to be approved by meaningful public participation.</td>
<td>👍</td>
<td>The legal framework guarantees public participation over laws and policies that will impacts forests and land use/management. The <strong>2008 Law on Promulgation of Legal Normative Documents</strong> requires all Vietnamese Law draft laws including Law on Land and other relevant laws to be commented by the public directly or indirectly, for example, by posting on line for comments of the public, organising the workshop for comments by people who could be impacted by the new law. Specifically, the <strong>2008 LBD</strong> provides that in case the land laws and policies which may impact forest there will a consultation with ministries, ministerial agencies and other legitimate inhabitants, within the protected areas or the adjunct areas to the protected areas, prior to development to their approval.</td>
</tr>
</tbody>
</table>

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231 The 2004 Civil Procedural Code, Chapter XXX1, Part VII; the 2010 Administrative Court Procedure Law, Chapter XVI; the 2003 Criminal Procedural Code, Part V.

232 Art 7 of Decree 60/2009/NĐ-CP on handling administrative offences in the field of justice management.

233 Art 304 of the Criminal Code “Crime of not executing court decisions”.

234 Builds upon criteria (b) 3 and 7 of first version of the roadmap.

235 The 2008 Law on Promulgation of Legal Normative Documents, art 4, 35.

PLRs require that forest sector stakeholders and decision-makers have information about cross-sectoral impacts

The legal framework requires that information about cross-sectoral impacts is publically available.

The 2005 LEP\textsuperscript{237} requires report on environmental impacts by sectors/areas, which can be accessible by forest sector stakeholders and decision-makers. The report includes several issues such as the current state and quantity of, and changes in sources that cause adverse impacts on the environment, evaluation of environmental protection performance by sectors and areas.

The National Strategy for Climate Change Approved by Decision of the Prime Minister Number 2139/QD-TTg of the Prime Minister dated 5 September 2011\textsuperscript{238} requires proactive disaster preparedness and climate monitoring, which underlines the enhancement of forest quality and promotes the effective use of the forest and forest functions against disaster. The above encompasses the requirement to gather and provide information on cross-sectoral impacts.

PLRs determine regular monitoring and review of social, economic and environmental considerations

The legal framework requires the monitoring and review of social, economic and environmental considerations\textsuperscript{239}

The 2005 LEP\textsuperscript{240} determines that the ministries, ministerial level agencies and Government bodies shall, every five years, prepare and submit to the Ministry of Natural Resources and the Environment a report on environmental impacts of sectors and areas under their management in accordance with the five year planning term. Additionally, the 2005 LEP\textsuperscript{241} also requires MONRE to prepare National Environmental Report every five years and prepare annually thematic

\begin{footnotesize}
\begin{itemize}
\item\textsuperscript{237} The 2005 LEP, art 100.
\item\textsuperscript{238} National Strategy for Climate Change Approved by Decision of the Prime Minister Number 2139/QD-TTg of the Prime Minister dated 5 September 2011, Part IV. Strategic Tasks 1.
\item\textsuperscript{239} Decree 186/2006/ND-CP on promulgation of Forest Management Regulation art. 43. Decree 05/2008/ND-CP of the Government dated 14/01/2008 on Forest protection and development Fund art. 18. Vietnam Forest Development Strategy 2006-2020 part. 7. Decision No. 24/2012/QD-TTg of Prime Minister dated on investment policy for SUF development in the period 2011-2020
\item\textsuperscript{240} The 2005 LEP, art 100.
\item\textsuperscript{241} The 2005 LEP, art 101.
\end{itemize}
\end{footnotesize}
environmental reports.

The 2008 LBD assigns the Ministry of Natural Resources and Environment the prime responsibility for and coordinate with concerned ministries and ministerial-level agencies in, elaborating biodiversity reports, which is part of the Environmental Report.

**Safeguard B**

**Criteria B.2. Effective National Forest Governance**

**Sub-Criteria B.2.6: Cross-Sectoral Coordination**

**Diagnostic Question:** to what extent to PLRs require/promote effective coordination between various agencies that play a role in forest management?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs define concrete mechanisms to support and encourage coordination (inter-ministerial committees, working groups, cross cutting teams, etc.) | ✔️ | The legal framework defined mechanisms and institutional arrangements to support cross-sectoral coordination.

National Strategy for Climate Change Approved by Decision of the Prime Minister Number 2139/QD-TTg of the Prime Minister dated 5 September 2011 defines concrete mechanisms to support and encourage coordination, such as MONRE taking a role as Standing Office of National Climate Change Committee, whilst other ministries and relevant agencies have clear mandate in regard to response to climate change.

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242 The 2008 LBD, art 72
243 Builds upon criteria (b) 3 and 7 of first version of the roadmap
244 Decree No.99/2010/ND-CP on the policies for payment of forest environmental services art. 22.3. Forest Protection and Development Law art. 8.

245 National Strategy for Climate Change Approved by Decision of the Prime Minister Number 2139/QD-TTg of the Prime Minister dated 5 September 2011, Part V. Implementation Organisation, section3.
<table>
<thead>
<tr>
<th>PLRs define clear lines of communication between and across different sectors and levels of government for forest management</th>
</tr>
</thead>
</table>
| **Decision of the Prime Minister Number 1250/Q Đ-TTg of the Prime Minister dated 31 July 2013 Approving National Biodiversity Strategy toward 2020 and the Vision up to 2030**<sup>246</sup> defines concrete mechanisms to support and encourage coordination amongst State agencies in implementation of the Strategy. Specifically, Inter-sectoral Steering Committee with the Minister of National Resources and Environment and the Chairman.

The **Forest Protection and Development Plan** defines concrete mechanisms to support and encourage coordination as a national target programme. This includes the establishment of a Steering Committee with several ministries.

The **Forest Protection and Development Plan** defines concrete mechanisms to support and encourage coordination as a national target programme. This includes the establishment of a Steering Committee with several ministries.

The **2008 LBD**<sup>247</sup> provides a mechanism for information of sharing across different sectors and levels of government for forest-related management, namely, in regard to invasive alien species.

**The Decree 65 /2010/NĐ-CP dated June 11 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity** requests the relevant Ministries to issue the Inter-ministerial Circular as an appropriate legal means for sharing information on management over individual fields. For example, the Inter-ministerial Circular guiding in detail the determination of species of special scientific, biological, cultural, environmental values is required to be issued by MONRE, MARD and MCST.<sup>248</sup>

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<sup>246</sup> Decision of the Prime Minister Number 1250/Q Đ-TTg of the Prime Minister dated 31 July 2013 Approving National Biodiversity Strategy toward 2020 and the Vision up to 2030, Chapter IV.

<sup>247</sup> The 2008 LBD, art 54.

## Criteria C.1. Defining Indigenous Peoples and Members of Local Communities

### Diagnostic Question 1: Do PLRs define who are indigenous peoples and local communities?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs clearly define who are indigenous people and in consistency with international law | ✗                | The legal framework does not define indigenous peoples, as Vietnam utilizes the term ‘ethnic people’ and/or “ethnic minority” instead of indigenous people. However, the legal framework does not provide a clear definition on ethnic people or ethnic minority, but appears to integrate them into the definition of local communities. Vietnam is a nation comprising 54 ethnic groups living side by side with each other. The ethnic minorities are distributed throughout the country, mostly living in the mountainous regions, sharing the same area with others without ethnic-specific areas. 249  
However, a legal definition of ‘ethnic minority’ was not found in Vietnam’s legal framework. According to a report submitted to ICERD, the concept of “ethnic minority” is understood as signifying an ethnicity with a smaller population compared to the one with the largest population in a country having more than one ethnic group 250.  
It is important to note the lack of clarity in the legal framework over who constitute ethnic minorities might create problems when seeking to implement national and international legal obligations applicable to Vietnam and related with the rights of the ethnic minorities such as UNDRIP, ICCPR, ICESCR and ICERD. |
| PLRs clearly define who are local communities                               | ✗                | The legal framework clearly defines who are local communities.  
249 Report to ICERD, pg. 4  
250 Report to ICERD, Paragraph 32, pg 9, 21st September 2011 |
The 2003 Law on Land, local communities are defined as “Population communities, including communities of Vietnamese living in the same villages, hamlets or similar population quarters having the same customs and practices or the same descents”. This definition integrates ethnic people or ethnic minority as a part of ‘local communities’.

The Forest Protection and Development Law defines village communities.

| Safeguard C | Criteria C.2.: Definition of traditional knowledge of indigenous peoples and local communities

**Diagnostic Question:** To what extent do PLRs define what constitutes traditional knowledge of indigenous peoples and local communities?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs define traditional knowledge of local communities and indigenous peoples</td>
<td>🤔</td>
<td>The legal framework only defines traditional knowledge in the context of genetic resources. LBD 2008 defines traditional knowledge of genetic resources as “knowledge, experience and initiatives of native people (local communities) on the conservation and use of genetic resources” The 2005 LEP, the LL nor the FPDLS provide a definition.</td>
</tr>
</tbody>
</table>

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251 The 2003 Law on Land, art 9  
252 FPDLS art. 3 and Decision No. 24/2012/QD-TTg of Prime Minister dated on investment policy for SUF development in the period 2011-2020 defines village community in art 4  
253 Builds upon criteria (c) 1 of first version of the roadmap  
254 LBD 2008, Article 3 (28)
PLRs protect/regulate traditional knowledge of local communities and indigenous peoples

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs protect indigenous peoples and local communities’ rights without discrimination in accordance with their</td>
<td></td>
<td>The legal framework seeks to protect ethnic people rights without discrimination. Is also important to note Vietnam acceded to the UN International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) in June 1982 and the Convention on the Elimination of All Forms of</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Safeguard C</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law</strong></td>
</tr>
<tr>
<td><strong>Sub-criteria C.3.1.: Non-Discrimination</strong></td>
</tr>
</tbody>
</table>

**Diagnostic Question:** to what extent do PLRs recognize and protect the right to non-discrimination of indigenous peoples and local communities in accordance with international law?

255 Art. 64
256 Decision 449/QĐ-TTg, Art 1.1
<table>
<thead>
<tr>
<th>international legal commitments</th>
<th>Discrimination against Women.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Constitution^257^ protects ethnic people’s rights without discrimination providing that the Socialist Republic of Vietnam is the unified State of all nationalities living on the territory of Vietnam and the State carries out a policy of equality, solidarity and mutual assistance among all nationalities, and forbids all acts of national discrimination and division. All citizens are equal before the law and have the right to participate in the administration of the State and society, freedom of belief and religion, freedom of movement and residence, right to complaint and denunciation, work, education, health care, etc. without discrimination as to sex, ethnicity or religion.</td>
<td></td>
</tr>
</tbody>
</table>

The Decision of the Prime Minister Number 449/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020^258^ ensures/promotes gender equality of ethnic minorities in public participation by setting one of the key tasks to effectively implement the gender equality policy and women’s advances.

Decision 449/QD-TTg seeks the consistent implementation of the policy of ethnic equality, solidarity, mutual respect; ensure stability, development and integration; and regulates measures to prevent the conspiracy of hostile forces in terms of national unity splits. ^259^  

<table>
<thead>
<tr>
<th>PLRs address and remediate any discrimination against indigenous peoples and local communities</th>
<th>The legal framework forbids all acts of discrimination</th>
</tr>
</thead>
<tbody>
<tr>
<td>The Penal Code, the Criminal Procedures Code, the Civil Code, the Civil Procedures Code, etc. and other legislative documents contains relevant provisions. For example the 2010 Amended Penal Code stipulates that those who commit acts causing ethnic hatred, discrimination or segregation, or</td>
<td></td>
</tr>
</tbody>
</table>

^257^ The Constitution, art 5  
^258^ Decision of the Prime Minister Number 449/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020  
^259^ Decision 449/QD-TTg, Art 1.1, 1.4  
^260^ The Constitution, art 5  
^261^ Decision 449/QD-TTg, Art 1.4
infringing upon the equality of the community of Viet Nam’s ethnicities shall be sentenced to 5 to 15 years of imprisonment.

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**Safeguard C**

Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law

Sub-criteria C.3.2.: Self-Determination

**Diagnostic Question:** To what extent do the PLRs recognize and protect the right to self-determination of indigenous peoples and local communities in accordance with international law?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize and protect indigenous peoples and local communities' right to self-determination in accordance with their international legal commitments</td>
<td>⬇️</td>
<td>The legal framework does not explicitly recognize the right to self-determination. The <em>Constitution</em> (^{263}) recognizes that every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture and forbids all acts of national discrimination and division.</td>
</tr>
<tr>
<td>PLRs recognize traditional decision-making structures (including dispute resolution mechanisms)</td>
<td>⬇️</td>
<td>The legal framework does not explicitly recognize traditional decision making structures. The <em>2013 Law on Mediation at Communal Level</em>(^{264}) sets up a State policy to encourage highly respectful people in a family or local community to be a mediator.</td>
</tr>
</tbody>
</table>

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\(^{262}\) Article 87  
\(^{263}\) The *Constitution*, art. 5.
## Safeguard C

### Criteria C.3. Recognition and Implementation of Rights in Accordance with International Law

#### Sub-criteria C.3.3.: Rights Associated with Culture

### Diagnostic Question: To what extent do PLRs recognize and protect rights associated with culture of indigenous peoples and local communities in accordance with international law?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs protect indigenous peoples and local communities’ rights associated with culture, including respect for identity, customs, traditions and institutions</td>
<td>![Mark]</td>
<td>The legal framework recognizes, but does not directly protect ethnic minorities cultural rights.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The <strong>Constitution</strong>(^{265}) recognizes that every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>The <strong>2003 Law on Land</strong>(^{266}) prescribes the agricultural land used by population is to conserve the national identities in association with the customs and practices of various ethnic minority groups;(^{267}) <strong>Decision 449/QĐ-TTg seeks</strong> the consistent implementation of the policy of ethnic equality, solidarity, mutual respect; ensure stability, development and integration(^{268}) and indicates one of the specific targets is to preserve and promote cultural identity of ethnic minorities. (^{269})</td>
</tr>
</tbody>
</table>

\(^{264}\) The 2013 Law on Mediation at Communal Level (Luat hoa giai o co so), art 5 (1)

\(^{265}\) The Constitution, art 5

\(^{266}\) The 2003 Law on Land, art 117, 105 and 107

\(^{267}\) Land law 2003, art 71

\(^{268}\) Decision 449/QĐ-TTg, Art 1

\(^{269}\) Decision 449/QĐ-TTg, Art 1.1
PLRs promote the maintenance of cultural inheritance

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize a broad spectrum of socially legitimate tenure rights for indigenous and other forest dependent communities (e.g. rights)</td>
<td></td>
<td>Under the Constitution the land belongs to the entire people (including ethnic minorities and local communities), with the State acting as their representative. Therefore, collective land tenure rights are not recognized, only ‘land use rights’.</td>
</tr>
</tbody>
</table>

The legal framework recognizes cultural inheritance.

**The Constitution**\(^\text{270}\) recognizes that every nationality has the right to use its own language and system of writing, to preserve its national identity, and to promote its fine customs, habits, traditions and culture

The **LL 2003** promotes the maintenance of cultural inheritance of ethnic minority groups by assigning agricultural land to them\(^\text{271}\)

**Decision 449/QĐ-TTg** indicates one of the specific targets is to preserve and promote cultural identity of ethnic minorities\(^\text{272}\)

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270 The Constitution, art 5.
271 Land law 2003, art 71
272 Decision 449/QĐ-TTg, Art 4 (d) Decision emphasizes the target to have fully cultural and social development in ethnic minority groups, through developing the policy to protect and promote the cultural identity, language, writing, practice, traditional beliefs of ethnic minorities and through other activities.
<table>
<thead>
<tr>
<th>PLRs recognize indigenous peoples and local communities rights over forest lands and/or resources they have traditionally managed</th>
<th>The legal framework only recognizes traditional or customary rights of ethnic minorities and local communities over forest lands and/or resources in the context of biodiversity. <strong>The 2003 Law on Land</strong> provides general provisions on rights and obligations of land users, including rights to exchange, transfer, lease, sublease, inherit, present or donate the land use rights; the rights to mortgage, provide guarantee or contribute capital with, the land use rights; the rights to be compensated upon land recovery by the State; etc. 273</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize and protect customary tenure systems and/or customary use rights</td>
<td>The legal framework does not recognize and protect customary tenure systems or use rights. Although Vietnam has a number of PLRs on lands and other natural resources, none of these laws provide legal recognition or protection of ethnic minorities’ collective customary rights to land and other natural resources. 275</td>
</tr>
<tr>
<td>PLRs recognize and protect collective ownership and/or use rights of forests</td>
<td>The legal framework recognizes collective ownership of forests. However, there are several legal issues that undermine such recognition and its effective protection. <strong>The Civil Code of 2005</strong> does not recognize the community as the subject of civil legal relationship, though legislation provides for common ownership by the community. Accordingly community members can manage, use and dispose of common property for the community’s interest following agreement or custom, but not breaching law or social mores. <strong>The LL</strong> gives the community the same rights and responsibilities as other land users (i.e. it can exploit the utility and enjoy of the benefits of the resource), except it cannot exchange, transfer,</td>
</tr>
</tbody>
</table>

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273 **The 2003 Law on Land**, chapter IV, section 1
274 **The 2008 LBD**, art 60 (2.c)
275 Reports confirm that the concept and practice of customary law in forestland tenure play an important role in Vietnam’s rural communities. The conflict between current government policies and traditional conceptions of land tenure and use rights is considered to be one of the major causes of the many conflicts and disputes in Vietnam’s upland regions during the past decade. See for more details: https://cmsdata.iucn.org/downloads/vn_flegt_assessment_report_en.pdf
lease or donate its land use rights. In addition, it cannot mortgage, provide guarantees or use the land under its management as a contribution to joint investment.

According to the FPDL, the community cannot divide its forests among its members; nor can it convert, transfer, donate, lease, mortgage, or provide guarantees or contribute investment capital with the value of its assigned rights.

The legal framework does not establish transparent and fair procedures to address circumstances where rights need to be extinguished or diminished.

PLRs define a fair and equitable sharing of the benefits arising out of forest protection and development follows the common principle of “ensur[ing] the harmony

276 DECREE No. 181/2004/ND-CP regulates the communities which are assigned protective forests by the State according to the provisions of the Law on Forest Protection and Development, have the rights and obligations as provided for by the Law on Forest Protection and Development

277 FPDL 2004 Article 30

278 Builds upon criteria (e) 1 of first version of the roadmap
the utilization of forest resources, the utilization of genetic resources, and the utilization of traditional forest-related knowledge

<table>
<thead>
<tr>
<th>between the state’s and forest owners’ interests; between the economic benefits of forests and the interests of protection, environmental protection and nature conservation; between the immediate and long-term interests, ensuring that forestry practitioners can live mainly on forestry. However, some of the relevant provisions identified might have practical implementation problems.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Concrete provisions for forest benefit sharing are set out in Decision 178 of the Prime Minister. Important to highlight potential problems with benefit sharing from forest contracted for restoration through regeneration or plantation. Depending on the type of forest, households or individuals contracted by the state receive funding for plantation, restoration, protection, and regeneration activities. They are also allowed to harvest NTFPs such as flowers, fruits, oil and resin, and to use part of the unforested forestland for agriculture or aquaculture. Selective logging is also allowed, and the contracting households are entitled to a share of the timber value after tax.</td>
</tr>
<tr>
<td>Since most contracted forests have not reached maturity, the provisions for sharing the value of timber products under Decision 178 have yet to be implemented. Further, when Decision 178 was issued in 2001, forest contracting to village communities had yet to start. As a result the Decision does not specify the mechanism of benefit sharing for communities.</td>
</tr>
<tr>
<td>The <strong>2005 LEP</strong> requires guaranteeing the fair and equitable distribution of benefits arising from the use of forest resources by setting a principle that the protection of biodiversity must be implemented based on the assurance of the rights and legitimate benefits of local residential</td>
</tr>
</tbody>
</table>

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279 FPDL 2005, article 9
280 Decision 178/2001/QD-TTg.
281 The 2005 LEP, art 30 (1)
The legal framework contains limited provisions relating to benefit sharing arrangements for ethnic minorities or local communities. However, the general provisions discussed in the previous indicator apply to them.

**Decision 304/ 2005/QD-TTg of Prime minister dated 23/11/2005** (already terminated) regulated the on piloting of forest protection contracting for households and communities in ethnic indigenous minority villages in Central Highlands with the benefits of allocated people.284.

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**Safeguard D**

283 Land law 2003, Art 76, 77
284 (Article 5), benefits of the forest protection contractors ( Article 6) and obligations of allocated or contracted households and communities ( Article 7)
### Criteria D.1.: Definition and Regulation Meaningful Full and Effective Participation

#### Diagnostic Question:
To what extent do PLRs define and regulate the meaningful full and effective participation of relevant actors, and which is applicable to the forestry sector?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs define how to achieve meaningful full and effective participation in accordance with the requirements set by applicable international law |                  | The legal framework does not have detailed or specific provisions that promote full and effective participation of relevant actors in accordance with relevant and applicable international law. However, Vietnam has several relevant international legal commitments on this subject.  
  
The FPDL states\(^{286}\) that “forest development planning and plans must be democratic and public”. The Law on Land and its implementing Decree, the Decree 181/2004/ND-CP\(^{287}\) are also vague. They require the introduction of the detailed draft planning to every local people and to post it at the PC’s websites for gathering people's comments within a time limit of thirty (30) days. The Decision 106 of MARD\(^{288}\) guiding community forest management prescribes detailed participation of the village community in forest allocation, forest management planning, plan elaboration and implementation plans, as well as their rights and responsibilities in implementation, supervising and assessing forests allocation by the states. However, participation is limited in scope to communities in 40 communes of 10 provinces piloting the community forest guidelines.  
  
Is important to note that Vietnam is signatory to International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the 1992 Rio Declaration on Environment and Development, all of which |

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\(^{285}\)Builds upon criteria (d) 1 and 3 of first version of the roadmap  
\(^{286}\) FPDL art. 13  
\(^{287}\) The Decree 181/2004/ND-CP, art 18 (2).  
\(^{288}\) Decision 106 of MARD art. 3
| PLRs require disclosure of how public input was reflected into the final decision | Legal framework requires disclosure of how public input was reflected into the final decision in limited cases. Generally, the legal framework requires ‘taking into account public input’, but not having to demonstrate or disclose how or to what extent. |

The 2005 LEP provides the Committee has to consider inputs and recommendations prior to their conclusions and decisions made. It also requires the agencies that are responsible for environmental impact assessments to take into account public input prior to the final decision.  

2003 Law on Land and the Decree 181/2004/ND-CP require agencies that elaborate the detailed land use planning of communes, wards or townships to sum up and accept people's comments for finalization of the draft detailed land use planning.  

In the case of Ordinance 34/2007/PL-UBTVQH11 it is not so clear how public input is taken into account and disclosed. Communal-level People's Committee presidents shall direct the organization of comment gathering, sum up opinions of voters or voter-representatives of households; study and assimilate opinions and notify people of the assimilation of opinions of voters or voter-representatives of households. Where communal-level administrations' decisions on the contents are different from the majority opinions, they must clearly state the reasons and take responsibility for their decisions.  

| PLRs require the participation of women in forest related decision-making | The legal framework requires the participation of women in forest related decision-making |

289 The 2005 LEP, art 17 (5)  
290 The 2005 LEP, art 21(6)  
291 The 2003 Law on Land, art25 (5)  
292 The Decree 181/2004/ND-CP, art 18 (3)  
293 Ordinance 34/2007/PL-UBTVQH11, Art 21.3
women in forest-related decision-making processes

making processes.

The Constitution sets up the constitutional principle for securing the participation of women in forest-related decision-making process. Accordingly, the State and society create all necessary conditions for women to raise their qualifications in all fields and to fully implement their roles in society.

The 2006 Law on Gender Equality provides the principles and State polices of gender equality. Additionally, the Law creates a comprehensive and solid mechanism for securing gender equality, based on a complex State and non-state organizations, especially the Vietnamese Women Union, and individuals for promoting and enhancing gender equality and women empowerment including benefit sharing and participation. Specifically, the Law directly requires setting the ratio between men and women or an appropriate portion of women in participation and benefit-sharing as a measure to secure the gender equality.

The 2003 Law on Land recognizes the gender equality between husband and wife in land tenure. In accordance with the Law, in cases where the land use rights constitute the common property of the husband and the wife, the land use right certificates must be inscribed clearly with the full names of both the husband and the wife.

The National Strategy on Gender Equality for the period 2011-2020 approved by the Decision of the Prime Minister Number 2351/Q Đ-TTg of the Prime Minister dated 24 December 2010 specifies the constitutional principle by creating mechanisms for promotion and enhancement of gender equality and women empowerment including benefit sharing and participation. Specifically, the Strategy promotes and enhances gender

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294 The 1992 (revised) Constitution, art 63
295 The 2006 Law on Gender Equality, art 6-7
296 The 2006 Law on Gender Equality, art 9 and Chapter IV
297 The 2006 Law on Gender Equality, art 30
298 The 2006 Law on Gender Equality, art 19 (1,a)
299 The 2003 Law on Land, art 48 (3)
equality and women empowerment in regard to benefit sharing and participation.

The **Decision of the Prime Minister Number 49/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020** ensures/promotes gender equality of ethnic minorities in public participation by setting one of the key tasks to effectively implement the gender equality policy and women’s advances.

<table>
<thead>
<tr>
<th><strong>Safeguard D</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Criteria D.2.: Creating an Enabling Environment for an Effective Participation</strong></td>
</tr>
<tr>
<td><strong>Sub-criteria D.2.1.: Identification of Relevant Stakeholders</strong></td>
</tr>
<tr>
<td><strong>Diagnostic Question:</strong> To what extent do PLRs identify or require the identification of relevant stakeholders in the decision making process?</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs require conducting an assessment or identification of relevant stakeholders prior to the decision-making processes</td>
<td>![Mark]</td>
<td>The legal framework does not require conducting an assessment or identification of or who would be the relevant stakeholders prior to a decision making process</td>
</tr>
</tbody>
</table>

However, it is important to note that in the context of SEA and EIA the legal framework requires to actively seek comments and inputs from relevant stakeholders, which we presume would require an assessment/identification of who would be relevant stakeholders. **Decree 29/ND-CP dated 18 April 2011 Providing the Strategic**

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300 Decision of the Prime Minister Number 49/QD-TTg 12 March 2013 Approving Strategy for Ethnic Affairs by 2020
<table>
<thead>
<tr>
<th>PLRs define who are relevant stakeholders allowed to participate in the decision making process</th>
<th><strong>Environmental Assessment, Environmental Impact Assessment, Environmental Protection Commitments (Decree 29/NĐ-CP of 18 April 2011)</strong> requires to collect comments of related experts outside the appraisal council, related scientific and technological institutions, socio and professional organizations, and non-governmental organizations in case of necessity to conduct supplementary appraisal of strategic environmental assessment or environmental impact assessment.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework defines whom are relevant stakeholders allowed to participate in decision making processes in certain cases.</td>
<td><strong>The 2005 LEP</strong> provides the right of any organization and individual to submit their requests and recommendations of environmental protection to the agencies of Appraisal Committee. <strong>Ordinance 34/2007/PL-UBTVQH11</strong> states that relevant stakeholders are local people (or representatives of households) in the communes, wards and townships (grassroots level). <strong>Decree 29/NĐ-CP dated 18 April 2011 Providing the Strategic Environmental Assessment, Environmental Impact Assessment, Environmental Protection Commitments (Decree 29/NĐ-CP of 18 April 2011)</strong> requires to collect comments of related experts outside the appraisal council, related scientific and technological institutions, socio and professional organizations, and non-governmental organizations in case of necessity to conduct</td>
</tr>
</tbody>
</table>

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301 Decree 29/NĐ-CP dated 18 April 2011 Providing the Strategic Environmental Assessment, Environmental Impact Assessment, Environmental Protection Commitments, art 7 (7,c).
302 Decision No.750/QD-TTg of the Prime Minister dated on June 3, 2009 on approval of rubber tree development plan towards 2015 and vision to 2020 art. 4c. Resolution No.30a of the Government dated on December 27, 2008 on Programme to support quick poverty reduction for 61 poor districts art. II, 1. Decree No.99/2010/ND-CP on the policies for payment of forest environmental services art. 9. Decision No.07/2012/QD-TTg of the PrimeMinister dated on February 8, 2012 on promulgating some policies to strengthen the forest protection art. 3.1.
303 The 2005 LEP, art 17 (5)
304 Decree 29/NĐ-CP dated 18 April 2011 Providing the Strategic Environmental Assessment, Environmental Impact Assessment, Environmental Protection Commitments, art 7 (7,c).
supplementary appraisal of strategic environmental assessment or environmental impact assessment.

The 2003 Law on Land and Decree 181/2004/NĐ-CP\(^{305}\) indicates local people/people of communes, wards or townships have a right to participate in the decision making process.

PLRs require engagement/representation of local communities and/or indigenous peoples in relevant forest decision making processes.

The legal framework requires the representation or engagement of local communities and ethnic minorities in forests decision-making processes, in limited cases.

The 2008 LBD\(^{306}\) requires collecting opinions of the inhabitants lawfully living in the planned area of the protected areas/conservation zone and its adjacent area in preparing the project of establishment of a new protected area.

Ordinance 34/2007/PL-UBTVQH11 states that relevant stakeholders are local people (or representatives of households) in the communes, wards and townships (grassroots level).

Prime minister Decision No.126/QD-TTg dated on February 2, 2012 on Benefit sharing pilot in the sustainable management, protection and development of special use forests requires the representation of communities.

### Safeguard D

**Criteria D.2.: Creating an Enabling Environment for an Effective Participation**

**Sub-criteria D.2.2. Providing Access to Information**\(^{307}\)

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\(^{305}\) The Decree 181/2004/NĐ-CP, art 18 (2)

\(^{306}\) The 2008 LBD, art 22 (2,b)

\(^{307}\) Builds upon criteria (d) 4 of first version of the roadmap
**Diagnostic Question:** to what extent do PLRs require and regulate the right of access to information in environmental decision making processes?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs define clear responsibilities over the process/mechanism for providing access to information</td>
<td>📌</td>
<td>The legal framework defines responsibilities over processes and mechanisms for providing access to information.</td>
</tr>
</tbody>
</table>

The 2005 LEP does not clearly define responsibilities and authority for access to information held by public authorities. It states that ‘the specialized environmental State agencies’ at different levels are responsible for publishing the environmental information. However, the LEP does not directly clarify which are the ‘specialized environmental State agencies’, but refers to Decree 80/NĐ-CP of 9 August 2006 that concretizes the responsibilities of a number of State agencies, including MONRE and other relevant Ministries or PPCs for disclosure information and data on environment. It is important to note that the Draft LEP of 30 August 2013, however, does not incorporate a provision that refers to this Decree, which might result in a lack of clarity in terms of which State agencies are responsible for disclosing environmental information.

2008 LBD and Decree 65/NĐ-CP dated 11 June 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity provides the responsibilities and authorities for access to information of public authorities relating to biodiversity conservation and sustainable use. For example, 2008 LBD addresses the responsibilities of each State agency including MONRE, MARD and PPCs, customs authorities and mass media authorities for the distribution to information in regard to invasive alien species.

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308 The 2005 LEP, art 103 (3)
309 The Decree 80/NĐ-CP of 2006, art 23 (1)
310 The 2008 LBD Chapter IV, section 3
The 2003 Law on Land\textsuperscript{311} clearly defines the responsibility of competent State agencies to publish the land use planning and/or plan. For example, the People's Committees of communes, wards or townships are responsible to publicize detailed land use planning, the detailed land use plans of their respective localities at their offices, whilst the land management agencies at all levels have the responsibility to publicize the land use plans of their respective localities at their offices and on the mass media.

The 2013 Draft Law on Access to Information lists a comprehensive system of State agencies that are in charge of providing information at all levels. These includes the Office of the National Assembly, Office of the President, Office of the Government, Ministries and Ministry-level agencies, the Supreme People’s Court, the Supreme People’s Procuracy and provincial State agencies from the communal level upward to district and provincial level.\textsuperscript{312} Hence, the draft Law creates clear mandates of the listed State agencies for distribution of information and addresses any gaps identified above.

PLRs clearly define the types of information that should be provided

In certain cases the legal framework defines the types of information that should be provided

The 2005 LEP\textsuperscript{313} defines ‘environmental information’ as all statistics and data on the environment. However, it is unclear if the definition of ‘environmental information’ covers information received by the State environmental agencies or if it only covers information developed by the State agencies. Additionally, it is important to note the LEP

\textsuperscript{311} The 2003 Law on Land, art 28
\textsuperscript{312} The 2013 Draft Law on Access to Information, art 4 (1)
\textsuperscript{313} The 2005 LEP, art 3 (18) defines environmental information as all statistics and data on environment such as environmental components, on reserves and ecological and economic values of natural resources, on environmental impacts, on wastes, on the severity of environmental pollution and degradation, and on other environmental issues.
contains inconsistent definitions of 'environmental information', in which in some cases the definition encompasses environmental data,\textsuperscript{314} and excluding it other cases.\textsuperscript{315}

Additionally, the 2005 LEP\textsuperscript{316} list specific information that needs to be provided in the context of EIA, such as the report of environmental impact assessment, the decision approving the report of environmental impact assessment and the plan for implementation of requirements of the decision.

The 2013 Draft LEP\textsuperscript{317} provides a definition of 'environmental information' that seems to broaden the scope of the term of the current LEP. In this case it clarifies the concept of statistics and materials to include all forms (e.g. symbol, in writing, etc.). Data is excluded from the scope of the notion of environmental information.

The 2008 LBD does not explicitly define 'information'. Nevertheless, several provisions in the 2008 LBD regulate different aspects of biodiversity information to be published such as information relating to biodiversity planning\textsuperscript{318} invasive alien species,\textsuperscript{319} and the information relating to the genetic resources that has been received or developed by the State agencies.\textsuperscript{320}

The 2003 Law on Land does not explicitly define 'information'. Nevertheless, several provisions in 2003 Law on Land regulate which information is to be published such as land use planning.\textsuperscript{321}

\textsuperscript{314} The 2005 LEP, art 3 (18)
\textsuperscript{315} The 2005 LEP, art 104
\textsuperscript{316} The 2005 LEP, art 104 (1)
\textsuperscript{317} The 2013 Draft LEP (Draft of 30 August 2013), art 3 (24)
\textsuperscript{318} 2008 LBD, art 11, 15
\textsuperscript{319} 2008 LBD, art 54.
\textsuperscript{320} Decree 65/ND-CP dated 11 June 2010 Providing Details and Guiding the Implementation of the Law on Biological Diversity, art 20
\textsuperscript{321} Law on Land, art 28.
The 2005 Law on Fighting and Preventing Corruption does not clearly provide a definition of ‘information’. Nevertheless, the 2005 Law\(^{322}\) requires disclosure and transparency regarding activities of the State bodies and all laws, policies and origination of implementation, except the State secrets and those that are not permitted.

The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships\(^{323}\) provides an long list of information (including plans on socio-economic development, schemes on economic restructuring and annual budget estimates and settlement of the communal level, implementation schedules, schemes on compensation and support for ground clearance and resettlement related to projects and works in communal-level localities, detailed land use plans and adjustment schemes and planning on population quarters in communal-level localities including to be publicized), which can be inferred to as definition of information.

The Law on Forestry Protection and Development\(^{324}\) stipulates that technical information and forest policies must be regularly updated and available to local people living in or around the forest areas.

Importantly, the 2013 Draft Law on Access to Information\(^{325}\) regulates a very clear definition of ‘information to be accessed’ including the information developed and received by the State agencies. The definition is relevant to some international practice, for example, the Model Inter-American Law on Access to Information.\(^{326}\) This law could be used to address the gaps identified above.

| PLRs define a timely manner to distribute relevant information | In certain cases the legal framework defines a timely manner to distribute relevant information. |

\(^{322}\) The 2005 Law on Fighting and Preventing Corruption, arts 31-32  
\(^{323}\) The 2007 Ordinance on Exercise of Democracy in Communes, Wards and Townships, art 5.  
\(^{324}\) The Law on Forestry Protection and Development art. 13  
\(^{325}\) The 2013 Draft Law on Access to Information, art 3(1)  
\(^{326}\) The Model Inter-American Law on Access to Information, article 1 defines ‘information’ as ‘any type of data in the custody or control of a public authority’
<table>
<thead>
<tr>
<th>The 2008 LBD(^{327}) requires the authorities to publish both national and provincial biodiversity planning on their websites within 30 days.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The 2003 Law on Land(^{328}) modestly addresses the procedures for requesting and accessing information. For example, regarding the publication of the land use planning and/or plan, the People’s Committees of communes, wards or townships are responsible for publicizing the detailed land use planning and the detailed land use plans of their respective localities at their offices within 30 days of approval of the land planning and plans.</td>
</tr>
<tr>
<td>The Law on Fighting and Preventing Corruption (2005)(^{329}) recognizes the right to request to access to relevant information of the authorities and State agencies and the authorities and State agencies concerned are required to provide the requested information within 10 days since the request was received.</td>
</tr>
<tr>
<td>Revised LEP 2005 only defines timely manner for local CPC to feedback to the documents the project owner sent within 15 working days.(^{330})</td>
</tr>
<tr>
<td>Ordinance 34/2007/PL-UBTVQH11 regulates a timely manner to distribute relevant information based on the publicity form (via public-address systems or public notification by village chiefs, street population group leaders).(^{331})</td>
</tr>
</tbody>
</table>

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\(^{327}\) The 2008 LBD, art 11, 15

\(^{328}\) The 2003 Law on Land, art 28

\(^{329}\) The Law on Fighting and Preventing Corruption (2005), art 31, 32

\(^{330}\) LEP 2005 revision, Art 21

\(^{331}\) Ordinance 34/2007/PL-UBTVQH11, Art 7 & 8
The 2013 Draft Law on Access to Information establishes a clear process and procedures to deal with requests for information, including those relating to the time-frames and fees.

PLRs regulate access to relevant information free of charge

The legal framework provides access to relevant information to be free of charge in a general manner. However, it is not explicitly regulated.

LEP 2005, has a provision on exercise of grassroots democracy in environmental protection in terms of providing information in a publically manner.

The 2013 Draft Law on Access to Information establishes a clear process and procedures to deal with requests for information, including those relating to the time-frames and fees.

PLRs define a culturally appropriate manner to distribute relevant information

In certain cases the legal framework requires developing a culturally appropriate manner to distribute relevant information.

Decision No 2139/QD-TTg requires to develop suitable approaches to disseminating climate change information to different communities; use a variety of media to disseminate the impacts, risks and opportunities of climate change to people, especially in the vital areas.

Ordinance 34/2007/PL-UBTVQH11 provide forms of publicity in Art 6 which might serve as culturally appropriate: a/ Posting up at offices of People's Councils and People's Committees of the communal level; b/ Publicizing them on communal-level public-address systems; c/ Publicizing them through village chiefs, street population group leaders for

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332 The 2013 Draft Law on Access to Information, art 21-25
333 Art 105
334 The 2013 Draft Law on Access to Information, art 21-25
335 Decision No 2139/QD-TTg, strategic task 7c
notification to people.

**The 2003 Law on Land**\(^{336}\) and the **Decree 181/2004/NĐ-CP**\(^{337}\) requires that the draft detailed land use planning must be introduced to every urban population group, village, hamlet and other population quarters; and at the same time must be posted up at the offices of the People's Committees of the communes, wards or townships where exists the land.

The **2012 Law on Legal Dissemination and Education** has a relevant provision requiring public institutions to provide information explaining the laws, regulations and procedures related to forest management in an easily understandable language for forest users. The Law\(^{338}\) requires the PPC's in collaboration with the Custom Agencies, the Vietnam Border Defense Force or the relevant public agencies to organise legal dissemination and education for ethnic minorities, mountainous, remote people or people at extremely difficult areas. The government has a mechanism for supporting these people to easier understand a new law by providing free information or legal materials in the ethnic minorities’ languages or the use of the traditional cultural activities for dissemination of the legal information.

| **PLRs regulate accountability aspects over denials to access** | **The legal framework does not regulate accountability aspects over any denials to provide access to information.** |

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\(^{336}\) The 2003 Law on Land, art25 (5)  
\(^{337}\) The Decree 181/2004/NĐ-CP, art 18 (1)  
\(^{338}\) The 2012 Law on Legal Dissemination and Education, art 17
| Information | Law on Corruption Fighting and Prevention 2005 has one provision which regulates accountability aspects for cases, which is limited to simply replying in writing to the request and clearly stating the reason for the denial.339  
| | The 2013 Draft Law on Access to Information340 regulates accountability aspects for denials to provide access to information. The head or the delegated of the Head of the State agencies which denies to give information is responsible for explanation in written form the reasons for denials of providing access to information within 15 days or 30 days as maximum depending the nature of the information of the denied information or be accessed.  
| PLRs provide access to justice when denials to access information are not in accordance with the law | The legal framework does not regulate specific procedures for accessing justice when denials to access information are not done in accordance with the law. However, the legal framework does contain relevant general provisions that could be applied.  
| | Law on Complaints provides a comprehensive legal framework for citizens to complain about concrete administrative decisions, including forest management related ones.  
| | Land Law 2003 provides several provisions relating to the right to complain land management related administrative decisions and the right to denounce offences against land law. 341  
| | Law on Environmental Protection 2005 provides a general provision on dealing with complaints and denunciations relating to environmental protection.342  

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339 Law on Corruption Fighting and Prevention 2005, Art 6  
341 Art 138 (dealing with complaints about land management) art 139 (dealing with denunciations on land law offences  
342 Art. 128
### Safeguard D

**Criteria D.2.: Creating an Enabling Environment for an Effective Participation**

**Sub-criteria D.2.3: Implementing Participatory Mechanisms**

**Diagnostic Question:** to what extent do PLRs define a clear and meaningful process/mechanism for public participation in environmental decision-making?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs define clear processes/mechanisms for public participation</td>
<td>☃</td>
<td>The legal framework does not define clear processes/mechanisms for public participation, which would be applicable to environmental (including forestry) decision-making.</td>
</tr>
<tr>
<td></td>
<td></td>
<td><strong>The 2003 Law on Land</strong>[^343] is vague and relevant provisions include requiring the gathering of comments of people in the course of elaborating the detailed land use planning. The <strong>Decree 181/2004/ND-CP</strong>[^344] regulates aspects of access to information to enable an effective public participation.</td>
</tr>
</tbody>
</table>

[^343]: The 2003 Law on Land, art.25 (5)
[^344]: The Decree 181/2004/ND-CP, art.18 (1)
Revised LEP 2005 regulates the mechanisms to provide information to local CPCs by sending official documents and by convening consultation meetings in EIA process.\(^{345}\)

<table>
<thead>
<tr>
<th>PLRs define a clear time-frame for public decision making</th>
<th>In some cases the legal framework defines clear time-frames for public decision making.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td><strong>The 2005 LEP</strong>(^{346}), while requiring maximum 15 working days for approval of an environmental impact assessment report by the competent State agencies since the revised receipt of the environmental impact assessment report, does not define any time-frames for the decision making process over the environmental impact assessment report. However, the <strong>Decree 29/ND-CP of 18 April 2011</strong>(^{347}) sets clear time-frame of maximum 45 days or in special cases 60 days for appraisal of an environmental impact assessment report.</td>
</tr>
<tr>
<td></td>
<td><strong>The 2008 LBD and the Decree 65/ND-CP</strong> does not define a clear time-frame for approval of national and provincial biodiversity planning or decision of the establishment of a conservation area. In regards to the appraisal of a dossier of species to be listed or removed the <strong>Decree 65/ND-CP</strong>(^{348}) sets clear time frames.</td>
</tr>
<tr>
<td></td>
<td><strong>Revised LEP 2005</strong> only defines timely manner for local CPC to feedback to the documents the project owner sent within 15 working days(^{349})</td>
</tr>
</tbody>
</table>

\(^{345}\) LEP 2005 revision, Art 21  
\(^{346}\) The 2005 LEP, art 21-22  
\(^{347}\) The Decree 29/ND-CP of 18 April 2011, art 20  
\(^{348}\) The Decree 65/ND-CP, art 14-15  
\(^{349}\) LEP 2005 revision, Art 21
<table>
<thead>
<tr>
<th><strong>PLRs define accountability aspects for addressing inputs</strong></th>
<th><strong>18 April 2011</strong> requires a time-frame of 15 days for finalizing the comments of an environmental impact assessment report. <strong>The 2003 Law on Land</strong> does not define clear time-frames for input but the <strong>Decree 181/2004/ND-CP</strong> defines the maximum time limit for collecting the people’s comments for land use planning is 30 days.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>PLRs require and regulate the documentation of the public participation process</strong></td>
<td><strong>The legal framework regulates accountability aspects for addressing inputs to decision making processes.</strong> <strong>The 2003 Law on Land</strong> and the <strong>Decree 181/2004/ND-CP</strong> set accountability provisions to ensure inputs provided are effectively addressed. For example, the Law requires the agencies which elaborate the detailed land use planning of communes, wards or townships to sum up and accept people’s comments for finalization of the draft detailed land use planning. <strong>Ordinance 34/2007/PL-UBTVQH11</strong> regulates accountability aspects of contents discussed and voted by people. <strong>In some cases the legal framework requires documenting the public participation process.</strong> <strong>Revised LEP 2005</strong> regulates public consultation meeting results are recorded in minutes signed by the project owner’s representative and the representative of CPC, which fully reflects the participants and discussed ideas.</td>
</tr>
</tbody>
</table>

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350 The Decree 29/ND-CP of 18 April 2011, art 15  
351 The 2003 Law on Land, art 25 (5)  
353 The 2003 Law on Land, art 25 (5)  
355 Art.16, 21 and 22  
356 LEP 2005 revision, Art 21
**Safeguard D**

**Criteria D.2.: Creating an Enabling Environment for an Effective Participation**

**Sub-criteria D.2.4. Access to Justice/Conflict Resolution Mechanisms in Environmental Decision Making**

**Diagnostic Question:** to what extent do PLRs require and regulate access to justice in environmental decision making processes?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs clearly define/create dispute resolution mechanisms/processes relevant to environmental decision making</td>
<td>✏️</td>
<td>The legal framework defines dispute resolution mechanisms that are relevant to environmental decision-making. Law on Environmental Protection 2005 includes several general provisions on environment related complaints, denunciations and legal proceedings as well as disputes over environmental matters.</td>
</tr>
</tbody>
</table>

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357 Art. 16, 21 and 22
358 The Decree 29/NĐ-CP of 18 April 2011, art 15
359 Builds upon criteria (c) 4 of first version of the roadmap
Law on Complaints 2011 provides steps for dealing with disputes relevant to environmental decision-making.

Administrative Court Procedure Law 2010 creates dispute resolution mechanisms/processes relating to administrative decision making, of which the environmental ones are covered.

Land Law 2003 provides several specific provisions relating to dispute resolutions of land law, including the ones relating to forestland management.

PLRs define that the costs of these mechanisms should be accessible and non-prohibitive.

The legal framework promotes that the costs of these mechanisms are accessible and non-prohibitive, but does not clearly regulate or guarantee it.

Law on Legal Aid clearly expresses the list of individuals who are entitled free of charges legal aid including poor people and indigenous people.

In the Law on Complaints 2011 there are no provisions mentioning the fees that the complainant has to pay for their cases.

According to Administrative Court Procedure Law 2010, solving administrative disputes through the court requires court fees and charges, and other procedural fees. Similarly, the Civil Procedural Code 2004 requires court fees and charges, and other procedural fees for resolving civil cases.

The list of detailed court fees, administrative fees and other procedural fees is attached.

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360 Arts. 128 and 129

361 Administrative Court Procedure Law 2010, art 28, art. 136-138, 264


363 Art 10

364 The Administrative Court Procedure Law 2010, art 1, art. 27

| PLRs require that rulings should be delivered in a timely fashion | The legal framework requires that rulings should be delivered in a timely fashion. |
| PLRs provide access to an appeal process | The legal framework provides access to appeal processes. |
| PLRs define that appeals should be processed in a timely fashion | The legal framework generally requires that appeals should be processed in a timely fashion. |

| to the Ordinance on Court Fees and Charges 2009. In general, the fees and charges are very reasonable. For examples, the current law requires only 200, 000 VND (about 10 USD) for the fees of resolving an administrative law case. |
| Administrative Court Procedure Law 2010\(^{366}\) sets time-limit for trial preparation, which conventionally takes 4 months, but the time-limit maybe shorter or longer depending on the case's feature but not exceed six months since the case acceptance, even in a very complicated case. |
| Law on Complaints 2011\(^{367}\) clearly expresses that if the complainant is not happy with the decision dealing with the complaint by decision maker, then he or she has the right to appeal the decision to the superior of the decision maker at the immediately higher level. |
| Right to appeal is clearly provided in the 2010 Administrative Court Procedure Law and the 2004 Civil Procedural Code 2004. \(^{368}\) |
| For example, Administrative Court Procedure Law\(^{369}\) provides time limit for appellate trial preparation, which last 90 days as maximum. |

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\(^{366}\) The Administrative Court Procedure Law 2010, art 117 (1).
\(^{367}\) The Law on Complaints 2011 art. 7
\(^{368}\) The Administrative Court Procedure Law, art 49 (15); the Civil Procedural Code 2004, art 58 (2, o).
\(^{369}\) Administrative Court Procedure Law, art 191.
## Safeguard D

### Criteria D.3. Effective Participation of Indigenous Peoples and Local Communities

### Sub-criteria D.3.1. Creating an Enabling Environment

**Diagnostic Question:** to what extent do PLRs create an enabling environment for the meaningful participation of indigenous peoples and local communities?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs require the incorporation of culturally, sensitive, traditional and community structures for decision-making processes that are relevant to the forest sector\(^\text{370}\) | ![Mark] | To a limited extent the legal framework requires the incorporation of culturally, sensitive, traditional and community structures for decision-making processes that are relevant to the forest sector. Legal framework mainly focuses in guaranteeing the inclusion and representation of local communities/ethnic minorities, but does not guarantee it through their own traditional or community structures for decision-making.  
Prime minister Decision No.126/QD-TTg dated on February 2, 2012 on Benefit sharing pilot in the sustainable management, protection and development of special use forests, requires their representation in management councils. |
| PLRs provide technical or financial assistance to strengthen the capacities of local communities and indigenous peoples to participate in environmental decision making | ![Mark] | To a limited extent the legal framework provides technical or financial assistance to strengthen the capacities of local communities and indigenous peoples to participate in environmental decision-making.  
Decision No 1474/QD-TTg provides technical or financial assistance to strengthen the capacities of local communities to response to Climate Change\(^\text{371}\) |

\(^{370}\)Builds upon criteria (d) 2 of first version of the roadmap  
\(^{371}\)Decision No 1474/QD-TTg, I.8, 10
PLRs provide dispute resolution mechanisms that are equitable, transparent, accountable, independent, confidential and affordable (or free) and that respect customary justice systems of indigenous peoples and local communities

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs recognize the right to FPIC in consistency with international law</td>
<td>❌</td>
<td>Legal framework does not recognize the right to FPIC. However, it is important to note that Vietnam is signatory to UNDRIP, which is the most comprehensive legal instrument in its requirements for FPIC. Moreover, it is important to note that Cancun Safeguard (d) explicitly refers to UNDRIP.</td>
</tr>
<tr>
<td>PLRs regulate the right to FPIC in consistency with international law</td>
<td>❌</td>
<td>As the legal framework does not recognize FPIC, it is not regulated.</td>
</tr>
</tbody>
</table>

Criteria D.3. Effective Participation of Indigenous Peoples and Local Communities
Sub-criteria D.3.2.: Free, Prior and Informed Consent

Diagnostic Question: to what extent do PLRs recognize and regulate the right to FPIC in consistency with relevant international law?

372Builds upon criteria (c) 3 of first version of the roadmap
**Safeguard E**

**Criteria E.1.: No Conversion of Natural Forests**

**Sub-criteria E.1.1. Defining Natural Forest, Biological Diversity and Ecosystem Services**

**Diagnostic Question:** to what extent do PLRs define the term natural forests, biological diversity and ecosystem services?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs provide a clear definition for the term natural forests which does not allow for monoculture plantations | ![Mark accordingly] | As regulated by the LL, LFPD and the NLUP, land is classified into three types: agricultural land, non-agricultural land and unused land. Forest land is considered a sub-group of agricultural land.

Under the Land Use Planning regime there are five types of forest land: (1) production forest, (2) protection forest, (3) special-use forest, (4) bare land for new planting, and (5) bare land for natural regeneration. This classification differs from that based on article 4 of the LFPD, in which forest are divided into only three types: (1) protection forest, (2) special use forest, and (3) production forest. Bare land is not included because it’s the unused land category of MONRE.

**The legal framework provides a definition of the term ‘natural forests’:** Natural forests are those ‘existing in nature or restored by natural regeneration’. Additionally, Circular 58/2009, Decision 750/QD-TTg and Decree 186/2006/ND--CP refer to natural forests. Natural forests are sub-classified in poor natural forest, rich natural forest and very poor natural forest. Poor natural forests are defined as those with very low volume, low

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373 Article 5 Provision 1 Circular 34/2009 of MARD
374 Article 4 on forestland types to be converted for rubber planting include: un-forested land, planted production forestland, natural bamboo in production forest and natural production forest (poor natural forest with standing volume from 10 to 100m3/ha; young regenerated forest with average timber diameter less than 8cm standing timber volume less than 10m3/ha; mixed timber-bamboo forest with standing timber volume less than 65m3/ha).
375 Provision III.1 (Land for rubber planting) as poor natural forests
376 Article 10 (Conversion of poor natural forests)
377 Circular 34/2009 of MARD
<table>
<thead>
<tr>
<th>Quality, low growth and productivity capacity, if facilitating for natural regeneration it cannot meet the economic and protective requirements.</th>
<th>PLRs definitions clearly distinguish between plantations and forests. Forest definition includes both natural forests(^{379}) and planted forests(^{380}).</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs provide clear definitions that distinguish plantations and natural forests</td>
<td>PLRs definitions clearly distinguish between plantations and forests. Forest definition includes both natural forests(^{379}) and planted forests(^{380}).</td>
</tr>
<tr>
<td>PLRs provide a clear definition for the term biological diversity in accordance with relevant international law (especially CBD)</td>
<td>The legal framework defines the term biological diversity. Law on Biological Diversity defines the term biological diversity. (^{381}) In LEP 2005 &quot;Biological diversity&quot; is defined as the richness of genetic resources, species and ecosystems; this definition is partially consistent with CBD definition however it takes account of the variability of genetic resources which is not mentioned in CBD's.</td>
</tr>
<tr>
<td>PLRs provide a clear definition for the term ecosystem services in accordance with relevant international law</td>
<td>The legal framework provides a clear definition of ecosystem services. Decree 99/2010/ND—CP(^{382}) defines ecosystem services a co-services that include (i) soil conservation, soil erosion control, reservoir siltation control, (ii) water resource regulation and maintenance for production and for living conditions; (iii) carbon sequestration and storages, REDD+(iv); natural landscape and biodiversity conservation for forest ecosystems in serving tourisms (v) services for fishery using the forest water.</td>
</tr>
</tbody>
</table>

\(^{378}\)Decree 186/2006/ND—CP, article 2

\(^{379}\)Article 5, Provision 1, Circular 34/2009 of MARD

\(^{380}\)Article 5, Provision 2, Circular 34/2009 of MARD- Forests are established by human being

\(^{381}\)Biodiversity Law, Article 3.1 and 3.5

\(^{382}\)Decree 99/2010/ND—CP, article 3.2. and 3
## Safeguard E

### Criteria E.1.: No Conversion of Natural Forests

#### Sub-criteria E.1.2. Prohibiting the Conversion of Natural Forests

#### Diagnostic Question: do PLRs prohibit the conversion of natural forests?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>
| PLRs prohibit the conversion of natural forests | ![Checkmark] | **Legal framework does not prohibit the conversion of natural forests.** Conversion is allowed with the permission of Government institutions or officials.  
The **Decree 186/2006/NP**—CP stipulates that conversion can only take place in accordance with the criteria and conditions determined by the Government.  
Is important to note that the FPDP has set a target to convert 350,000 ha of poor natural forest during the period 2011-2020. Similarly, Decision 750/QD-TT has set a target to convert 800,000 ha of mostly poor and young regenerated natural forests until 2020. |

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383 Circular 58/2999 of MARD requires permission of government and national assembly. Article 4 (types of forest to be converted), Article 5 (Methodology to identify volume and allowable cut) Article 6 (Procedure and authority for permission), Article 7 (Harvesting on converted forests), and Article 8 (Responsibility of agencies and units in implementation). Decree No.117/2010/ND-CP requires permission of Prime Minister or PPC depending SUFs. Part 4 (Forest conversion: change of SUF category), Article 15 (conversion of SUF for other purposes), Article 18 (conditions: with EIA, appraisal of DARD, or MARD and approval of Prime minister or Chair of PPC depending SUF). Article 3.2b of Resolution no 49/2010 of the National Assembly stipulates that projects, which require to convert forests of SUFs from 50 ha onwards, protection forests from 50 ha onwards and protection forests for wind break, wave break, environmental protection from 500 ha onwards and production forest from 1000 ha onwards have to submit projects for National Assembly for approval of investment proposal

384 Decree 186/2006/NP—CP, Article 27

385 Part III. Though is important to note that until end of 2012 already 915,000 ha of rubber tree have been established.
**Safeguard E**

**Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity**

**Sub-criteria E.2.1. Identifying Natural Forests and Biodiversity**

**Diagnostic Question:** do PLRs promote or require the identification/mapping of natural forests and biological diversity?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs require mapping of natural forests</td>
<td></td>
<td>The legal framework requires the mapping of forests(^{389}), which would include the mapping of natural forests.</td>
</tr>
</tbody>
</table>

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\(^{386}\) Article 7  
\(^{387}\) Article 7 “Prohibited acts related to biodiversity”  
\(^{388}\) Decree No.117/2010/ND-CP art. 18 and Decree 23/2006 Article 29.3 requires undertaking an EIA. Decree 186/2006/ND—CP through article 10.4 sets specific criteria that must be met.  
\(^{389}\) Forest Law, Artide 32 and Decision 799-QD-TTg. solution IILS request to carry out 5 years forest inventory and annual forest resources monitoring including natural forests. Decree No.117/2010/ND-CP requires mapping of natural forests in establishment of SUF (Article 13.2) including mapping of buffer zone forests (Article 32.3). Decision No.07/2012/QD-TTg articles 2.1e, 2.2d, 2.3h require PPC, DPC and CPC to carry out forest inventory and forest monitoring. Decree 200/2004/ND-CP requires mapping for all forest areas (Article 5-Forest management and utilization). MARD Circular 35/2011/TT-BNNPTNT, covered by Chapter II, Part 1- Forest management plans and harvesting plan
| PLRs require mapping of biological diversity | Legal framework does not require the mapping of biological diversity.  
LoB 2008 only requires mapping of regions planned for establishment of biodiversity conservation zone. |
|---|---|
| PLRs require the development and updating of natural forests inventories | Legal framework requires the development and updating of forest inventories.  
This would include natural forests. |

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**Safeguard E**

**Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity**

**Sub-criteria E.2.2.: Implementing Measures to Protect Biodiversity and Natural Forests**

**Diagnostic Question:** do PLRs define and regulate measures to protect biodiversity and natural forests?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
</table>

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390 FPDP Solution part (II.2.d) cites that the State ensure budget for forest inventory (being carried out from 2012-2015). Decision 799-QD-TTg Solution (III.5) requests to carry out 5 years forest inventory and annual forest resources monitoring including natural forests. FPDL Article 32. Decree 186/2006 Article 38 (Forest management files), article 39 (Forest inventory every 5 years and annual forest monitoring). Vietnam Forest Development Strategy Part 5.II (Programme for forest protection and biodiversity conservation), Decision No.07/2012/QD-TTg (Article 2.1c, 2.2d, 2.3h)

391 Builds upon criteria (e) 2 of first version of the roadmap
<table>
<thead>
<tr>
<th>PLRs contains provisions for the protection of natural forest areas</th>
<th>The legal framework seeks to protect natural forest areas&lt;sup&gt;392&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEP 2005 contains provisions&lt;sup&gt;393&lt;/sup&gt; not specifically for the protection of natural forest areas, but mainly for natural resources in general.</td>
<td></td>
</tr>
<tr>
<td>LoB 2008 only provides regulations for the protection of landscape and species included in the list of endangered precious and rare species prioritized for protection.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLRs outline protection measures that reflect the real threats to flora and fauna species</th>
<th>The legal framework provides protection measures to address threats to flora and fauna&lt;sup&gt;394&lt;/sup&gt;</th>
</tr>
</thead>
<tbody>
<tr>
<td>LEP 2005 outlines protection measures particularly for rare and precious and endangered species of fauna and flora. &lt;sup&gt;395&lt;/sup&gt;</td>
<td></td>
</tr>
<tr>
<td>LoB 2008 defines the protection measures of flora and fauna species. &lt;sup&gt;396&lt;/sup&gt;</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PLRs contain provisions for the protection of endangered wood</th>
<th>The legal framework provides limited provisions for the protection of endangered wood species&lt;sup&gt;397&lt;/sup&gt;</th>
</tr>
</thead>
</table>

<sup>392</sup> FPDP contains provisions for the protection of natural forest areas with a task for forest protection (I.2a), Solution for forest protection and biodiversity conservation and law enforcement (I.3). Decree 186/2006/ND--CP Article 18 (Protection of SUFs), Article 30 (Protection of protection forests), Article 36 (Protection of production forests). Decree No.99/2010/ND--CP Article 20.2a/b stipulates that forest owners ensure forests will be protected and developed in accordance with functions of approved forest protection and development plans or contracts with other forest owners. Decision No.178/2001/QD--TTg by the signing of natural forest protection contracts (Chapter III). Vietnam Forest Development Strategy Part 3. III. 1b, Part 5.II. |

<sup>393</sup> Art. 7, 47, 56, and 121 |

<sup>394</sup> FPDP Solution II.3c and 3d. Forest Protection and Development Law Article 41: Forest fauna and flora protection; Article 42: Forest fire prevention and protection; Article 43: Forest insect damage control; Article 44: forest fauna and flora trade, transport, import, and export. Decree 99/2009/ND--CP article 21 provides high penalties for buying and selling of endangered fauna and flora species. Decree 186/2006/ND--CP Article 18 (Protection of SUFs), Article 19 (Planting, restoration, conversion); Article 20 (sustainable utilization of natural resources in SUFs). Decree No.117/2010/ND--CP sustainable utilization of forest resource (Article 21), restriction of ecotourism (Article 23), establishment of a SUF protection unit (Article 28, 29), establishment of a biological rescue, conservation and development center (Article 30, 31), establishment of buffer zones for SUFs (Article 32, 33, 34). |

<sup>395</sup> Art. 7, 29, 30, 111 |

<sup>396</sup> Chapter iv: conservation and sustainable development of species; section 1: protection of species on the list of endangered precious and rare species prioritized for protection. |

<sup>397</sup> Decree 186/2006/ND--CP Article 18. Decision No.178/2001/QD--TTg 7.3 cites that forest harvesting is allowed, excepting fauna and flora species in the list of endangered species of Government and of CITES. Decree No.117/2010/ND--CP contains provisions for the protection of endangered wood species Habitat/species management area (Article
<table>
<thead>
<tr>
<th>Species</th>
<th>The legal framework regulates the market and trade of endangered species. 398</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs regulate/control the market and trade of endangered species</td>
<td><strong>1.1.1.1.1.1.1.1.1</strong> LEP 2005 provides the regulation and control on the market and trade of endangered species. 399</td>
</tr>
<tr>
<td>PLRs contain clear regulations regarding the planting of invasive species</td>
<td>LOB 2008 regulates the market and trade of endangered precious and rare species. 400</td>
</tr>
<tr>
<td>PLRs define clear penalties for non-compliance with the above</td>
<td>The legal framework defines penalties for non-compliance with measures aimed at the protection of biodiversity and forests. 401</td>
</tr>
</tbody>
</table>

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398 Decree 186/2006/ND–CP Article 12 (Hunting of wildlife), Article 18 (Protection of SUFs). Decree 99/2009/ND–CP article 21 provides high penalties for such violations. Decision No.07/2012/QD-TTg Article 2.1.g, 2.2.e and 2.3e
399 Art. 7, 30
400 Art. 45
401 Forest Protection and Development Law article 41 and 12 which prohibits illegal transport, process, advertising, uses, storage, import and export of forest fauna and flora

402 ART. 3, Chapter IV, Section III, Section 3 “CONTROL OF INVASIVE ALIEN STECIES” which defines the list of invasive species and stipulates on the Control of import of invasive alien species and invasion of alien species, Control of the rearing or planting of potential invasive alien species, Control of the spread and development of invasive alien species.

403 Forest Protection and Development Plan requests to enhance the inspection and control of the law enforcement and fine of any forest violation (Solution II.3c/d). Revision of Decree 99/2009/N-CP on administrative penalties should be conducted during this period (LPR IIIa). Decree No.99/2010/N-CP Article 20.2d cites that in case of violation forest owners will be fined according to legal provisions. Decision No.07/2012/QD-TTg, Article 2.1d (PPC) 2.2.e (DPC); 2.3g (CPC). Prime minister Decision No.126/QD-TTg provision 12 and 13
<table>
<thead>
<tr>
<th>Measures</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Decree 99/2009/ND-CP</strong> of the Government regulates administrative penalties in forest management, protection and forest products management.</td>
</tr>
<tr>
<td><strong>LEP 2005</strong> also defines penalties for non-compliance.404</td>
</tr>
<tr>
<td><strong>LoB 2008</strong> regulates violations regarding importing species on the list of invasive alien species and in storage of genetic specimens of extinct species in nature on the list of endangered precious and rare species prioritized for protection.</td>
</tr>
<tr>
<td>The <strong>LL 2003</strong> also defines penalties for non-compliance and mechanisms for their denunciations.405</td>
</tr>
<tr>
<td><strong>PLRs promote sound environmental management and sustainable use of forests (excludes natural forests)</strong></td>
</tr>
<tr>
<td><strong>The legal framework promotes environmental and sustainable use of forests, but includes the management of natural forests.</strong> 406</td>
</tr>
</tbody>
</table>

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404 Art. 127
405 Chapter VI
406 FPDP promotes sound management and use of planted forests and environmental services of the forests, but restricts the timber harvesting of natural forests by promoting planted forests with new planting of 100,000 ha/year and replanting after harvesting 135,000 ha/year (Task I.2.b). **Resolution No.30a of the Government dated on December 27,2008 on Programme to support quick poverty reduction for 61 poor districts**, Part II seeks to support this policy though natural regeneration, forest protection contracting, forest and forestland allocation to plant production forests. **Forest Protection and Development Law** restricts natural forests harvesting, Article 47 (Harvesting in production forests). **Decree 186/2006/ND--CP** Article 4 (Principles for forest management). **Decision No.178/2001/QD--TTg** Article 8, 9 and 10 in financial support for forest planting and agro-forestry and maximal benefit from the harvesting. **Prime minister Decision No.126/QD--TTg** though benefit sharing plan (Article 1.7) and benefit sharing agreement (article 1.8). **MARD Circular 35/2011/TT-BNNPTNT** promotes sound environmental management and sustainable use of public forests in Article 3(Rules, conditions for harvesting), Article 4 (Types of forests allowable for harvesting), Forest management planning and harvesting planning (Chapter II, Part 1). **Decree No.117/2010/ND-CP** promotes sound environmental management and sustainable use of planted forests, which is allocated to households and individuals and private companies (Solution II.2.b). **Decision No.178/2001/QD--TTg** Article 8, 9 and 10 in financial support for forest planting and agro-forestry and all benefits from the harvesting. **Prime minister Decision No.126/QD--TTg** though benefit sharing agreement (Article 1.8). **Decree 05/2008/ND-CP** Article 12b,c
| PLRs create protected areas for natural forests | The legal framework creates protected areas for natural forests. It is important to highlight that the FPDP set a target to establish 2.2 millions ha of protected areas for mainly natural forests and has already been achieved. Additionally, the Vietnam Forest Development Strategy 2006-2020 delineates plans to protect forested land, and of which 5.68 mill ha will account for protection forests. |

| Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity Sub-criteria E.2.3: Supporting Conservation Research and Awareness-Raising |

| Diagnostic Question: do PLRs support/promote conservation research and awareness raising over forest and biological diversity protection? |

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs promote access to adequate technology and resources for the monitoring of biological diversity and forests</td>
<td>👎</td>
<td>The legal framework does not adequately promote access to technology and resources for the monitoring of forests and biological diversity. LoB 2008 only regulate every three years reporting on the current status of conservation biodiversity zones, which does not regulate on the promotion to technology and resources to do those sorts of things.</td>
</tr>
<tr>
<td>PLRs promote training of field staff to conduct on the ground</td>
<td>👎</td>
<td>The legal framework contains limited provisions that seek to promote the training of field staff for on the ground inspections on forest management.</td>
</tr>
</tbody>
</table>

407 Decision No.799-QD-TTg, Resolution No.30a of the Government dated on December 27, 2008 on Programme to support quick poverty reduction for 61 poor districts Part II.1.a.1a. Decision No.178/2001/QD--TTg Article 13 provides financial support for protection of natural forests (most are PAs).

408 FPDP Solution II.2.a

409 Decree 186/2006/ND--CP article 17 (Investment and expenditures for SUFs), Article 29 (Investment and expenditures for protection forests), Article 38 (Investment for production forests)

410 Art. 33
inspections on forest management

| Decision No 3119 /QD-BNN-KHCN\(^{412}\) regulates to conduct training, raising awareness and capacity pertaining to the impacts of climate change on agriculture, role and significant contributions of GHG emission reduction for research and development institutions, policymakers and local authorities.\(^{413}\) |

| PLRs promote the implementation of programmes that aim to improve public knowledge of the value of biodiversity and forests |

| The legal framework contains adequate provisions that seek to raise awareness about the value of biodiversity and forests.\(^{414}\) |

| LoB 2008 states\(^{415}\) that part of regular fund allocated from the State budget shall be used for conducting law propagation and education and raising public awareness about biodiversity conservation and sustainable development; conducting training and re-training to raise professional qualifications on biodiversity. |

| Decision No 1474/QD-TTg\(^{416}\) promotes to raise awareness and knowledge of disaster prevention, climate change, promoting applied research and traditional knowledge in disaster prevention and response to climate change.\(^{417}\) |

\(^{411}\) Decision No.799-QD-TTg Solution (III.2a) cites that capacity building plan on REDD+ for forestry staff at all levels in particular at commune and village levels in remote areas will be prepared. Decree 186/2006/ND-CP Article 17a Investment and expenditure for protection and development of SUFs includes expenditure for human resource training. Forest Development Strategy has a programme for forest research, education, training and extension (Part 5, IV) with targets  

\(^{412}\) Decision No 3119 /QD-BNN-KHCN on approving program of Green House Gas (GHG) Emission Reduction in the Agriculture and Rural Development sector up to 2020 dated 16/12/2011  

\(^{413}\) Decision No 3119 /QD-BNN-KHCN, 4.3  

\(^{414}\) FPDP has a provision (Solution II.1.a) states that propaganda should be carried out in media on the economic, social and environmental values of the forests. Decision No.799-QD-TTg Part II- Tasks (1d, 2c ) to enhance awareness raising and technical capacity on REDD+ for staff at different levels, forest owners and communities. Part II.6 deals with strengthening propaganda, awareness raising, local people and organization participation in planning, implementation and monitoring REDD+ activities.  

\(^{415}\) Article 73  

\(^{416}\) National Action Plan on Climate Change for the Period 2012-2020 Approved by the Decision of the Prime Minister Number 1474/QD-TTg of the Prime Minister dated 5 October 2012
**Decision No 158/QD-TTg** requires to enhance public awareness, responsibility and participation; and develop human resources to respond to climate change;\(^{419}\)

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### Safeguard E

#### Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity

#### Sub-criteria E.2.4.: Integration of Biodiversity in Cross-Sectoral Policies

**Diagnostic Question**: Do PLRs require/promote the integration of biodiversity in cross-sectoral policies?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs require the consideration of biodiversity impacts in forest and land use policy setting processes</td>
<td>☑️</td>
<td>The legal framework requires considerations of biodiversity impacts in forest and land use policy settings. (^{420})</td>
</tr>
</tbody>
</table>

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### Safeguard E

#### Criteria E.2. Protection and Conservation of Natural Forests and Biodiversity\(^{421}\)

#### Sub-criteria E.2.5.: Enhancement of Other Benefits

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\(^{417}\) Decsion No 1474/QD-TTg, L7  
\(^{418}\) National Climate Chang Target Programme to Respond to Climate Change Approved by the Decision No 158/QD-TTg dated 2 December  
\(^{419}\) Decsion No 158/QD-TTg, II.2  
\(^{420}\) Decision No.178/2001/QD-TTg Article 7. Provision 3 harvesting in natural production forests excepting timber species in the list of endangered species of the Government and of CITES. Decree No.117/2010/ND-CP article 21 (Sustainable SUF utilization), Article 22 (Forest environmental services), Article 23 (Tourism). LOB art 11, 8 and 25. The LL art 21.  
\(^{421}\) Builds upon criteria (e) 3 of first version of the roadmap
| Diagnostic Question: do PLRs promote the enhancement of multiple benefits? |
|---|---|
| **Indicators** | **Mark accordingly** | **Findings** |
| PLRs seek to maintain and increase the ecological, biological, climatic, socio-cultural, and economic contributions of forest resources | R | The legal framework has limited provisions that seek to maintain ecological, biological, climatic, socio-cultural, and economic contributions of forest resources. They are mostly only reflected in their objectives, and not in operational measures. Is important to highlight that the FPDP proposes to carry out forest research to increase forest productivity and to enhance effectiveness of forest resources uses, value of outputs and quality of forest environmental services. |
| PLRs regulate the fair and equitable sharing of benefits derived from biological resources | L | The legal framework regulates the fair and equitable sharing of benefits derived from biological resources. LoB 2008 that regulates organizations and individuals that benefit from biodiversity exploitation shall share their benefits with concerned parties, ensuring harmony between the interests of the State, organizations and individual. Some articles also regulate the benefit sharing in terms of assessing to genetic resources amongst organizations, households and individuals assigned to manage genetic resources. |
| PLRs promote alternative livelihood in forests management | L | The legal framework provides limited provisions that promote alternative livelihoods in forest management. These provisions are mainly covered by objectives. |

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422 Decision No.799-QD-TTg (Objectives), Resolution No.30a (Objectives), Decision 661/QD-TTgon Article 1.1 (Objectives). Forest Protection and Development Law Article 9 (Principles for forest protection and development). Decree 186/2006/ND-CP Article 4 (Principles for forest management). Decree No.99/2010/ND-CP Article 4d stipulates that biodiversity and landscape conservation of different ecosystems is one of forest services considered under this Decree. Vietnam Forest Development Strategy (objectives). MARD Circular 35/2011/TT-BNNPTNT seeks to maintain and increase the ecological, biological, climatic, socio-cultural, and economic contributions of forest resources (Article 3). Decree 200/2004/ND-objectives (Article 2)

423 FPDP Solution II.5b I.2a/b.

424 Resolution No.30a directly support poverty reduction for 61 poor districts. Decision No.178/2001/QD--TTg article 7/provision 3 and 4

425 Art. 4
### Safeguard F & G

#### Criteria F&G.1: Monitoring and Assessment

**Diagnostic Question:** to what extent do PLRs require regular monitoring and measurement of risks to forest management and protection?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLR s require update land use and forest inventories for the management</td>
<td>☳</td>
<td>The legal framework requires the regular updating of land use and forest inventories. Is important to note that MARD is responsible for managing the database on status and planning of forest and forestland, of forest categories and forest types. Local authorities and forest owners are responsible for M&amp;E the forest management at locality. The LL 2003 regulates that land statistics and inventories shall be carried out every five years for the management of land use planning and plans, including the forestry sector.</td>
</tr>
<tr>
<td>and land use planning of wood and non-wood resources, including data in</td>
<td></td>
<td></td>
</tr>
<tr>
<td>shifting cultivation and other agents of forest destruction</td>
<td></td>
<td></td>
</tr>
<tr>
<td>PLRs require monitoring of entire forest product supply chain</td>
<td>☳</td>
<td>The legal framework requires monitoring of forest supply chain, but does not provide operational provisions or measures.</td>
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426 FPDP One of the objectives of this Plan is to create jobs, to increase incomes for forest dependant people... (Objectives and tasks l.l.c). Resolution No.30a Part IIILA Decision 661/QT-TTg Article 1.2 (Objectives). Decision No.178/2001/QT-TTg (Article 9.5). Vietnam Forest Development Strategy (objective)

427 Decision No.799-QT-TTg section III5. Forest Protection and Development Law Article 32 (Forest inventory and forest monitoring). Vietnam Forest Development Strategy in objectives of Sustainable Forest management Programme. Decision No.07/2012/QT-TTg, Decree 01/CP Provision 7 (regulates the rights and obligations of state organizations) Provision 1a: they determine the forest areas, boundaries on the map and in the field and existing forest status.

428 Vietnam Forest Development Strategy Part IV- Solutions V. Paragraph 7
<table>
<thead>
<tr>
<th>PLRs promote/require the monitoring of forest cover and forest cover change</th>
<th>The legal framework promotes the monitoring of forest cover and forest cover change. It constitutes one of the tasks of the Vietnam Forest Development Strategy.</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs require monitoring and the distribution of information on land classification and land use, including data on forests cover, areas suitable for afforestation, endangered species, ecological values, traditional/indigenous land use values, biomass and productivity, socio-economic and forest resources information</td>
<td>The legal framework requires monitoring and the distribution of information on land classification and land use, including data on forests cover and areas suitable for afforestation. However, it does not include information on endangered species, ecological values, traditional/indigenous land use values, biomass and productivity, socio-economic and other forest resources information.</td>
</tr>
<tr>
<td>PLRs promote/require independent forest monitoring</td>
<td>The legal framework does not require or promote independent forest monitoring.</td>
</tr>
<tr>
<td>PLRs provide law enforcement bodies with adequate resources and expertise to conduct routine monitoring</td>
<td>The legal framework provides limited provisions that ensure law enforcement bodies have adequate resources and expertise to conduct routine monitoring.</td>
</tr>
<tr>
<td>PLRs require regular monitoring and reporting on social and environmental</td>
<td>The legal framework has limited provisions requiring regular monitoring and reporting on social and environmental impacts of forest programmes.</td>
</tr>
</tbody>
</table>

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429 Forest Protection and Development Plan provision of plan (II.2.d). Decision No.799-QD-TTg Key tasks (II.Lc for period 2011-2015). Forest Protection and Development Law Article 32- Provision 1a and 1b: Forest inventory (every 5 years) and annual forest resources monitoring. Decree 186/2006/ND–CP Article 43. Decree No.99/2010/ND-CP Article 15.2a/c stipulates that a max.10% of the fund can be used for activities such as inspection, monitoring, auditing, appraisal, monitoring of PFES quality at different levels. Decision No.07/2012/QD-TTg Article 2 Provision 1e (sets as responsibility of PPC in forest inventory, forest monitoring, forest classification and mapping within province

430 Land Law Article 53- Land inventory and Statistics (or annual land monitoring)

431 Forest Protection and Development Law article 79-8. Prime minister Decision No.126/QD-TTg article 1 provision 6

432 Resolution No.30a Part III.II.1 requests M&E of results. Prime minister Decision No.126/QD-TTg Article 1.7b, 1.9a, 1.11 (Monitoring of implementation). Vietnam Forest Development Strategy Part 7 (M&E). Decision No. 24/2012/QD-TTg Article 16 (Investment management and monitoring)
<table>
<thead>
<tr>
<th>PLRs promote/support scientific and technical programmes relevant to the conservation and management of forest natural resources, including monitoring research</th>
</tr>
</thead>
<tbody>
<tr>
<td>The legal framework has limited provisions promoting scientific and technical programmes that might support the conservation and management of forest natural resources. Provisions are mainly set as objectives, rather than defining specific measures to ensure/promote their implementation. Decision No 1474/QD-TTG promotes to raise awareness and knowledge of disaster prevention, climate change, promoting applied research and traditional knowledge in disaster prevention and response to climate change.</td>
</tr>
</tbody>
</table>

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433 FPDP Solution II.5b states that the State invests research, technology development, application of research results, for forest protection and development activities of SUFs, protection forests, conservation of endangered fauna and flora species, human resource development. **Decree 186/2006/ND-CP** Article 21 (Research, education and training activities in SUFs), 33.1 (Tourism, research, education and training in protection forest), 41.3 (The State encourages and supports forest owners in the activities related to extension, technology transfer for production using of high productive seed). **Decree 05/2008/ND-CP** Article 12 (Subjects and content to be supported). Provision 2b (Pilot and disseminating of models for sustainable forest management; 2d (Pilot and applying of new planted species; 2g (Human resource training). **Vietnam Forest Development Strategy**, (Solutions). **Decree 200/2004/ND-CP** article 11

434 National Action Plan on Climate Change for the Period 2012-2020 Approved by the Decision of the Prime Minister Number 1474/QD-TTg of the Prime Minister dated 5 October 2012

435 Decision No 1474/QD-TTg, I.7
### Safeguard F & G

#### Criteria F&G.2: Measures to Tackle Reversals and Displacement

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**Diagnostic Question:** To what extent do PLRs aim to minimize the risks related to deforestation and forest degradation?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
</tr>
</thead>
<tbody>
<tr>
<td>PLRs promote sustainable utilization and conservation of forests and other relevant resources</td>
<td>![Mark]</td>
<td>The legal framework promotes the sustainable utilization and conservation of forests and other relevant resources. Vietnam has several legal instruments that support the sustainable utilization and conservation of forests and other relevant resources. The Constitution (revised in 2001) states that all state offices, armed forces units, economic establishments, social organizations and every citizen have to observe State regulations on the appropriate utilization of natural resources and on environmental protection. All acts resulting in depletion and destruction of the environment are strictly prohibited. The LoB 2008 focuses on the promotion of sustainable conservation and development of biodiversity.</td>
</tr>
</tbody>
</table>

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**Notes:**

436 Builds upon criteria (f) 4 and (g) 2 and 3 of first version of the roadmap.

437 FPDP Objective is to protect the existing forests, forest resources and land sustainably and effectively. Resolution No.30a Part II.I.A.1 through which households are incentivised to protect rich and medium natural forest by receiving forest protection fees of VND 200,000 per ha per year. Decision 661/QD-TTg Article 7 (Benefit Policy). **Forest Protection and Development Law** through which forest management plans for production forest are required (Article 56.3a), as well as biodiversity conservation of PAs (Article 49). **Decree 186/2006/ND-CP** Article 4 (Principles of FM). **Decision No.178/2001/QD-TTg** in all provisions harvesting of natural forests is limited to the growth rate (1.5-2% per year) and support for protection and regeneration of poor natural forests. **Prime minister Decision No.126/QD-TTg** Article 1.1 (Objectives). **Decree 05/2008/ND-CP** Article 12. **Decree No.117/2010/ND-CP** Article 21 (Sustainable utilization of forest resources) and Article 19 (Restoration of natural ecosystems). **Decree 200/2004/ND-CP** Objectives (Article 2.1). MARD Circular 35/2011/TT-BNNPTNT Article 3,4,5,6

438 Constitution Art. 29
| PLRs regulate liability and compensation for actions that affect the conservation and management of forests<sup>439</sup> | The **LFPD 2004** provides for the management, protection, development and use of forests (hereinafter referred collectively to as forest protection and development); and forest owners' rights and obligations.  

The **LEP 2005** promotes nature conservation.  

Finally, is important to highlight **Decision No.178/2001/QD--TTg** through which harvesting of natural forests is limited to the growth rate (1.5-2% per year) and support for protection and regeneration of poor natural forests. However, the gap is that it's unrealistic for poor natural forests farmers to have to wait decades without any support until harvesting is possible.  

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The legal framework regulates liability and compensation for actions that affect the conservation and management of forests.  

**Decree 99/2010/ND-CP** stipulates that forest owners cannot damage the forest or convert the forest illegally.  

**Decision No.07/2012/QD-TTg**<sup>440</sup> stipulates that if the forest is damaged or illegally converted, and if the local authorities did not take preventive or protective measures, these authorities have to take responsibility and would be fined according to the law.  

**Forest Protection and Development Plan** requires that a compensation for biodiversity values and planting take places to replace the converted forests<sup>441</sup>.  

**LEP 2005** provides<sup>442</sup> general mechanisms on dealing with breaches including prosecution and compensation in terms of environmental protection.  

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<sup>439</sup>Builds upon criteria (e) 2 of first version of the roadmap  
<sup>440</sup> Article 3.2k  
<sup>441</sup> Solution II.3d  
<sup>442</sup> Article 127
The Law on Criminal Procedures refers to international treaties that are in force for Vietnam. Accordingly, criminal proceedings against foreigners who commit offenses on the territory of the Socialist Republic of Vietnam and who are citizens of the member states of the international treaties which the Socialist Republic of Vietnam has signed or acceded to are to be carried out in accordance with the provisions of such international agreements.443

PLRs implement effective law enforcement to combat and eradicate illegal forest-related practices

The legal framework contains relevant measures that support effective law enforcement to combat and eradicate illegal forest-related practices.444 However, in general the PLRs do not contain concrete law enforcement measures to combat and eradicate illegal forest related practices.

PLRs aim to address main drivers of deforestation and forest degradation

The legal framework seeks to address the main drivers of deforestation and forest degradation to a certain extent. 445

Is important to highlight that the FPDP aims to address the main drivers of deforestation and forest degradation. However, a noticeable gap is that only 2.3 mill ha of 10 mill ha natural forest have forest protection fees from central government budget.

PLRs seek to detect and reduce forest fires and other disturbances

The legal framework seeks to detect and reduce forest fires and other disturbances.446

443 The Law on Criminal Procedures, art 2.
444 FPDP seeks to enhance inspection and fines over forest violations (Solution II.3d), but does not contain concrete law enforcement measures to combat and eradicate illegal forest related practices. Decree 186/2006/ND–CP Article 17, 18 (SUFs), 29,30 (Protection forests) and 38, 39 (production forests). Prime minister Decision No.126/QD–TTg Article 1,Provision 12 (Forest violations will be fined by community, management council and MB, and Provision 1.3: Dispute resolutions by management council. Decree 05/2008/ND-CP Article 12c (financial support to combat deforestation and other illegal forest related practices). Decision No.07/2012/QD-TTg though responsibilities of PPC, DPC, CPC ( Article 2), financial support to CPCs ( Article 3) and co-management( Article 4).
445 FPDP aim to address main drivers of deforestation and forest degradation (Article 1, Provision I.2b). Decree 186/2006/ND–CP deals with organizational arrangements on management, protection, and support to address main drivers of deforestation and forest degradation, excepting Article 8 (Forest conversion for other purposes and Article 10 (Natural forest conversion). Decree 99/2009/ND-CP. Prime minister Decision No.126/QD-TTg deals with the co-management through which MB of SUF and local communities work together to protect the forest and also to share the benefit and also the responsibilities. MARD Circular 35/2011/TT–BNNPTNT deals with harvesting and requests sustainable forest management plans including harvesting plan with procedure for predation, appraisal and approval of plans (Chapter II, Part 1- Preparation of forest management plans and harvesting plans), Harvesting of Timber and NTFPs for different forest owners (Part 2 – for organizations; Part 3- households) with procedure for predation, appraisal and approval of harvesting for three forest categories.
| **PLRs promote access for local communities and indigenous peoples to forest resources and relevant markets in order to support livelihoods and income diversification from forest management** | ![Image](image.png) | **The legal framework has adequate provisions promoting access for local communities and indigenous peoples to forest resources and relevant markets in order to support livelihoods and income diversification from forest management.**

LoB 2008 regulates ecotourism in association with hunger eradication and poverty alleviation, ensuring stable livelihood for households and individuals lawfully living in conservation zones; sustainably developing buffer zones of conservation zones. |

| **PLRs deal with force majeure events (i.e. extreme weather events, fires, droughts, etc.).** | ![Image](image.png) | **The legal framework deals with some force majeure events and in a limited manner.** |

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446 Resolution No.30a Article 40: Forest ecosystems protection; Article 42 (Forest fire prevention and protection). Article 43 (Forest insect damages control). **Forest Protection and Development Law** Article 42 deals with forest fire protection. **Decree 99/2009/ND-CP** Article 11 (Sets penalties for violations on forest fires). **Decision No.07/2012/QD-TTg.** Resolution No.30a has a clear objective to support poverty alleviation, in which job creation and income generating are part of it (section II.A and II.A.1a/b/c). **Decision No.178/2001/QĐ-TTg.** **Decision 304/2005/QĐ-TTg.** regulates forest protection contracts to the indigenous households and communities in the Central Highlands, Article 5, 6 and 7. **Resolution No.30a** Part II.II.5 (Support enterprises, cooperatives, farms to invest, process and trade in the poor districts). **Decree 186/2006/ND–CP.** Article 32 - Timber and NTFP harvesting) and production forests (Article 39 - Timber and NTFP harvesting in natural production forest and Article 40 - Timber and NTFP harvesting in planted production forest). **Decree No.99/2010/ND-CP** promotes access for local peoples to forest resources and relevant environmental service markets in order to support livelihoods and income diversification from forest management. Article 22, Provision 2 states that PPC is responsible to approve FPES projects: Review of forest land allocation; allocation of new forest; long-term forest protection contracting; survey of clients and service providers on PFES; improvement of fund management and utilization. **Prime minister Decision No.126/QD-TTg.** objective (Article 1.1). **Vietnam Forest Development Strategy** Article 1, Provision 3 regulates among the social tasks the creation of more jobs for people including processing sector and traditional handicraft, to improve income and to reduce poverty by 70% of poor households in key forest regions. **Decree 200/2004/ND-CP.** Article 2, Provision 3 states that jobs will be created and income for people will be regenerated.

448 Builds upon criteria (e) 1 of first version of the roadmap.

449 **Decree 01/CP.** Article 6 (Rights and obligations of contracted party). Provision d cites that in case of natural calamities or risks, contracted parties the payment can be reduced according to the legal provisions.
Decree 01/CP stipulates that in case of natural calamities or risks, the payment can be reduced according to the legal provisions.

LL 2003 deals with natural disasters for adjustment of land use planning and plans, for acquisition of land for a given duration, for building houses for people who must be relocated due to natural calamities.

**Diagnostic Question 2**: to what extent do PLRs promote and support actions to reduce displacement of emissions and to address reversals?

<table>
<thead>
<tr>
<th>Indicators</th>
<th>Mark accordingly</th>
<th>Findings</th>
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</table>
| PLRs regulate MRV and information systems that report on how displacements are being addressed | 🗨️ | The legal framework has limited but relevant provisions related MRV and information systems to report on how displacements are being addressed.  
451 | | |
| PLRs regulate relationship between project level, sub-national and national baselines and crediting | 🗨️ | The legal framework has limited provisions dealing with project level, sub-national and national baselines and crediting.  
452 | | |
| PLRs regulate risk mitigation mechanisms such as insurance, bonds, guarantees, buffers or carbon pools  
453 | 🗨️ | The legal framework does not have relevant provisions regulate risk mitigation mechanisms such as insurance, bonds, guarantees, buffers or carbon pools. | | |
<table>
<thead>
<tr>
<th>Indicators</th>
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<th>Findings</th>
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<tbody>
<tr>
<td>PLRs promote agreements/cooperation to reduce cross-border displacement of deforestation</td>
<td></td>
<td><strong>The legal framework promotes international cooperation to reduce cross-border displacement of deforestation.</strong></td>
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<td></td>
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<td><strong>FPDP</strong> seeks to cooperate with international and regional forest organizations; to participate CITES, UNCBD, UNFCCC, RAMSAR, REDD+, ITTO, and carry out economic integration regionally and internationally in particular with ASEAN countries and forest governance and FLEGT and cooperative agreements with countries in Mekong Sub-region.**</td>
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<td></td>
<td></td>
<td><strong>Vietnam Forest Development Strategy</strong> seeks to continue to implement multilateral environmental agreements and international commitments related to forestry, for which Vietnam is a signatory, such as CITES, UNCBD, UNCCD, UNFCCC, to improve status of Vietnam in the world and in the region and also to seek new support funding. Additionally, it seeks strengthening of the management and coordination mechanisms in fund utilization, and further implementation of the environmental and forestry related agreements and conventions Vietnam has signed or acceded to.**</td>
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454 Builds upon criteria (g) 1 of first version of the roadmap

455 Paragraph 6
| PLRs require the coordination and cooperation between international and/or regional or forest-agencies (exchange of information, capacities, technical cooperation) | The legal framework requires promoting coordination and cooperation between international and/or regional forest-agencies\(^{456}\)

FPDP seeks to cooperate bilaterally and multilaterally with international and regional forest organizations; to participate CITES, UNCBD, UNFCCC, RAMSAR, REDD+, ITTO, and carry out economic integration regionally and internationally in particular with ASEAN countries and forest governance and FLEGT and cooperative agreements with countries in Mekong Sub-region.

**Vietnam Forest Development Strategy** seeks\(^{457}\) NGO cooperation to enhance sharing of information, experiences in REDD+ implementation, especially with ASEAN.

Decision 661/QD-TTg\(^{458}\) deals with international cooperation for foreign investments. **Vietnam Forest Development Strategy** Part 4, Solution 7.

**LoB 2008** only regulates International cooperation and implementation of treaties on biodiversity conservation and sustainable development.

| PLRs address cross-border cooperation in law enforcement to combat illegal trade in forest products | The legal framework has limited provisions dealing with international cooperation on law enforcement to combat illegal trade of forest products.

**Vietnam Forest Development Strategy** seeks international cooperation, which could encompass cross-border cooperation in law enforcement to combat illegal trade in forest products. Similarly **MARD Circular 35/2011/TT-BNNPTNT could be used to** promote cross-border cooperation in law enforcement to combat illegal trade in forest products.

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\(^{457}\) III.A.7

\(^{458}\) Article 10