



Improving Land Sector Governance in Vietnam

Implementation of Land Governance Assessment Framework (LGAF)

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Abbreviation

BAP	Biodiversity action plan
RECOFTC	Centre for People and Forest
CITES	Cites Management Authority
CPC	Commune People's Committee
DPC	District People's Committee
EIA	Enviromental impact assessment
EU	Europe
FSC	Forest certification
FCPF	Forestry Carbon Partnership Fund
GDLA	General Department of Land Administration
IPSARD	Institute of Policy and Strategy for Agriculture and Rural Development
LGAF	Land Governance Assessment Framework
LURC	Land use right certificate
LSLA	Large-scale acquisition of land use right
MARD	Ministry of Agriculture and Rural Development
MOF	Ministry of Finance
MONRE	Ministry of Natural Resources and Environment
MPI	Ministry of Planning and Investment
M&E	Monitoring and Evaluation
NA	National Assembly
PES	Payments for Ecosystem Services
PPC	Provincial People's Committee
REDD	Reducing emissions from deforestation and forest degradation
SMEs	Small and medium enterprises
UNCCD	United Nations Convention to Combat Desertification
U.S.	United State
VNFF	Vietnam Forest Protection and Development Funds
GI	Vietnam Government Inspectorate
VLAP	Vietnam Land Administration Project
WB	World Bank

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We hope the report will serve as a useful platform for the improvement of Vietnam governance of land. As determining to improve the situation of land governance, we do hope that LGAF study, with the attention and engagement of various stakeholders, will be sustained to provide updated assessment and recommendations of appropriate land governance solutions.

2 Executive Summary

Background to the Assessment

The 2013 G8 Summit focussed attention on land governance¹:

“Weak land governance and property rights systems can lead to opaque land deals, which facilitate corruption and undercut responsible actors seeking access to land for productive investment. Weak governance in many developing countries allows unproductive land speculation and undermines agricultural productivity. Increasing security of land rights and transparency of land governance fosters participation of citizens, contributes to government accountability, reduces costs for businesses, and strengthens the climate for responsible investment. We welcome global activities to improve land tenure governance, including through access to information and participation of citizens in decision making. We acknowledge the importance of multilateral efforts to promote greater land transparency, in particular, the role of the Food and Agriculture Organization (FAO) in providing global policy guidance for good land governance and transparency.”

Up to now, it is widely accepted in the world as well as in Vietnam that good land governance, reflecting by high level of effectiveness, transparency, participation, and accountability, as defined under the UN Voluntary Guidelines on Governance of Tenure (VGGT)², is a prominent precondition for inclusive and sustainable development. However, diagnosing land governance and, based on this, improving it over time are always challenging, partly due to its complexity and multidimensionality, and partly because most elements of governance are hard to measure.

The Land Governance Assessment Framework (LGAF) was designed to address these challenges by the World Bank, based on a comprehensive review of available conceptual and empirical materials regarding experience in land governance. The objective of LGAF is was developed as a diagnostic tool for a systematic evaluating and benchmarking legal framework, policies and practices regarding land and land use. The suitability of the tool has been well tested for various socio-economic contexts globally. In total, LGAF assessments have been completed in 35 countries during ten past couple of years. LGAF is fully consistent with the principles of the VGGT. Unlike the VGGT, the LGAF is a far more comprehensive and in-depth coverage of land governance and also provides a diagnostic methodology and framework to assess land governance on a national or sub-national basis and to provide cross-country comparisons either regionally or globally.

This document represents the country report for Vietnam’s national LGAF Study. This important exercise was undertaken by team of national experts, with support from the World Bank, and in collaboration with the Ministry of Natural Resources and Environment (MoNRE) in 2013. The Study’s objective was to provide the means for better understanding the strengths and weaknesses of the Vietnamese land sector; establish a consensus on the status of land governance in the country and identify priority actions for regulatory and institutional changes and the piloting of new approaches to improve land governance on a broader scale. It also aimed to specify opportunities for South-South learning to take advantage of experiences from other countries in dealing with land sector issues; and put in place a benchmark and process to systematically track progress in improving land governance over time.

¹ Communique G8 Summit, 2013.

² United Nations’ Voluntary Guidelines on Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT)

The Study's Report describes the process for LGAF implementation and the country context. The assessment of land governance is also presented, as well as the policy analysis, conclusions and recommendations. The report is intended to serve as a reference guide for policy makers and land practitioners in the government and non-government organizations such as private sector, academe and other groups to help shape the direction, focus and support for the land sector, and how progress in improving governance can be effectively monitored.

The LGAF Study was undertaken in accordance to the methodology and the LGAF Implementation Manual developed by the World Bank with necessary adjustments to fit the specific context of Vietnam. The Study takes an opportunity to compare Vietnam's standing with 14 other countries where the LGAF has been conducted³. The Report and its assessment have also been updated to reflect the stipulations in the 2013 Land Law. In particular, the Study's scope has extended to cover all seven thematic LGAF modules:

1. Legal and Institutional Framework
2. Land Use Planning, Management and Taxation
3. Management of Public Land
4. Public Provision of Land Information
5. Dispute Resolution and Conflict Management.
6. Large scale acquisition
7. Forest land.

Each module is comprised of several specific dimensions defining the areas for investigation. Each of the dimensions in turn has a set of indicators for quantitative measurement or qualitative assessment, based on evidence through available data and information. Through the assessment of these indicators, the LGAF highlights those areas for legal, policy or procedural reform where it is assessed as necessary to improve governance in land administration over time and as a basis for global and intra-regional comparisons. Accordingly, it is the evidenced-based requirements of LGAF that provide its veracity.

The Study used a participatory and locally driven assessment process. The whole process was led by a two-member Country Coordination Team comprising Dr. Nguyen Van Thang - primarily in charge of coordination and planning issues; and Dr. Dang Hung Vo - primarily in charge of technical aspect of the project. Five National Experts prepared background analyses and initial assessments, using already existing studies, information and data. Nine panels of 31 experts from various relevant backgrounds (including government, education and research, mass-organizations, professional associations and NGOs, and private sector) were organized to discuss and assess the initial analyses. The results were validated at a technical workshop. Key conclusions and recommendations were then presented to policy makers at a Policy Dialogue session.

Vietnam's Land Resource Challenges

Vietnam's land endowment is one of the world's lowest on a per capita basis. With 33.1 million hectares of natural land including 26.2 million hectares of agricultural land (of which there are 13.2 million hectares of protection and special-use forest land), Vietnam ranks 156th

³ Although LGAF has been completed in 35 countries, the full assessment details of only 14 countries were made available from the World Bank's global coordination team.

in the world and 9th among the ten ASEAN⁴ countries in terms of their acreage per capita. However, land still plays a critical role in the country's socio-economic development. For example, land resources are vital for the development of agriculture, which remains a main source of livelihood for 70 percent of the total population and 60 percent of the labor force, despite the share of agriculture in the country's GDP has been reduced to 20 percent. High land fertility combined with favorable climatic conditions and labor abundance has allowed Vietnam to achieve national food security and compete successfully in a number of important agricultural commodities since the recent gradual market-oriented reform process took off in early 1990s.

However, the rapid growth that the country experienced in the past was based on an extensive use of natural resources, including land. There is little "unused" land remaining. In just a decade (2000-2010), its total amount reduced by 5.6 million hectares (i.e. two thirds) with 4.7 million hectares for agriculture and 0.9 million hectares for non-agricultural purposes. On the other hand, there are increasingly competing demands for land resources, especially due to rapidly growing urbanization. To support future growth, the single long-term strategic challenge facing land administration in Vietnam is to ensure the country's increasingly scarce land resources are used more efficiently and sustainably and develop efficient land markets, while maintaining an equitable access to land, particularly by vulnerable groups such as ethnic minorities and women.

Vietnam's Land Policy and Legal Framework

There has been a significant evolution in the land policy framework in Vietnam over the past 50 years. A comprehensive policy framework for land management in support of the country's transformation into a market-oriented economy with a socialist orientation has been setting up over the last two decades. Land Laws 1987 and 1993 paved the way for reallocating cooperative land to farmer households for their long-term use and recognized a range of their land use rights. The Land Law of 2003 supports the country's industrialization and the economic transformation into a market-oriented economy, covering comprehensively all legal, land use planning, land finance, and land administration aspects.

The promulgation of the new Land Law by the National Assembly in November 2013 represents an important milestone in the continuing evolution. The Land Law was prepared with the broad objective to promote more effective and sustainable use of the country's land resources and address burning issues of land governance. The latter concerns high corruption risks in the processes of land allocation and registration⁵ and wide spread incidences of land disputes and grievance faced by the State. The new Land Law introduces a number of improvements such as enhanced agricultural land use rights by extending the duration of agricultural land tenure to 50 years and raising the ceiling for land accumulation to promote farmers' investment into their land, narrowing the scope of compulsory land acquisition by the Government for socio-economic development, and enabling more transparency, people's participation and accountability in land management and administration, from land use planning and land valuation to compensation and support and grievance redress. However, it also leaves a number of issues for further guidance by the government through its under-law implementation decrees and circulars. This report reflects the latest changes.

⁴ The Association of Southeast Asian Nations

⁵ World Bank. Corruption Risks in the Land Sector of Vietnam. Hanoi. 2012.

It is also noted the high degree of decentralization and fragmentation in institutional settings. Land policy formulation and implementation supervision are concentrated at the central level with involvement of a large number of Ministries (such as those of Natural Resources, Justice, Construction, Agriculture, Finance, and Planning) according to their general mandates. MoNRE is the government's designated ministry responsible for land. The land policy implementation responsibilities have been greatly delegated to the provincial and, to less extent, sub-provincial levels. A unified system of land registries and, since 2003, Land Registration Offices (LROs) has been developed to monitor land uses and provide land-related public services. It has been also widely recognized that the land management institutions lack necessary capacities to meet increasing demands from land users and to govern the sector effectively.

The following six sections summarize key findings of the assessment by theme.

Legal and Institutional Framework (including forest land)

A important highlight is in Vietnam the ownership over land belongs to the whole nation. However, the State recognizes, enforces and protects land use rights of land users through granting them with Certificates of Land Use Right or, from 2009, joint Certificates of Land Use Right and ownership of houses and other properties attached to the land (LURCs). The land use rights have been gradually extended and now include buying, selling, converting, transferring, giving, inheriting, leasing, mortgaging, and using it as capital contribution with more leveraged playgrounds between domestic and foreign investors. Indeed, LURCs provide not only secured long-term land tenure to land users but also their access to credits and other financial resources. Reportedly, the statutory tenure regimes are secured for 85 percent of people with LURCs granted for 83 percent of agricultural land, 65 percent of urban and 60 of forest land (2013). The main challenge in years to come is to complete the first-time registration, as stipulated by the National Assembly in 2009. In view of wide spread incidences of informal land transactions, particularly in urban areas, and land users' inability to pay land use fees, the provision of various types of the LURCs which reflect different legal status or restrictions on rights could be a feasible option to be considered. However, the legislative framework is weak in urban areas, where there lack clear or feasible provisions to establish arrangements for the management and maintenance of common properties under condominium, resulting in low quality services and endless disputes. To address these issues, it is necessary to clarify common land and property rights under condominium.

Second, another important highpoint is the land policy and legal framework have incorporated a number of equity objectives to ensure equitable access to land by disadvantaged groups such as farmers, ethnic minorities and women. A quite equitable access to agricultural land is secured for farmers, who comprise 70 percent of population but 91 percent of the poor in Vietnam (2010). According to the General Statistics Office, 72 percent of the total land area, including almost all the agricultural and residential lands, has been allocated to land users, largely smallholders (2009). A particular attention is also given to ethnic minorities who comprise just 15 percent of the total population but 47 percent of the total poor and 70 percent of the total extreme poor people. However, there are not many specific targets, systematic approach, and effective policies in support of this vulnerable group. In particular, rights of ethnic minority forest dependent communities on the forest land, which were put under the control of state forest enterprises in 1970s-1980s and have been used by them ineffectively, still have not been recognized, particularly for the economic purposes. On the other hand, land policies applied for ethnic minorities neglect their customary practices, which are based on community land management and use and have been proved as effective and sustainable in centuries. It is recommended to give the priority to the reallocation of land from the state own enterprises to local ethnic minority communities. In parallel, it is also recommend to study

existing arrangements, their evolution over time and global practices, and use the evidences collected to adjust the legal and regulatory framework for recognition of communal rights on forest land and forest in the economic sphere (including REDD+⁶ on forest land). Since 2003, gender equality in land access has been stipulated and protected. The focus is largely given to the issuance or renewal of LURCs with the name of women. To date, 39 percent of registered land parcels are with the name of women, either individually or jointly, particularly in urban and peri-urban areas. This is a slow but remarkable progress in comparison with other countries. In year to come, it is recommended to promote unified change of LURCs with husband's name alone to those with both spouses' names and monitor gender-disaggregated data and explore options for increasing effective female land rights.

Third, comprehensive institutional arrangements have been put on place from the central to commune level. In general, there are an adequate budget, resources and institutional capacity. However, the public funds allocation and management are not often based on appropriate cost-benefit analysis and close monitoring and evaluation. Further, in the situations that may entail conflicts of interest or abuse (e.g. decision making on land allocation and conversion), there is no clear separation in the roles of policy formulation, implementation, and supervision through land management and administration and arbitration of any disputes that may arise as a result of implementation of policy. Further, the consultation with stakeholders and, particularly affected communities are required by existing legislations. However, the feedbacks from the consultation are usually not sought or not used in making land-related decisions in an appropriate manner. In the short-terms, it is recommended to ensure law implementation decrees introduce effective guidelines and incentives to enforce the collection of the communities' opinions and reflect them in the decision making. In a medium term, it is also important to ensure the forthcoming revision of related laws, such as those on housing and on forest protection and development, is fully consistent with the Land Law.

In overall, Vietnam has developed a quite comprehensive land policy and legal framework that possesses imperative strengths, such as the recognition of land use rights and their enforcements in general, the provision of equitable access of smallholders to agricultural land, and an extensive, unified and decentralized system of land administration from the central to commune levels. However, the main challenge in forthcoming years is to bridge the existing large implementation gaps. To speed up implementation progress and improve implementation quality on the ground, further improvements should focus on the recognition of rights by communities, speeding up the issuance or reissuance of LURCs with women's names, addressing weaknesses in condominium laws concerning common assets management and maintenance, and enforcement of effective community's consultation on land-related matters. Establishment of a regular and meaningful monitoring and evaluation of land policy implementation will also contribute to that.

Land Use Planning, Management and Taxation

The current land use planning is assessed as inefficient. For example, this study notes that only 50-70 percent of demand for urban residential plots is able to be met, although demand for land for apartment development is usually met. However, urban development plans are not based on a sound spatial analysis and spatial planning. And the actually urban development is not in line with the urban plan. This is because while a hierarchy of regional and detailed land use planning is specified by law, in practice there are often overlaps or conflicts between land use planning and urban development planning. Furthermore, urban

⁶ REDD+ means Reducing Emissions from Deforestation and Forest Degradation "plus" conservation, the sustainable management of forests and enhancement of forest carbon stocks,

spatial expansion usually occurs in an ad hoc manner, not in line with the plans, or infrastructure is often provided after urbanization.

The process of land use plan preparation has been significantly changed with the introduction of the public consultation in all the steps, from general planning, and planning by areas to infrastructure and detailed planning. However, the consultation has been conducted for the plan formulation but not plan amendments and not been enforced in the rural areas due to the lack of clear implementation guidelines and necessary resources. Even more important, the community consultation process remains formalistic. There are lacks of feedback on the public comments and recommendations contributed which are often ignored in the finalization of the land use plans. Third, the plans are not publicly available despite it is required by the law. In its turn, the lack of plans to guide land development causes informal development, over-acquisition of land and land fragmentation. Finally, combined with the lack of government detailed instructions and plans and their inconsistent implementation, this leads to the domination of urban development by private interests, resulting in high levels of informality and high cost of service provision.

It is recommended to give a priority to the clarification of the relationship among plans, implementation responsibilities, and information sharing between different levels of administration. Second, it is also important to improve the current land use planning methodology based on evidenced cost-benefit analyses and zoning principles. In particular, strategic land use planning shall be informed by economic value, land requirements, social issues, and environmental planning with inputs and data sharing across all the sectors concerned. Local level land zoning shall be systematically built on the local inputs, which identify and quantify technical requirements needed to put on the ground, and in the way that balances and provides feedback between strategic planning objectives and local plans. Third, it is critical to ensure all land use plans are publicly available for all the interested stakeholders in line with good governance and establish protocols for sharing land ownership and planning information across ministries. Finally, it is necessary to explore options to make land conversion contingent on an approved plan and feed this into drafting of the national planning law.

The land taxation system is assessed as ineffective and inequitable. There are limited exemptions to the payment of land/property taxes (e.g. the exemption of the agriculture land tax), and the exemptions that exist are clearly based on equity or efficiency grounds and applied in a transparent and consistent manner. The assessment of land/property for tax purposes is based on market prices, but there are significant differences between recorded values and market prices across and defining the latter is often constrained as property markets are distorted and lack transparency. Land taxes are quite low to ensure increments in land values are captured by the public, needed infrastructure and services can be provided, and efficient land use is incentivized. The fear of taxation leads to consistent under-valuation of land, making it impossible to do economic planning.

It is recommended to: (i) collect taxes in line with principles of efficiency, effectiveness, and social equity; (ii) require registration of transaction value and regularly publish schedule of land prices; (iii) base land tax on assessed values rather than market value; and (iv) strengthen valuation standards, profession, and practice.

Management of Public Land (Including Land Acquisition)

Surprisingly, there is no official definition of public land. In the context of the whole nation's national ownership over land in Vietnam, this Study defines public land to include: (i) land allocated by the State for the use by public organizations, armed and security forces, social

organizations without payment or with payment from the State budget; (ii) land used for public purposes and managed by local authorities in compliance with their mandates; and (iii) unused land under the management and protection by Commune People's Committees. The public land can be leased by the State to commercial organization or individuals for their use for commercial purpose in a limited time for payment. Nowadays, land acquisition by the State - the only source of new public land – shall be conducted in accordance with the uniform process and procedure including the provision of compensation and support to former land user(s) and other affected people.

The management of public land in Vietnam has been decentralized to local authorities. It is observed that responsibilities for management of public land are often placed at wrong level or with some ambiguity but the system makes effective use of limited available budget and/or human resource. However, the information about the public land inventory or public land allocations (the locality and area of the land allocated, the parties involved, and the financial terms of the land allocation) are only partially publicly although this is required to ensure the land is used in line with intended purpose and in an effective manner.

It is recommended in coming years to give priority to the improvement of land acquisition and public land allocation and sale/lease. In particular, this includes: (i) clarifying the criteria of land acquisition for socio-economic purpose and methodology and procedures for their evaluation; (ii) clearly regulating the process of land acquisition in line with good practice (e.g. notification, periods for objection, procedures for appeal); (iii) regularly publishing the schedule for compensation by PPCs based on a fair and reasonable value as it is difficult to define market prices due to market distortions; (iv) monitoring incidences of expropriation and compensation and support paid, in order to assess whether it is fair, reasonable, and allowing affected parties to maintain their previous livelihood; and (v) making auction the default mode of allocating public land to private interests and publish fees paid and associating conditions .

Public Provision of Land Information

Thanks to government intensive investment in cadastral surveys and mapping results, 70–90 percent of land parcels privately held and registered in the registry or cadastre are readily identifiable in associated maps. However, the public provision of land information is constrained by a number of constraints. Firstly, relevant private encumbrances are not recorded. This is because the land registration and thus the issuance off LURCs are still lagging behind. On the other hand, in recent years, many localities fail to update land registry and cadastre to reflect land use changes regularly. Thus, less than 50% of the ownership information in the registry/cadastre is up-to-date, limiting the usefulness of available land information. This affects quality of information. Second, the progress in integration of spatial and textual data and the establishment of land information database are also behind plans. Thus, land information is largely not spatially referenced yet, limiting their value. Third, the timeliness of response to a request for access to records in the registry generally takes more than one week after the request to produce a copy or extract of documents recording land use rights. Limited access to land information by non-government stakeholders (incl. banks) reduces value of registry for economic development. Finally, the investment in capital in the land information system and the total fees collected by the registry cover less than 50 percent of its total operating costs, threatening the final sustainability of the system in the short and medium terms.

The study notes that the 2013 G8 Summit endorsed an Open Data Charter⁷ as fundamental to improving land governance through the public provision of land information:

“Open government data are an essential resource of the information age. Moving data into the public sphere can improve the lives of citizens, and increasing access to these data can drive innovation, economic growth and the creation of good jobs. Making government data publicly available by default and reusable free of charge in machine-readable, readily-accessible, open formats, and describing these data clearly so that the public can readily understand their contents and meanings, generates new fuel for innovation by private sector innovators, entrepreneurs, and non-governmental organizations. Open data also increase awareness about how countries’ natural resources are used, how extractives revenues are spent, and how land is transacted and managed.”

To enhance the public provision of land information, the report recommends to: (i) to devise strategies to ensure full coverage with spatially referenced LURCs and, building on existing experience (VLAP), revising fee structures in light of people’s ability to pay, explore waiver of first time registration fee, support public awareness, administratively resolve disputes during first registration as needed; (ii) ensure that prices and all covenants and restrictions are registered, and that information can be accessed by non-government stakeholders; (iii) complete a national land information system that is synchronized across land institutions and can be easily assessed by interested parties in government and the private sector; (iv) complete geo-referenced parcel mapping – also to be used for land use monitoring; and (v) pilot and subsequently roll out a system for regular outcome-oriented monitoring and evaluation of land governance.

Dispute Resolution and Conflict Management.

The Land Laws 2003 and 2013, stipulate that all and disputes and complaints have to be resolved through the general dispute resolution system defined under the Law on Complaints and that there is no separate system for land dispute or complaint resolution. As policy formulation, implementation, and conflict resolution functions are often not separate, the dispute or complaint resolution body enjoys limited independence. Land-related disputes are widespread, comprising about 70-80 percent the total number of complaints the State receives every year, not mentioning the informal community-based mediation. However, there is no systematic monitoring or feedback to policy.

Land disputes usually take a long to resolve and these can jeopardize effective land use. Indeed, an administrative dispute takes on average 40-75 days to be resolved. In 70-90 percent of civil cases, a decision on a land-related conflict is reached in the first instance by the court within 1 year. The share of long-standing land conflicts is between 10-20 percent of the total pending land dispute court cases. A process exists to appeal rulings on land cases but costs are high and the process takes a long time.

In the coming years, it is recommended to: (i) systematically monitor incidence of disputes, complaints, and grievances; (ii) establish grievance redress mechanisms and service standards for first instance administrative disposal of specific disputes, complaints, grievances, and appeals and & monitor adherence, while also improving court capacity; and (iii) review institutional structure to assess the extent to which there are undue conflicts of interest.

⁷ Communique G8 Summit, 2013.

Large scale acquisition

Large-scale acquisition of land rights requires specific governance as it produces huge impacts not only on economy and society but also on life and living environment of specific communities. In Vietnam, large scale acquisition of land occurs under hydropower, mine exploitation or urban development projects.

Three main issues that need special attention are:

1. It is relatively frequent that conflicts related to land use rights are directly or indirectly related to land acquisition and the inability to address these conflicts expeditiously and in a transparent manner results in long pending disputes.
2. Vietnamese law has no regulation on benefit sharing mechanism, similarly for risk sharing despite there exist mechanisms (e.g. payment for environment services) to allow the public to obtain benefits from the investment other than compensation (such as schools, roads, etc.)
3. Arrangements regarding sharing of benefits or risk (but not both) are often not specified in contracts even when this is understood and agreed to by all parties.

To address these issues, it is recommended to: (i) piloting urban land readjustment and pooling; document and disseminate results with the goal of making it a standard practice for urban expansion; and (ii) in parallel, also explore models for benefit & risk sharing among parties acquiring land and land holders in rural areas.

General Assessment and Comparative Strengths and Weaknesses of Vietnam's Land Governance

In overall, with the promulgation of the 2013 Land Law and with few exceptions (e.g. recognition of communal land rights and customary land practice and compulsory land acquisition for economic purposes), Vietnam performs well in establishing a comprehensive policy and legal regulatory tools for inclusive and sustainable land management in international comparison. According to the expert assessment and an international comparison, Vietnam was among the top three countries to rank highest in six indicators concerned with land policies and regulations, as follows:

- Enforcement of land use rights (including secondary rights as well as rights held by the minority communities and women) – Core Indicator # LGI-2.
- Mechanisms for recognition of rights established with formal definition, assignments of rights and process of recording of right with actual practices - LGI-3.
- Restrictions on land rights: unconditional on adherence to unrealistic standards - LGI-4.
- Equity and non-discrimination in the decision-making process - LGI-6:
- Speed and predictability of enforcement of restricted land uses - LGI-9:

In particular, Vietnam performs relatively well in providing access to land by smallholders and recognition their land use rights and ensuring equity and non-discrimination in the land-related decision making. These have been proved as an important factor contributing to Vietnam's rapid and sustained growth and poverty reduction in the last two decades.

On the other hand, Vietnam's weakest rankings were in the areas concerned with the accountability (for resources and tasks) of the concerned land sector agencies, as follows:

- Completeness of land registry information - LGI-16.
- Reliability: Information on registration are updated and sufficient - LGI-17.

- Cost-effectiveness and sustainability: Land services provision is cost-effective - LGI-18.
- Responsibility for conflict management assigned clearly - LGI-20.

These indicators are concerned with land registration office responsibilities for providing public access to information and also related to cost-effectiveness of service provision. In addition the assignment of responsibility for conflict management ranks weaker. In this respect, the Study confirms strong needs for institutional reform and capacity development in the sector to address wide gaps between the existing policy and legal framework and their implementation on the ground in order to improve land governance in Vietnam in the long run.

Finally, the global comparison shows where Vietnam is ranked as average and these areas include:

- Recognition of a continuum of land use rights - LGI-1.
- Clarity of institutional functions and activities - LGI-5.
- Transparency of land use restrictions - LGI-7.
- Transparency of valuations - LGI-10.
- Identification of public land and clear management - LGI-12.
- Transparency and fairness of expropriation procedures - LGI-14.
- Transparent process and economic benefit - LGI-15.
- Low level of pending conflict - LGI-21.

Thus the areas where Vietnam is considered average are those concerned with transparency. Some 15 countries in the global comparison, including Vietnam, rank as average regarding transparency.

However, at the same time, the Study find this is insufficient and good land governance is still constrained because the implementation on ground often lags behind and is uneven. The study proposes a set of comprehensive measures to address pending issues in the policy and legal framework and, even more critical, to improve the quality of implementation. And, ways to monitor the progress in land governance at different levels and will be of importance.

Land Governance Policy Priorities for Vietnam

The LGAF identified six priority areas for land governance with recommended actions, which are summarized below:

Issue	Recommendations	Time Frame and Recommended Complementing Actions
1. Recognition of land rights <ul style="list-style-type: none"> • Guarantee rights of indigenous communities (link to REDD+) • Recognition of condominium use • Women’s land rights (LURC) 	<ul style="list-style-type: none"> • Study existing arrangements & global practice and use evidence to adjust legal & regulatory framework for recognition of communal rights on forest in the economic sphere (incl. REDD+ on forest land) and evolution over time. • Study & pass condominium legislation. • Monitor gender-disaggregated data and explore options for increasing effective female land rights. 	<ul style="list-style-type: none"> • Medium term plus modification of Law on Forestry Protection and Development • Short term plus modification of Housing Law • Medium term
2. Land use and strategic planning	<ul style="list-style-type: none"> • Clarify relationship among plans, implementation 	<ul style="list-style-type: none"> • Short term

<ul style="list-style-type: none"> • Planning regulations & land use restrictions are fragmented, based on narrow & uncoordinated sector-based interests, lack public input, and not publicly available. • Lack of plans to guide land development causes informal development, over-acquisition of land & fragmentation. • Domination of urban development by private interests leads to high levels of informality & high cost of service provision. 	<p>responsibilities, and information sharing between different levels of administration.</p> <ul style="list-style-type: none"> • Improve existing methodologies for strategic land use planning in ways that ensure input & data sharing across sectors in ways that are informed by economic value, land requirements, social issues, and environmental planning. • Revise procedures for local level zoning in a way that systematically builds on local input, which identifies and quantifies the technical requirements needed to implement these, and in a way that balances and provides feedback between strategic planning objectives and local plans. • Make all land use plans publicly available in line with good governance and establish protocols for sharing land ownership & planning information across ministries. • Explore options to and make land conversion contingent on having an approved plan, and feed this into drafting of the national planning law. 	<ul style="list-style-type: none"> • Medium term plus enacting law on projection and planning • Short term • Short term • Short term
<p>3. Land valuation and taxation</p> <ul style="list-style-type: none"> • Taxes too low to ensure increments in land values are captured by the public, needed infrastructure and services can be provided, and efficient land use is incentivized. • Fear of taxation lead to consistent under-valuation of land, making it impossible to do economic planning. 	<ul style="list-style-type: none"> • Collect taxes in line with principles of efficiency, effectiveness, and social equity. • Require registration of transaction value and regularly publish schedule of land prices. • Base land tax on assessed values rather than market value • Strengthen valuation standards, profession, and practice. 	<ul style="list-style-type: none"> • Medium term (through the implementation of the Party's Resolution No. 19) • Short term • Long term (through the implementation of tax reform program) • Medium term
<p>4. Public land management & acquisition</p> <ul style="list-style-type: none"> • Criteria for public land designation are not available. • Land conversion equated with expropriation. Identification often ad hoc, creating conflicts of interest and an incentive to over-acquire & convert land that is then transferred to private parties. • Resettlement is not given proper attention, raising social issues. • Most privatization is not through auctions, resulting in loss of revenue for local governments. 	<ul style="list-style-type: none"> • Regularly publish the schedule for compensation by PPCs based on market value. • Clearly regulate the process of land acquisition in line with good practice (e.g. notification, periods for objection, and procedures for appeal). • Monitor incidences of expropriation and compensation and support paid, in order to assess whether it is fair, reasonable, and allowing affected parties to maintain their previous livelihood. • Clarify the criteria of land acquisition for economic purpose. • Pilot urban land readjustment and pooling; document and disseminate results with the goal of making it the standard practice for urban expansion. In parallel, explore models for benefit & risk sharing among parties acquiring land and land holders in rural areas. • Make auction the default mode of allocating public land to private interests and publish fees paid. 	<ul style="list-style-type: none"> • Medium term • Short term • Medium term • Short term • Medium term • Medium term
<p>5. Provision of land information</p> <ul style="list-style-type: none"> • Land information is not spatially referenced; coverage with land use certificates & maintenance incomplete. 	<ul style="list-style-type: none"> • Devise strategies to ensure full coverage with spatially referenced LURCs and, building on existing experience (VLAP), revising fee structures in light of people's ability to pay, explore waiver of first time registration fee, support public awareness, administratively resolve disputes during 	<ul style="list-style-type: none"> • Medium term

<ul style="list-style-type: none"> • Failure to record relevant encumbrances undermines usefulness of the land registry. • Limited access to land information by non-government stakeholders (incl. banks) reduces value of registry for economic development. 	<p>first registration as needed.</p> <ul style="list-style-type: none"> • Ensure that prices and all covenants and restrictions are registered, and that information can be accessed by non-government stakeholders. • Complete a national land information system that is synchronized across land institutions and can be easily assessed by interested parties in government and the private sector. • Complete geo-referenced parcel mapping – also to be used for land use monitoring • Pilot and subsequently roll out a system for regular outcome-oriented monitoring & evaluation of land governance. 	<ul style="list-style-type: none"> • Medium term • Long term • Long-term • Medium term
<p>6. Resolution of disputes & administrative complaints</p> <ul style="list-style-type: none"> • Although land disputes are widespread, there is no systematic monitoring or feedback to policy. • Land disputes often take long to resolve, jeopardizing effective land use. • Policy formulation, implementation, and conflict resolution often not separate. 	<ul style="list-style-type: none"> • Systematically monitor incidence of disputes, complaints, and grievances. • Establish grievance redress mechanisms and service standards for first instance administrative disposal of specific disputes, complaints, grievances, and appeals and & monitor adherence, while also improving court capacity. • Review institutional structure to assess the extent to which there are undue conflicts of interest. 	<ul style="list-style-type: none"> • Medium term • Medium term • Medium term

Given the complexity of land issues, it is also recommended to strengthen cross-sector land policy coordination through the establishment of the National Land Policy and Plan Coordination Board, in addition to the enhancement of the land information sharing between policy making bodies and between government agencies and the public.

Conclusions for LGAF Methodology and Further Follow-up

1. **Suitability of the LGAF Methodology.** The Study confirms the needs for regular land governance monitoring. LGAF’s methodology is considered to be highly suitable for the diagnostic assessment of land governance of Vietnam. However, for the specific country context, it is recommended that it is necessary to adapt some indicators and dimensions to the context of land administration and land use in Viet Nam as aforementioned. In terms of data, some certain types of information was not available for the first-time implementation but can be prepared for in the next implementation. Future implementation of LGAF is expected to create the cohesion with sub-national level, civil society organizations, news agencies and the community. LGAF’s documents should be well-prepared in Vietnamese version to make it sound, easy to understand and easy to spread.

2. **Undertaking a synthesis of main substantive findings and suggested reform actions in the short, medium, and longer term.** In the Land Law 2013, there is a provision on developing a monitoring and evaluation (M&E) system on land law enforcement. The completion of the LGAF should be seen as providing a national baseline for monitoring and assessment of progress in land governance in Vietnam. It is recommended that the national LGAF be repeated periodically, possibly every two years, depending on available resources. Furthermore, it is recommended that LGAF be undertaken sub-nationally, commencing with VLAP provinces, then to other provinces and major cities such as Hanoi and HoChiMinh. LGAF's evaluation indicators should be considered as official assessment or baseline on land governance and also serve as the foundation to submit the proposed revision, supplementation of land law system to the State. The system will be developed as a part of the land information system. Indicators and dimensions in LGAF can be adapted into evaluation indicators of this M&E system. Besides, M&E systems will include an information network that receives monitoring feedback from general people. The design of the system should take into thorough consideration mobile technological solutions so as to receive multimedia data sent by the people from their mobile phones. This means of communication is supposed to be highly effective

3. **A discussion of the scope for further work to improve land governance in the country.** The Study also raises a number of priority issues and recommended actions to further improve land governance in Vietnam. A continuing dialogue is recommended to further elaborate, prioritize them and build a broad consensus among interested stakeholders. Both MONRE – the government's focal point for the sector – and the Bank are recommended to place and proactive role in this process.

3 Introduction

Development practitioners and experts have recognized the importance of governance and the rule of law and view them as an essential precondition for economic and social development. In Vietnam, the topic of governance has increasingly drawn attention of policy makers, donors, and researchers (WB, 2010; 2012; UNDP, 2012). It is widely accepted that good governance, reflecting by high level of effectiveness, transparency, participation, and accountability, is a precondition for sustained economic growth and poverty reduction. International as well as national empirical evidence confirms that these aspects of governance are strongly linked to economic growth (PCI, 2013)

Given land's preeminent role as both home and livelihood, land governance is becoming particularly prominent in the course of country's development. However, study land governance is challenging, partly because it is a complex, multidimensional issue, and partly because most elements of governance are hard to measure. This Land Governance Assessment Framework (LGAF) Study was designed by the World Bank to address these challenges. The objective of LGAF is to provide systematic guidance for Government authorities and development partners to diagnose and benchmark land governance and to contribute to improving it over time. Based on a comprehensive review of available conceptual and empirical materials regarding experience in land governance, LGAF is developed as a diagnostic tool for the evaluation of legal framework, policies and practices regarding land and land use. The LGAF groups land topics into seven thematic areas:

8. Legal and Institutional Framework
9. Land Use Planning, Management and Taxation
10. Management of Public Land
11. Public Provision of Land Information
12. Dispute Resolution and Conflict Management.
13. Large scale acquisition (optional)
14. Forest land (optional)

Within each theme area, a series of indicators has been developed with specific dimensions that define areas for investigation, quantitative measurement or qualitative assessment. Through the assessment of these indicators, the LGAF highlights areas for legal, policy or procedural reform where necessary to improve governance in land administration over time and as a basis for global and intra-regional comparisons.

The LGAF consists of seven modules. Each module has a set of indicators to be investigated, which in turn is composed of several dimensions to be assessed. There LGAF structure therefore is hierarchically arranged, from the module to the dimension. A typical structure of an indicator set is shown in Annex 1.

This document represents the country report for Vietnam. It describes the process for implementation and the country context. The assessment of land governance is also presented, as well as the policy analysis, conclusions and recommendations. The report is intended to serve as a reference guide for government and other land practitioners in non- government organizations, private sector, academic and other groups to help shape the direction, focus and

support for the land sector, and how progress in improving governance can be effectively monitored.

The LGAF research in Vietnam is well conducted in accordance with procedure and method proposed by experts of the World Bank. The country coordination team composes two members, Dr. Nguyen Van Thang – in charge of coordination and planning, and Dr. Dang Hung Vo – in charge of technical aspect of the project. The assessment project started in December 2012 and completed in December 2013. One main adjustment compared with the original plan is the delay of expert investigation reports from April to July 2013. During this time, the National Assembly had meetings and discussion about draft revised Land Law and results of National Assembly meeting would have great impact on some indicators.

Details about process and methods are shown in Annex 2 for reference.

4 Background data and information

4.1 General data and information

5.1.1. Overview of geography and land resource

Vietnam is located the Indochina Peninsula in Southeast Asia. Its territory stretches the eastern coast of the Peninsula. Vietnam shares borders with China (1.281 km), Laos (2.130 km) and Cambodia (1.228 km), and its 3.444 km coastline contiguous to The Gulf of Tonkin, South China Sea and The Gulf of Thailand.

The total area of Vietnam is 331,212 km², including 37,480 km² of land and over 4,200 km² of internal water, with more than 2,800 islands, small and large reefs which are both near and far from the shore, Spratly Islands and Paracel Islands, territorial waters, exclusive economic zone and continental shelf of about more than 1 million km².

Vietnam's terrain varies according to the natural geographical regions including the Northwest, the Northeast, the Red River Delta, the North Central, the South Central Coaster, the Central Highlands, the Southeast and the Mekong River Delta. Agricultural land is mainly distributed in the Red River Delta, Mekong River Delta, North Central Coaster, South Central Coaster, the Southeast, plateaus in the Central Highlands and the Northwest. Mountainous and forests are mainly distributed in the Northwest, Northeast, Central Highlands and the Mekong River Delta. The highest point of Vietnam is at the top of Fansipan in the Hoang Lien Son mountain range, which is 3,143 meters high.

Vietnam's climate includes tropical savannah climate in the South with two seasons (the wet season lasting from the middle of May to the middle of September, and the dry season lasting from the middle of October to the middle of April); humid subtropical climate in the North with four separate seasons (spring, summer, autumn and winter), and tropical monsoon climate in the Central region. Located along the coast, Vietnam has its climate regulated partly by the ocean currents, which is why it has characteristics of oceanic climate. The average relative humidity is 84% throughout the year. Annual rainfall is from 1,200 to 3,000 meters, hours of sunshine are between 1,500 and 3,000 hours/year, and temperature ranges from 5°C to 37 °C. Also, every year Vietnam has to prevent and fight against storms and flooding as it has 5 to 10 storms/year.

Regarding land resource, Vietnam has natural forests and a large quantity of terrestrial mineral deposits including phosphates, coal, iron, manganese, bauxite, chromate, titanium, etc. regarding marine resources, Vietnam has offshore oil, natural gas, and mineral ores. In addition, the system of steep rivers pouring down from the western highlands gives opportunities for hydropower development.

There are about 10 million hectares of agricultural production land, in which about 4 million hectares is for growing rice and 3.7 million hectares is used for perennial crops; 15 hectares of forest, including about 7.5 million hectares of production forest, 5.8 million hectares of protection forest and 2.1 million hectares of special;-used forest; 3.7 million hectares of non-agricultural including 0.7 million of residential land, 1.2 million hectares of land for public purposes, 1 million hectares of rivers and specialized water surfaces; and 3.16 million hectares of unused land. Agricultural land is mainly distributed in 2 major deltas which are the downstream delta of Mekong River and the Red river delta; and also in a number of valleys in mountainous areas, some flat and broad plateaus such as Moc Chau and

the Central Highlands. During the recent 15 years, land transformation is widely and conducted for the purpose of industrialization, urbanization and development of public infrastructure. In the next period from 2000 to 2010, land transformation shall be conducted as in Table 1 below.

Figure 1: Administrative map of Vietnam



Table 1: Land transformation in Vietnam during 2000 - 2010⁸

Unit: 1,000 ha

Land type	2000	2010	Increase (+)/ Decrease (-)
AGRICULTURAL LAND	21,532	26,226	4694
Land for agricultural development	9,570	10,126	556
Land for annual crop	6,760	6,438	-322
Land for paddy field	4,268	3,998	-270
Land for Perennial crop	2,810	3,689	879
Forestry land	11,575	15,366	3791
Production forest land	4,734	7,432	2698
Protection forest land	5,398	5,795	397
Special-used forest land	1,443	2,139	696
Land for aquacultural development	368	690	322
Land for salt production	19	18	-1
Other agricultural land*		26	
NON-AGRICULTURAL LAND	2,850	3,705	855
Residential land	443	684	241
Residential land in rural areas	371	550	179
Residential land in urban areas	72	134	62
Special-used land	1,072	1,824	752
Land of State offices and public constructions	19	20	1
Land for security and defence purposes	192	338	146
Land for non-agricultural production and businesses	69	259	190
Land of industrial zones and clusters	23	100	77
Land of production and business facilities	15	93	78
Land for mining activities	16	36	20
Land for making construction materials	15	31	16
Land for public uses	792	1,207	415
Land for transportation	438	600	162
Land for irrigation	307	373	66
Land for power transmission and communications*		21	
Land of cultural facilities*		15	
Land of health-care facilities	5	6	1

⁸ Report on land inventory in 2000, Report on land inventory in 2010 and Report on land use planning to 2020, national land use plan for 5 years from 2011 to 2015 developed by MONRE.

Land of education and training facilities	27	41	14
Land of sports facilities	9	16	7
Land of markets*		4	
Land with relics and landscapes	6	17	11
Land of disposal sites and waste treatment*		8	
Rivers and specialized water surfaces	1,095	1,075	-20
Religious land	10	15	5
Cemetery land	94	101	7
UNUSED LAND	8,739	3,164	-5,575

* No statistics for these types of land in 2000 available

According to the figures provided in Table 1 and figure interpretation included in Land Inventory Report in 2010, some conclusions may be drawn on regarding land transformation in the period of 2000 – 2010 as follows:

1. Almost 5.6 million hectares of unused land had been used for agricultural and non-agricultural purposes. Averagely about over 120,000 hectares of unused land had been used for agricultural purposes and over 350,000 hectares of unused land had been used for forest development.
2. The area of residential land rose for more than 24,000 hectares/annual, in which the average rose in residential land in rural areas almost 18,000 hectares/annual and for residential land in urban area is more than 6,000 ha/annual. Reasons for rise in the area of land in rural areas was the demand of rural household development, and in urban areas was mainly the allocation of land for construction of housing businesses and the transition of rural residential areas in to urban residential areas according to the master plan.

Area of land for urban development throughout the country increased rapidly, which was almost doubled in 2010 comparing to that in 2000.

3. Area of land for non-agricultural (including land for construction of industrial zones, land for manufacturing plant, and small business; land for mining; land for making construction materials and ceramics) increased by about 19,000 ha/annual. Area of land of industrial zones (including industrial clusters at provincial level) increased by 77,000 ha in 10 years; area of land for manufacturing plant and small businesses also increased by 78,000 ha. Area of land of border gate economic zones and coastal economic zones accounts by 2 million ha, which in fact brought low efficiency.
4. There was a rise by 41,000 ha/annual in the area of land for public uses (including land for constructions of education system, system for irrigation and domestic water supply and drainage, power transmission system, information and telecommunication system, facilities for cultural activities, health care services, education-training, sports; land of markets in the countryside; land with historic and cultural relics, landscapes; land of disposal sites and waste treatment). Area of land for construction of transportation system witnessed the largest raise, about 16,000ha/annual, in which

the area of land planned for construction of airports and seaports of coastal provinces rose rapidly, reflecting a risk of wasting land resource.

5. The purpose of about 70,000 ha of agricultural land is converted each year, majorly to non-agricultural purposes, the area of land for growing rice decreased by about 35,000ha/annual.

5.1.2. Overview of Vietnam's history

As told by the legend, Vietnam has the history of 4,000 years, which has started since the 2nd century BC, starting with 1000 years of Chinese domination. In 905, the Vietnamese officially claimed independence and autonomy which lasted for a long time.

In the middle of 19th century, as the same as other Indochina countries, Vietnam became a colony of France. In the World War II, Japan took over the entire Indochina including Vietnam. After Japan surrendered to the Allies, Vietnam gained independence again and on September 2nd 1945, President Ho Chi Minh announced the Proclamation of Independence, declaring the founding of the Democratic Republic of Vietnam, the first independent nation of the modern Vietnam.

Soon after that in 1946, the French came back and took over Indochina. Vietnam fought against the French during 9 years, which ended with the Dien Bien Phu Victory on May 7th 1954. The Geneva Agreement on Vietnam was signed, marking the end of almost 100 years of French domination in Vietnam, but also divided the country into 2 regions: the North and the South, divided by the 17th parallel. As agreed, a general election would be undertaken throughout the country. The Democratic Republic of Vietnam in the North was a member of the (old) Socialist faction, and the Republic of Vietnam was established in the South, with the presence of the US, taking France's position.

The general election in accordance with Geneva Agreement was not implemented. In 1964, the US officially made their military intervention by taking US army to the South and started to bomb the North of Vietnam. Vietnam conducted the people's war the 2nd time against the US to unify the country. This war ended on April 30th 1975 when the Government of the Republic of Vietnam surrendered. Vietnam then became unified.

In 1976, Vietnam's National Assembly agreed to change the name of the country into the Socialist Republic of Vietnam, and set the goal of development into a socialist country. In the 1980s, Vietnam's economy faced serious crisis with the model of State subsidy. In 1986, Vietnam Government decided to carry out DOI MOI policy, started by stimulating 3 major economic programs: Food, Consumer goods and Goods for exportation. In 1991, Vietnam adopted the market oriented economy under the State's control and also integrated itself to the international economy. In 1994, Vietnam normalized its relation with the US; in 1995, Vietnam joined ASEAN and on January 11th, 2007, Vietnam officially became the 150th member of WTO. In the present, Vietnam is the member of a number of international organizations such as the United Nations, the Francophone, ASEAN, APEC, ASEM.

5.1.3. Population and the People

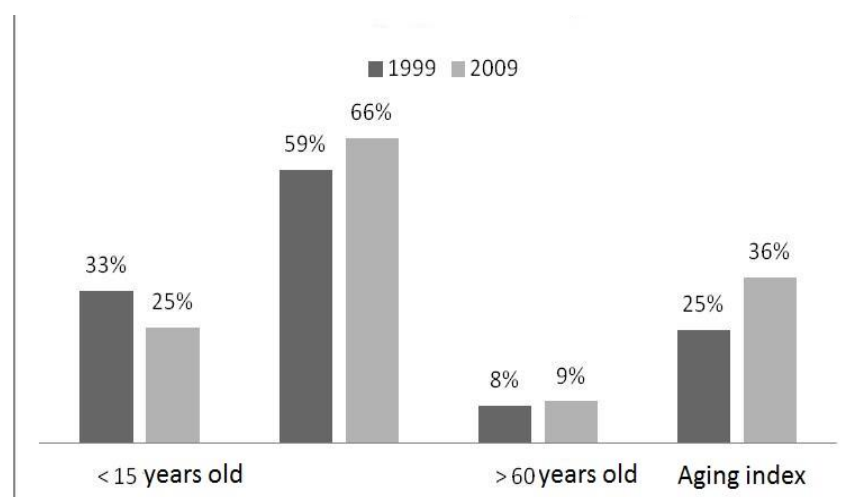
Vietnam's population reached 90 million in November 2013. There are 54 different

ethnic groups, including 53 ethnic minorities accounting for about 14% of the population. Viet people account for almost 86% of the population and are concentrated mostly in the coastal plateaus. All the ethnic minorities, except for the Chinese, the Cham and the Khmer, are concentrated in the highlands and mountainous areas. The most populated ethnic minorities are Tay, Thai, Muong, Hoa, Khmer, Nung, etc., each has about 1 million people. Bray, Ro Mam, O du are the less populated groups with several hundreds of people each. Some of the groups have settled in Vietnam's territory for a very long time, while some others have just migrated to Vietnam in the recent hundreds of years such as the Chinese in the South of Vietnam.

The Vietnamese are unevenly distributed in terms of economic geographic regions. Red River Delta, the North Central, the South Central Coaster, and the Mekong River Delta are mostly populated by about 17 – 20 million people. There are less people in the mountainous areas, which are about several millions of people. Only 30% of the population live in urban areas, and the other 70% remain in rural areas. Regarding gender ratio, it's averagely about 98 men/100 women. The Vietnamese are considered as hard working, industrious and brave, which was obvious during the war in every single citizen's stamina and sacrifice. The economic development period, such characteristics also brought advantages. However, people lack of creativity in terms of technique and technology, which is necessary for the human factor to play as key force of development

Recently, Vietnam has been going through the golden population period, which is good for developing human resource. If this rare opportunity is missed, the country might get into the old population period with pressures on development because the proportion of old people is so large. Figure 2 below describes Vietnam's population structure by age during 1999-2009.

Figure 2: Structure and movement of Vietnam's Population at ages



5.1.4 Administrative system

The State of Vietnam is a republic institution, aiming at developing a law-governed state of the people, by the people, for the people; and building an equitable, democratic and civilised society. The National Assembly is the legislative body with the highest power. The members of the NA are selected by people of each locality to represent their wishes and

voices. The NA selected the Chairman of the National Assembly, the NA Vice Chair-persons and Members of the Standing Committee, each member is the head of one NA's agency (Committees, the Ethnic Council, the Office of the NA). The NA of Vietnam has two independent institutions including the State Audit and the National Election Committee. The 1st NA was elected by the people in 1946, which is now the 13th. The term is currently 5 years, but lasts longer during war.

The NA selects the Prime Minister, Deputy Prime Ministers, Ministers and Heads of ministerial-level agencies, together making the Central Government. The Government is the executive body of The State at central level. The NA also selects Chief Justice of the Supreme People's Court and Chief Procurator of the Supreme People's Procuracy, these are the two agencies of the State's justice system.

The NA has 5 times approved the Constitution. The 1st Constitution passed in 1946 is called the Founding constitution; the 2nd one enacted in 1959 is considered as the Developing and unifying constitution; the 3rd one adopted in 1980 is the Constitution for building the unified country towards socialist orientation; the 4th ratified in 1992 is called the Innovative constitution; and the 5th one recently approved in 2013 is called the Amended constitution of Constitution 1992 for developing Vietnam towards being an industrial country by 2020. The NA is the central legislative body, whose main duties are to make laws, give major decisions and monitor the implementation of executive and justice systems' duties.

Vietnam's administrative system has 4 levels: central level, provincial level, district level and communal level. Vietnam is divided into 63 provincial administrative units including 58 provinces and 5 municipalities (Hanoi Capital, Hai Phong, Da Nang, Ho Chi Minh, Can Tho). Each one of those is divided into several district level administrative units as districts, towns, cities... which make for 600 units in total throughout the country. Each of those units is divided into several communal level administrative units as communes, wards, townships, which make for over 11,000 units in total throughout the country.

The local legislative and executive system is established in the same model as of the central system. Each locality has People' Council elected by the people, working as the local legislative body. The People's Council elects the People's Committee which plays the role of the local executive body. The Head of People's Committee has to be assigned by the head of the legislative body at the higher level.

Vietnam's justice system is vertically organized. The Chief Justice of the Supreme People's Court assigns the Chief Justice of the Provincial and District People's Court; and similarly, the Chief Procurator of the Supreme People's Procuracy assigns the Chief Procurator of the Provincial and District People's Procuracy.

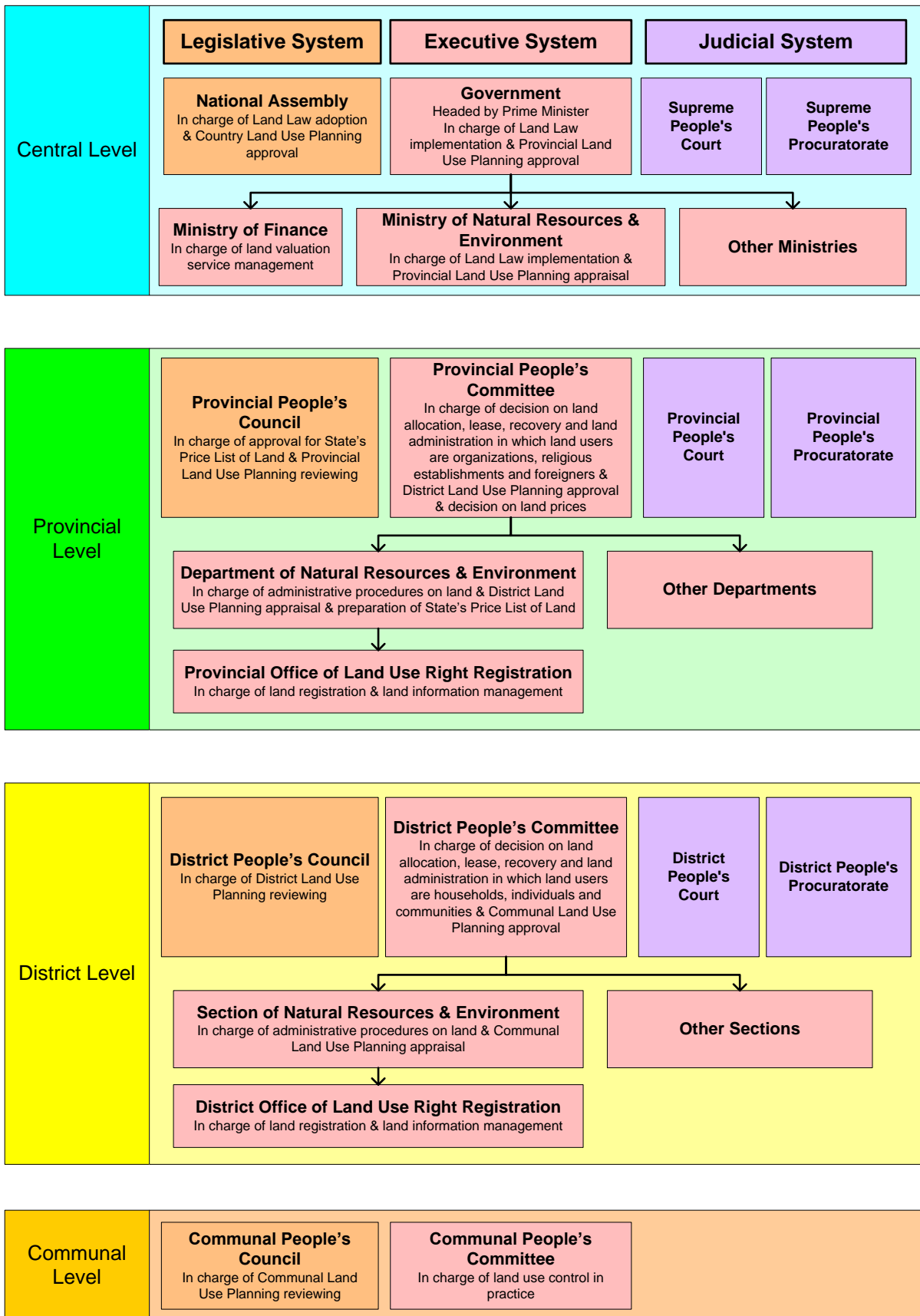
Land administrative bodies at provincial level are the Departments of Natural Resources and Environment operating under Province People's Committee; and similarly, Land administrative bodies at district level are the Divisions of Natural Resources and Environment operating under District People's Committee. The land administrative bodies at communal level are the Communal People's Committee, helped by the cadastral officers. In terms of land management, the PPC is authorized to make decisions regarding land price, land allocation, land lease, land acquisition, land use right recognition, land use right extension; give permission for land use conversion; and perform administrative activities in terms of land used by organizations, religious institutions and foreign individuals, the DPC is allowed to

make decisions and perform administrative activities regarding land used by households, individuals and communities. CPC is responsible for detecting the violence of land laws within the commune. The Natural Resources and Environment agency is responsible for supporting the People's Committee at the same level to prepare the decisions on land issues and perform administrative activities in terms of land. The Cadastre is managed by the Office for land use right registration. This Office also conducts land registration when land users execute their rights on land. As so, the land administrative system of Vietnam is horizontally organized, operating under the PC at provincial and district level. Figure 3 below describes the State organization and land administrative agencies in Vietnam.

5.1.5 Vietnam's Socio-economic development

Currently, Vietnam is a developing country with a transforming economy (from subsidy mechanism to market mechanism). This also means the nation must, at the same time, industrialize and urbanize, in order to transform the agriculture-based economy into industry and service-based economy. Meanwhile, the administration system must shift from subsidy thinking pattern into market-oriented thinking. Both of these transforms are challenging.

Figure 3: Institutional Map related to land management



The industrialization and urbanization put great pressure on the mandatory land transform, people who lose the land seem to become poorer due to lots of livelihood, and people who invest on land may gain a big amount of rent. The transform from subsidy

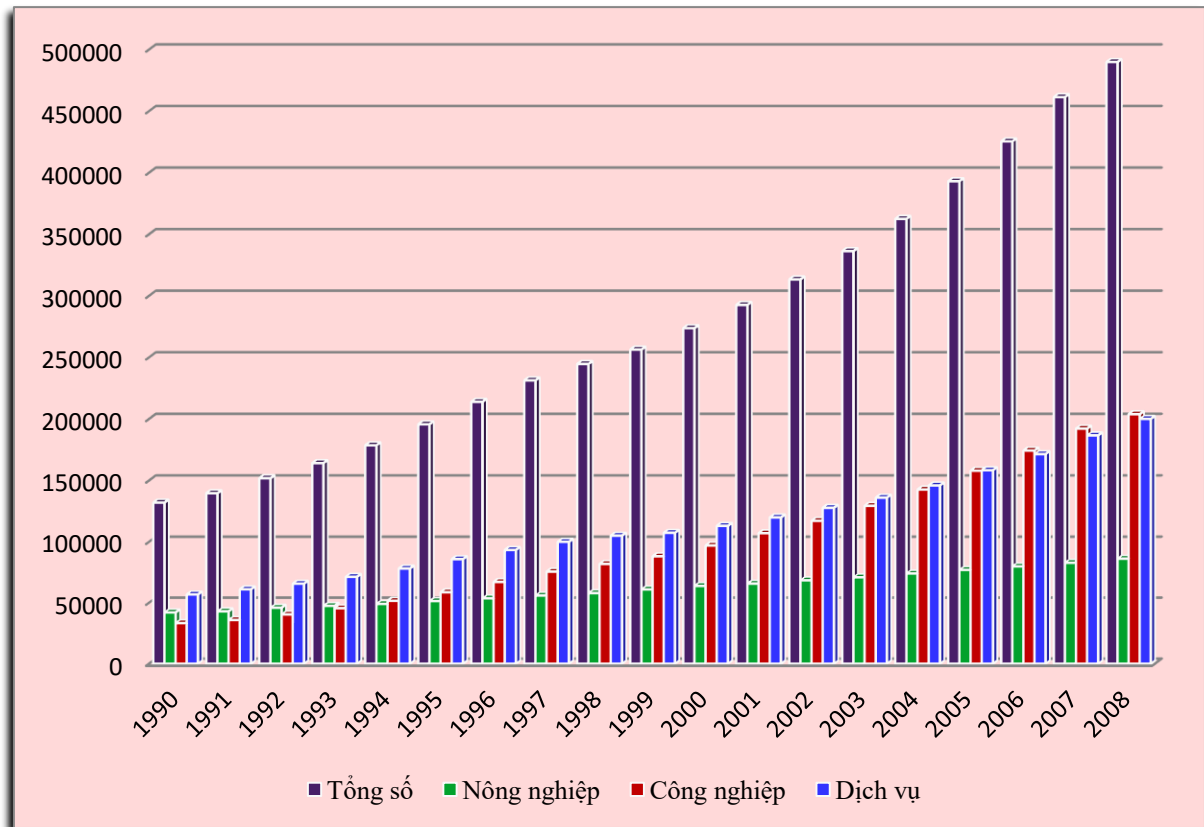
economy into market economy has major influences on the real estate market. Land is no longer valueless, and has its own value which is nearly as high as land price in other countries in the region with similar conditions. The increase of land price is an absolute process, which often associates with land speculation and investment in land as a saving because of high profitability. In 2008, the real estate market turned sombre and “bubble” was recognized after land price continually climb for 22 years. In the end of 2008, real estate bubble started to crack as inflation marked its appearance and the Government had to carry put fiscal and monetary policies to curb inflation.

In 1994, industrialization and urbanization was launched with policies which stimulated domestic and foreign investment. The land policy gradually got more and more open in order to attract investment. In the period from 1994 to 2004, the policy named “State acquisition of land” was undertaken to allocate land to all of investment projects approved by the State. Since 2004, scope of this mechanism has been narrowed down to the projects serving public benefits and the purpose of defence and security; as well as projects that have major economic impacts. Nevertheless, this mechanism remains to be applied in large scale, which might be because investors take advantage of loopholes of the laws with ‘support’ of the local authorities, or local authorities want to attract investment, or because of corruption.

Industrialization and urbanization has resulted in relatively high growth rate of Vietnam’s economy, particularly in industry and service sectors. On the other hand, this also has negative impacts which relates to corruption in management and a large number of complaints made by people who lose their land.

Basing on the statistics provided by GSO, Figure 4 and Figure 5 are developed, in which one describes GDP growth rate of agriculture, industry and service sectors; and the other shows figures concerning State investment, non-state investment and foreign direct investment.

Figure 4: GDP based on 1994 price by economic sectors (unit: billion Dongs)



The chart included in Figure 4 shows:

1. Before 1994, gross value of industrial production was always less than that of agricultural production. Since 1994, the gross value of industrial production had gradually increased and was 2.5 times as much as gross value of agricultural production in 2008.

2. Gross value of service sector was always higher than the gross value of both industrial production and agricultural production. In 2008, gross value of industrial production was closely equivalent to that of service sector.

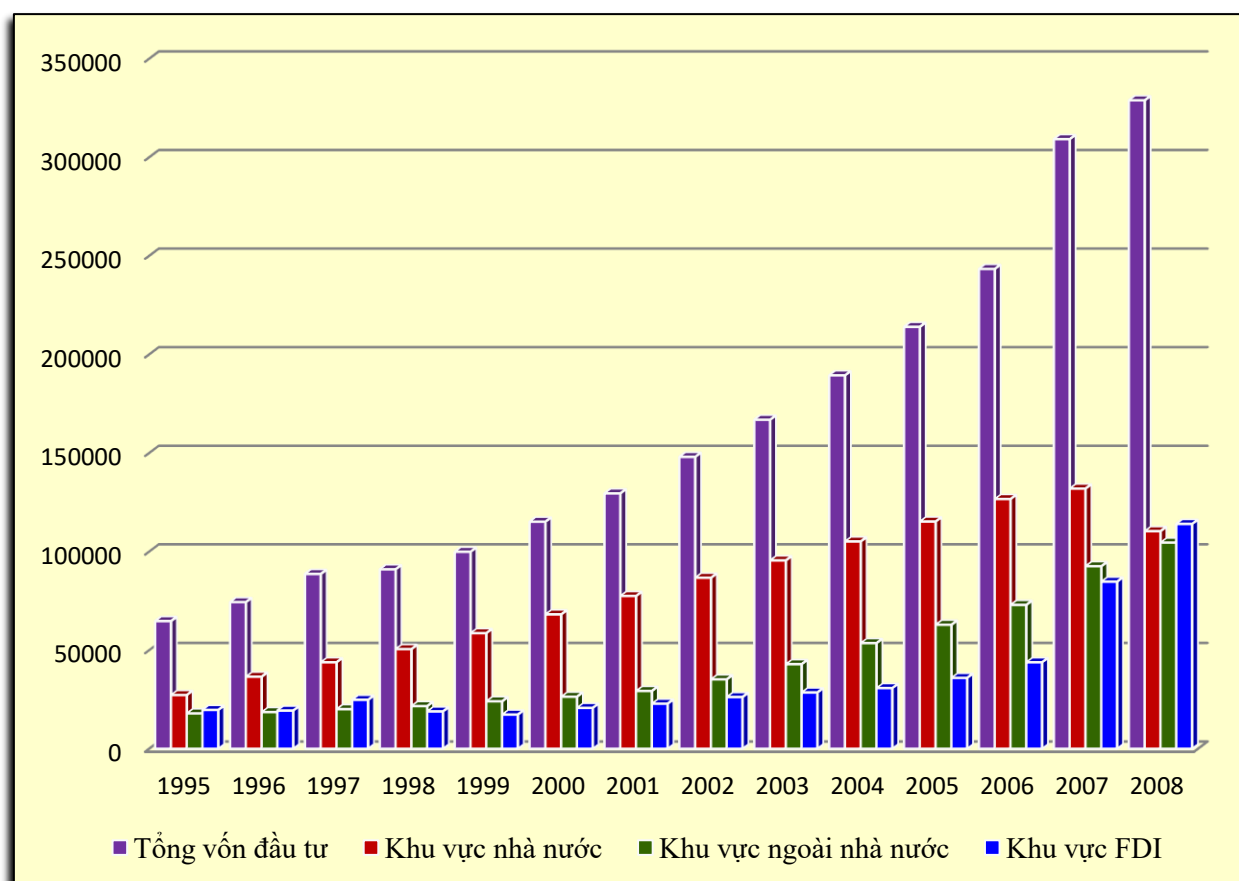
The chart included in Figure 5 shows:

1. Investment from the non-state sector rose steadily from 1995 to 2007, and fell sharply in 2008 which was the result of the State's policy to curb inflation,

2. Investment from private sector increased gradually from 1995 to 2003, rose at higher rate from 2003, and witnessed a slight fall in 2008; the rise in growth rate of investment after 2003 was the result of open land policy provided by Land Law 2003.

3. Investment from FDI witnessed a stable upward trend between 1995 and 2003, followed by a climb in the next period as a result of Land Law 2003 before a sharp increase in the years after 2007 as the result of Decree No. 84/2007/NĐ-CP issued by the Government to stimulate the participation of foreign investors in domestic real estate market and housing market.

Figure 5: Investment from economic components based on 1994 price (unit: billion Dongs)



According to the result of the census survey conducted by GSO, land inventory data provided by MONRE and Strategy of urban development in Vietnam to 2025 approved by the Prime Minister, details of the process of urbanization during the last 15 years and outlook for the next 15 years are given in Table 2 below:

Table 2: Process of land transformation and population of Vietnam during 2000-2010 and outlook to 2025

Year	Total number of urban areas	Total area of urban land (ha)	Percentage to total area of land of the country	Total population of urban areas (thousand people)	Percentage to population of the country
1995	420	836,117	2.53%	14,938	20.75%
2000	629	990,276	2.99%	18,725	24.12%
2005	675	1,153,549	3.48%	22,332	27.10%
2010	752	1,372,038	4.14%	25,466	29.60%
2025	1,000	2,000,000	5.60%	52,000	50%

Vietnam has become a middle income country since 2010, when area of urban land accounted for about 4% of the total area of the country and population of urban areas accounted for about 30% of the population of the country (according to global common rule, the necessary rate of urbanization is 50%). As stated in the Strategy of urban development in Vietnam, by 2025, area of urban land will account for about 5.6% of the total area of the country and population of urban areas accounted for about 50% (equivalent to Korean's indexes in 1970: area of urban land accounted for 7.4% and urban population accounted for 54%).

Over the time of investment and development, many experts believe that it is necessary for Vietnam to reconsider investment efficiency and avoid following the trend and trading off social and environmental sustainability to attract investment. Furthermore, in terms of industrial production, Vietnam has put priority to assembling products for export rather than manufacturing Vietnam's competitive industrial products and services.

Vietnam's ICOR is calculated based on development ratios provided by the World Bank, in comparison with other Asian economies, which are presented in Table 3 below⁹

Table 3: Comparing growth rate and ICOR of Vietnam and some Asian economies in relevant development periods

	% of GDP growth	ICOR
Vietnam 1997-2007	7.2	5.1
Korea 1969-1988	8.4	2.8
Malaysia 1977-1996	7.4	4.9
Thailand 1976-1995	8.1	3.6
Taiwan 1963-1982	9.8	2.9
Indonesia 1977-1996	7.2	2.8

According to figures provided in Table 3, during 1997-2007, Vietnam had to consume 5 units of input to generate 1 unit of growth, meanwhile (1) 10 years ago, Malaysia did the same, Thailand and Indonesia only used about 2.8 to 3.6 units of input; (2) 20 years ago, Taiwan and Korea only consumed 2.8-2.9 units of input. This indicates low investment efficiency in Vietnam.

Added to that, during the past period, many domestic and international experts anticipated that Vietnam might "strand" in the trap for middle income countries and could not become a high income country. A quantity of problems have been detected, for instance: management is unprofessional, policy incentives for FDI do not generate income for State budget, not so many of domestic products contain technology content, infrastructure quality remains low despite huge investment (over 10% of GDP), scientific degrees are recognized in

⁹ Nguyen Xuan Thanh, 2009, Obstacles in terms of Vietnam's infrastructure, material for policy dialogue prepared by Harvard – UNDP (page 5).

large quantity but at the same time there is a shortage in high quality labour force, natural resources are used inefficiently and unsustainably, etc.

4.2 Land issues

5.2.1 Typology of tenure situations

Vietnam's Constitution only recognizes one full ownership of land. Organizations, communities, groups, households, and individuals are only allowed to use land and be referred to as land users. Land use right is the property of a land user when he/she pays for using the land, and the value of such right is seen as the market price of the land. For circumstances in which money paid for the right of using land comes from State budget or land use right is given without payment, except for land that had been being used before Land Law was issued in 1993, the right of using that land belongs to the State. The State recognizes land use right of land users through issuing them certificate of land use right and ownership of house and other properties associated with the land. In particular, the State allocate land for farmers who do not have or lack of land for agricultural production free of charge, and land to be allocated in such circumstances is unused land or land used for public purposes. The State can recover land use right of land users to allocate or lease the land to other users when necessary for national or public interests; users whose land use right is acquired receive compensation in line with market price of the land, as well as support for resettlement.

Land users that are economic organizations, households, and individuals are entitled to make transactions regarding land tenure right (converting, transferring, giving, inheriting, leasing, mortgaging, making capital contribution under regulations of the laws) and buy or sell land associated properties on the market. Land users enjoy all the benefits from land use and have to pay tax to the Government. The Government give tax exemption to farmers if the area of land used is under the prescribed limit for land use right transfer to be made. Tax for using non-agricultural land is 0.03% of land price in accordance with price set by the Government and increases at the progressive rate of 0.05% if the area of land is twice as much as the prescribe limit, and 0.1% if the area of land is 3 times as much as the prescribed limit or more. Users do not have to pay tax for using properties associated with the land. When land users transfer land use right or buy/sell land associated properties, beneficiaries of such transactions have to pay income tax at the rate of 25% of income if the income can be calculated, or 2% of the value if the income cannot be calculated.

Thus, it can be seen that the mechanism of public ownership of land in Vietnam is formalistic. The concept of land use right is considered similar to concept of land in countries where multi-ownership of land, including private ownership of land, is recognized. Land users gain all of the benefits from using land and only have to pay tax to the Government at a relatively low rate.

Public land in Vietnam can be considered to include: (1) land used by public organizations, social organizations without payment or with payment made with money from the State budget; (2) land used for public purposes and managed by local authorities in compliance with their authorized power; (3) land unused. SOEs that use land which was allocated by the State without payment now also have to pay land use fee or land rent fee out of their own budget to continue using land as well as make land transactions.

It can be seen that Vietnam's laws on land provide clear and transparent regulations on land tenure right and right to make land transaction. Such regulations take effect after certificate of land use right and ownership of house and other properties associated with land are issued. Vietnam's NA have passed a Decree on competing issuing LURC in 2013, currently, certificate has been issued for 85% of land throughout the country. The work of issuing LURC is facing a challenge when some land users do not have any proof of their legal right for using land. Law on land 2003 has stipulated that LURC is issued to households and individuals that use land in accordance with land use plan, and perform stable use of land before the day Law on Land 1993 came to effect; and these land users do not have to pay land use fee. People who use land in accordance with land use plan, and perform stable use of land after the day Law on Land 1993 came to effect and before the day the day Law on Land 2003 came to effect have to pay 50% of land use fee. Nonetheless, it is very challenging for local authorities at district and communal level to define the boundary between encroached land and land used in accordance to land use plan.

Basing on land inventory in 2010, statistics regarding land tenure right throughout the country is prepared and presented in Table 4 below, excluding details information on households and individuals using specific type of land such as agricultural land for growing annual crop, agricultural land for growing perennial crop, land for aquacultural farming, land for salt production, and land of production forestry which are classified as agricultural land, because in fact, households and individual may use different types of agricultural land.

Table 4: General data on land tenure right in Vietnam

Unit (area): Ha

Unit (population): person

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
Agriculture land (including agriculture production land, forestry land, aquaculture production land, salt production land and other agriculture land)			
<p>- All types of agriculture land are allocated or leased by the State to enterprises, households, individuals and communal people's committees (CPC).</p> <p>- Term of use:</p> <ul style="list-style-type: none"> + 50 years for agriculture production land, aquaculture production land, salt production land, production forestry land used by households & individuals; + Defined in investment project conducted by enterprises; + Undefined for land which was historically allocated by the State to State's enterprises; + Undefined for land used by cooperatives; + Undefined for land used by CPC. <p>- Limitation of receiving transferred land:</p> <p>Households & individuals are able to receive transferred agriculture land with limited area (for annual crop agriculture production land: 6 ha in Mekong delta region</p>	<p>Area: 26,226,000 ha</p> <p>Population: 60,687,000</p> <p>Titled land:</p> <ul style="list-style-type: none"> - 13,915,000 ha for households & individuals; - 8,714,000 ha for domestic enterprises and cooperatives; - 30,000 ha for foreign enterprises; - 274,000 ha for communities. 	<p>- Households & individuals have not to pay land use fee for land allocated by the State (free of charge), and have the rights on land including: exchange, transfer, donation, lease, inheritance, mortgage and capital contribution.</p> <p>- Domestic enterprises have to pay land use fee or land rental for land allocated or leased by the State; and have the rights on allocated land or one-time-payment based leased land including transfer, lease, mortgage and capital contribution.</p> <p>- Cooperatives have not to pay land use fee for land allocated by the State for use in the purpose of supporting services to agricultural production.</p> <p>- Foreign enterprises have to pay land rental for land leased by the State; and have the rights on one-time-payment based leased</p>	<p>- The term of agriculture land used by households & individuals is too short, that inhibits famers' long term investment.</p> <p>- Limit of land use area is too small, that inhibits agricultural production scale.</p> <p>- In general, it is difficult to implement the process of land accumulation and land concentration to encourage quality and productivity of agricultural products.</p> <p>- In whole Vietnam, there are 664 State's agricultural enterprises using very large area of land (402,000 ha agriculture production land, 390,000 ha forestry land, and 322,000 ha non-agriculture land) but no effectiveness.</p> <p>- Transformation from agriculture land</p>

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
and 4 ha in remain regions; for perennial crop agriculture production land and forestry land: 20 ha in delta region and 50 ha in mountainous region.)		land including transfer, lease, mortgage and capital contribution. - Communities have no rights on allocated land.	to non-agriculture land faces many difficulties.
<i>Agriculture production land</i>	Area: 10,162,000 ha		
- <i>Annual crop agriculture production land</i>	Area: 6,438,000 ha		
- <i>Perennial crop agriculture production land</i>	Area: 3,689,000 ha		
<i>Forestry land</i>	Area: 15,366,000 ha		
- <i>Production forestry land</i>	Area: 7,432,000 ha		
- <i>Protection forestry land</i>	Area: 5,795,000 ha	Land users have no rights on land transaction	
- <i>Specially-used forestry land</i>	Area: 2,139,000 ha	Land users have no rights on land transaction	
<i>Aquaculture production land</i>	Area: 690,000 ha		
<i>Salt production land</i>	Area: 18,000 ha		
<i>Other agriculture land</i>	Area: 26,000 ha	Land is used in high-tech production, livestock, products processing, etc.	
Non-agriculture land (including residential land, land for commercial purposes, land for public purposes, land for State's purposes, land religious-belief purposes, land with water surface)			
<i>Residential land</i> - Residential land is used for long term. - Time for housing development projects is	Area: 684,000 ha Population: 86,000,000	- Households & individuals, domestic housing development investors are able to access residential land via land transfer from	- Land management does not support to formulate land market; there are considerable risks of corruption in land

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
limited		<p>housing development investors, households & individuals or State's allocation with land use fee payment.</p> <ul style="list-style-type: none"> - Foreign housing development investors are able to access residential land via land transfer from housing development investors or State allocation of land or State lease of land with land rental payment. - Households & individuals have the rights on land including: exchange, transfer, donation, lease, inheritance, mortgage and capital contribution. - Housing development investors the rights on land including transfer, lease, mortgage and capital contribution. - Residential land users are responsible to pay land use tax at the level of 0.03% land value calculated based on State's land price. 	<p>allocation by the State to housing development projects.</p> <ul style="list-style-type: none"> - There are some differences in legal right on residential land access of domestic and foreign investors. - There is considerable risk of residential land speculation in the real estate market.
- <i>Rural residential land</i>	<p>Area: 550,000 ha Population: 62,000,000</p>		
- <i>Urban residential land</i> In whole Vietnam, there are	<p>Area: 134,000 ha Population:</p>		

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
755 cities including 5 central cities, 54 cities belonging to province, 43 townships and 624 towns. Total urban land is 1,517,000 ha.	26,200,000		
<i>Specially-used land</i>	Area: 1,824,000 ha		
<p>- <i>Land used by State's organizations</i></p> <p>Land is used for long term.</p>	Area: 20,000 ha	<p>- Land is allocated by the State without land use fee payment.</p> <p>- Land users have no rights on land transaction.</p>	A large area is in un used, used for improper purposes or used ineffectively.
<p>- <i>Land used for national defence and security purposes</i></p> <p>Land is used for long term.</p>	Area: 338,000 ha	<p>- Land is allocated by the State without land use fee payment.</p> <p>- Land users have no rights on land transaction.</p>	
<p>- <i>Land used for non-agricultural commercial purposes</i></p> <p>Land use term is defined in approved investment project.</p>	<p>Area: 259,000 ha</p> <p>+ 100,000 ha used for industrial parks;</p> <p>+ 93,000 ha used for non-agricultural commercial units outside industrial parks;</p> <p>+ 36,000 ha used for mineral resources exploration and exploitation;</p> <p>+ 31,000 ha used for construction materials production.</p>	<p>- Households & individuals, domestic economic organizations are able to access non-agricultural production and commercial land via land transfer from economic organizations, households & individuals or State's allocation with land use fee payment or State's lease with land rental payment.</p> <p>- Foreign housing development investors are able to access non-agricultural commercial land via land transfer from economic</p>	<p>- Remarkably negative impacts of land use on environment.</p> <p>- Ineffective use of land.</p> <p>- Considerable number of industrial establishments operating outside industrial parks.</p>

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
		<p>organizations or State's lease with land rental payment.</p> <p>- Land users have to pay non-agriculture land use tax at the level of 0.03% land value calculated based on State's land price.</p>	
<p>- <i>Land used for public purposes</i> Land is used for long term.</p>	<p>Area: 1,207,000 ha + 438,000 ha used for transportation; + 373,000 ha used for irrigation; + 21,000 ha used for energy piping and telecommunication purpose; + 15,000 ha used for cultural establishments; + 6,000 ha used for health care establishments; + 41,000 ha used for training & education establishments; + 16,000 ha used for sport establishments; + 4,000 ha used for village markets; + 17,000 ha used for historical, cultural, natural heritages; + 8,000 ha used for waste keeping and</p>	<p>- Land is allocated by the State to investors without land use fee payment.</p> <p>- Investors have to pay compensation and provide supports and resettlement to people subjected to land acquisition only.</p> <p>- Investors have no rights on land transaction.</p>	

Tenure type	Area and population	Legal recognition and characteristics	Overlaps and potential issues
	waste treatment.		
<p><i>- Land with water surface used for non-agricultural purposes</i></p> <p>Land use term is defined in approved investment project.</p>	Area: 1,075,000 ha	Land and water surface is leased by the State with rental payment	
<p><i>Land used for religious and belief establishments</i></p> <p>Land is used for long term.</p>	Area: 15,000 ha	<ul style="list-style-type: none"> - The State recognizes current establishments and allocates land for new establishment construction without land use fee payment. - Land users have no rights on land transaction. 	
<p><i>Land used for cemetery</i></p> <p>Land is used for long term.</p>	Area: 101,000 ha	<ul style="list-style-type: none"> - The State carrying out planning for current cemeteries and allocation of land for new cemeteries without land use fee payment. - Investors of new cemeteries using land without land use fee payment have no rights to make land transaction. 	
Unused land	Area: 3,164,000 ha	Unused land is to be allocated or leased by the State based on the approved land use planning.	

Source: (1) Land statistics 2010; (2) Government Report No 193/BC-BTNMT of September 6th, 2012 on Land Law 2003 implementation and direction of Land Law revision submitted to National Assembly

5.2.2 Table with adapted glossary definitions and explain concept specificities.

Some content of the terminologies regarding land which are used in Vietnam's legal system are detected to be incompatible to common concepts in other countries. All the terminologies as well as relevant interpretations are shown in Annex 3 attached to this paper. In this annex, some key terminologies which are land related concepts used in Vietnam's legal system in particular are presented.

5.2.3. Present history and current status of land policies (including identification of major issues, past and current responses, and future challenges

A. Pre Doi Moi period

On 02/9/1945 Vietnam gained independence and founded the Democratic Republic of Vietnam. On 19.12.1946, the 9-year war against the French people began and ended in 1954. In 1953, Vietnam's National Assembly passed the Law on Land Reform and implemented the law in the areas controlled by the Vietnam Government on the principles of taking the land from the landowners to divide to peasants. In 1954, under the Geneva Agreement (Geneva Accords) on Vietnam, Vietnam was divided into two regions. North Vietnam, the Democratic Republic of Vietnam managed and was a member of socialist countries group. South Vietnam, the Republic of Vietnam was established and governed by the United States instead of France.

In the North, law on Land Reform was further implemented from 1955 to 1957 in areas previously occupied by France, and on the same principle of taking land from landowners to divide to peasants. In 1959, Vietnam's National Assembly passed the second Constitution on recognition on land ownership, including state ownership, collective ownership of cooperatives, private ownership of labourers and private ownership of the capitalist. Also in this year, the State launched a campaign to establish agricultural cooperatives at village level. Even in the period 1959 - 1960, there were 95 % of farmers to contribute land to the cooperative. In 1961, the agricultural economy of Vietnam has achieved many great accomplishments; productivity and yield of rice production reached the highest in Southeast Asia. In 1964 the Gulf of Tonkin incident caused by the United States was considered as the start of the civil war in Vietnam to the United States for the liberation of the country. Vietnam agriculture, in this period, was based primarily on patterns of agricultural cooperatives at village level.

In the South, the Republic of Vietnam adopted the first Constitution in 1955 and launched land reform throughout Southern region. Similar to Japan, the land reform was seen as unsuccessful because the ultimate goal of taking land from landowners to give to farmers was not achieved. In 1967, the Republic of Vietnam passed the second Constitution and applied the second land reform, in a way similar to Taiwan. This land reform was considered successful, achieving the objectives of allocating the land to landless farmers, and all associated with the granting of land ownership certificates.

In 1975, Vietnam unified the country after more than 20 years being divided. In the favourable circumstances, the State of Vietnam determined the direction of using subsidy economy model to develop immediately into socialism. The third Constitution passed by the

National Assembly through a regime of public ownership of land. Land resources were managed under the state subsidy: those who are using land can continue to use the land; the State considers to allocate land to those who need land to use; the State recovers the land from those who are using land do not want to use it anymore; and the State reallocate land to those whose land use right has been are recovered for the purposes of the State and the society; there is no value and price for land and land must not be transferred on the market; people are allowed to sell their houses and properties on land and the State decides to allocate land to the buyers. For agricultural land, agricultural cooperatives at village level are allowed to merge into a commune cooperative. In addition to agricultural land used by the cooperatives, the remaining agricultural land is allocated to the state farms, most forest land allocated for the State forest enterprises. Main tasks of the state forestry enterprises are logging for economic development.

In fact, the agricultural cooperatives have lost momentum of development since the State enacted policies on enlarge size of village cooperative into commune on. Firstly, the cooperative scale was too large while management capacity was too weak causing inefficiency. Secondly, production is undertaken on large-scale field but at low level of production (due to lack of infrastructure, manually production, and limited labour skills) did not increase productivity and outputs. Thirdly, bureaucracy and corruption were very popular in the cooperatives so that the farmers did not want to work for cooperatives and only concerned primarily about their own parcels (each family was assigned by the cooperatives with 5% of the area for private use). Yields on private parcels were 10 times higher than the yield on cooperative lands. In this context, Vietnam fell into shortages of foodstuff. In many areas with small area of agricultural land, the farmers did not enough food to eat. The State issued policy on allotment of cooperatives' land to farmers to use in household size. Since, agricultural production and productivity were increasing. The State had an important decision to renew policies of agricultural land: allocating cooperatives' land to households and individuals to use stably in long-term. With this policy, Vietnam from a food deficit country became one of the three leading rice exporters in the world. Also since then, other agricultural products of Vietnam as cashew, coffee, pepper, shrimp, fish, etc. in turn accounts for the top spot in exports to the world.

B. Doi Moi period to Land law 2003

In 1986, the State of Vietnam decided to carry out DOI MOI (innovation), primarily on Economic reforms. In December 1987, Vietnam's National Assembly passed the first Land Law and Foreign Investment Law in Vietnam. Formally, many people thought that the Land Law must give the appropriate policies to encourage foreign investment. Actually, it can be seen that these two laws are not much related to each other. Land Law in 1987 was developed based on the principles which State subsidies land entirely, land has no value and no price, the State allocates land to those who need land requiring no payment, and recover land from those do not need land. Moreover, because this law was promulgated before agricultural land allocation policy for families and individuals for stable and long term use, therefore it is behind the needs of DOI MOI.

By mid-1991, the State decided to adopt market-economic mechanism with state management under socialist orientations¹⁰. The second land law passed by the National Assembly in 1993 has many changes to create market mechanisms in agriculture economic development. Specific policies include:

1. State allocates land of agricultural cooperatives to households and individuals for using stably in the period of 20 years including: agricultural land for annual crops, aquaculture land, land for making salt with the limit of 3 hectares in the Mekong delta and less than 2 hectares in other places; and 50 years for agricultural land for perennial crops, forest land below 10 hectares in delta and 30 hectares in mountain area.

2. The State allows households and individuals to perform 5 rights to transform, transfer, inherit, lease and mortgage land use. .

3. State leases land to economic organizations and foreign investors to carry out investment projects; investors are only allowed to transfer invested assets on the land and have no right to conduct any trade transaction on land. The State allows the land transferees to continue to rent land. The central government has main authority to lease non-agriculture land (more than 1 ha for investment in industrial and service development, and over 3 ha for infrastructure development), the provincial People's Committee has authority to lease non-agricultural land which is not under the control of the Central Government and agricultural land for organizations; and provincial People's Committees has authority to allocate agricultural and residential land to households and individuals in rural areas.

4. State recovers land for the purpose of national interest, public interest, national defence and security in the cases of extreme necessity. (In fact, the State recovers land to allocate to the investment projects for benefits approved by the State and are considered as for national interest; moreover, investors have no access to land other than accessing through the State because investors have no right to make land transactions)

5. The State recognizes land use rights of current users and people who are allocated or leased land and issue land use right certificate in the standard form throughout the country.

6. State recognizes the value of land and land prices regulated by the State (which is much lower than market price).

The change in the concept of the land without price to land with price is very important, but the price is set by the State which means that the State has not yet approved the market price of land. This shows the nature of market mechanism. On the other hand, the 1993 Land Law did not mention to non-agricultural land as well as the appropriate mechanisms to transfer land from agricultural into non-agricultural land. Although the law stipulates that the State recovers land in extremely essential cases to serve the national interests, public interests, interests of national defence and security, the law does not allow investors to transfer and receive transferred-land. Therefore, the investors can only access land through the mechanism which the State recovers land of current users to allocate to the investment projects in the form of lease of State land. Thus, the mechanism of compulsory

¹⁰ Political platform for national development in the transitional period towards socialism at the 7th National Congress of the Communist Party of Vietnam dated June 27th 1991.

land transfer is applied to all investment projects, including small projects only for profit of private investors.

Up to 1994, the policy of industrialization and modernization of the country has been established as a key development to bring Vietnam from an agricultural country into an industrial country¹¹. During the development process, the State of Vietnam has taken internal resources as the key factors, targeted foreign direct investment, promoted exports of goods and international integration. Again, the Land Law is behind the needs of Doi Moi in fact.

To complement the legal framework for the economic organizations using land, the Standing Committee of the National Assembly promulgated two ordinances (dated 10/14/1994): (1) Ordinance on the rights and obligations of organizations that are allocated and leased the land from the State (2) Ordinance on the rights and obligations of foreign organizations who leased the land in Vietnam. Under these ordinances, organizations are entitled to lease the land from State and are not entitled to convert, transfer, lease the leased-land, but they are allowed to mortgage or contribute capital with the leased-land with different priorities. Enterprises operating in the agricultural sector have the right to mortgage land and contribute capital by leased-land. State-enterprises (state-owned enterprises, enterprises of the social and political organizations, enterprises of defence and security) are entitled to contribute capital by using leased-land.

The above regulations are appropriate in the aspect of not allowing enterprises from trading “raw” land (land which is not invested in), stimulating investment in land, prioritizing enterprises in public sector and agricultural production to transform land use right into capital (through the right to take out mortgage and contribute capital). Such method of “not allow” and “stimulate” is really ‘subsidiary’ and it creates inequality in investment environment. It will not be accepted by the market, because it not only fails to promote the development of real estate market, but also create inequality between SOEs and non-state enterprises. Moreover, if an enterprise takes out mortgage on the land leased from the State, then becomes unable to pay the debt, the State loses land use right over that parcel, while the enterprise loses nothing. Therefore, the enterprise is not responsible for the loan and does not have motivation to develop. In fact, the banks do not receive leased land as mortgage in fear of inability to recover the capital if borrowers cannot repay.

Vietnam’s current laws on land do not stimulate domestic investment because enterprises’ right to approach to land is very limited, and economic organizations are not allowed to make land transfer. The Standing Committee of the NA decided to amend and supplement the Ordinance on rights and obligations of domestic organizations that receive land allocated or leased by the State (dated August 27th 1996), which allows the State to allocate land requiring payment (which actually means the State “sells” the land) to domestic investors for the implementation of projects on construction and trade of houses and technical infrastructure of industrial zones.

In 1998, Vietnam’s NA passed the Amended Law, which includes several articles of Land Law, focusing on extending the right of domestic investors. In addition to projects on

¹¹ Resolution No. 07 - NQ/HNTW, the 7th conference of the Central Committee of the 7th Communist Party of Vietnam dated July 30th 1994 concerning agriculture and technology development to 200 towards national industrialization and urbanization and development of working class in the new period.

construction and trade of houses and technical infrastructure of industrial zones, domestic investors can also use the land allocated by the State with payment required to implement the projects on exchanging land for infrastructure (an investor invests money on infrastructure, such as a road, and the State will reimburse the investment with a parcel with equivalent value) after the project is completed. Besides leasing land and collecting annual payment, according to this Law, the State can also lease land and collect one-off time payment for the entire period. In this case, the investors have the same rights and obligations as investors of the other case (if the left duration is not less than 5 years).

The laws also allow investors to execute their rights on making land transactions including transfer, leasing, mortgage, warranty, capital contribution. Although investors' rights are extended, mechanism for land transfer remains the same: "the State acquires land to lease or allocate to investors" for all types of projects. The Government has provided guidelines in Decrees stating that the investment projects are for national benefits.

The compulsory acquisition of land which is adopted to all types of projects has created a context for administrative intervention into the whole process of land transform. People whose land use right is recovered think they are unfairly treated, especially when land is allocated for projects on construction and trade of houses which give them small compensation but generates great profit from house sales. The number of complaints keeps growing. In quite a few of cases, people who find the inequality so great and refuse to hand over the land are charged of crime against Minister on the strengthening the implementation of measures to protect forests, prevent deforestation and fight against the executors of "land acquisition" and prosecuted in pursuant to criminal laws.

A larger number of active investors are not satisfied with the State acquisition of land due to lots of administrative stops and complex procedures. As a matter of fact, some investors directly negotiate with land users to receive the whole parcel for the project, and then ask the authorized agencies for renting the transferred land. Despite paying twice, the investors feel satisfied because of rapid process of land transfer procedures. Land users are also satisfied since the value gained from land transfer is always higher than compensation if the land is acquired by the State.

C. Period from 2004 to Land Law 2013

For a successful industrialization and modernisation of the country, there is a pressing demand for continuing reforming policy and legislation on land so that they are increasingly in line with market mechanism. The National Assembly had included the formulation of new Land Law to the program on law development in 2003, as well as institutionalized the provisions of Decree No. 26-NQ/TW issued by The 9th Central Committee of the Communist Party of Vietnam which regulate the continuation of reforming policies and laws on land in the context that the progress of industrialization and urbanization was accelerated. (March, 2003).

In November, 2003, the National Assembly certified the third Law on Land which provided a rather comprehensive system of laws on land in Vietnam. Details are as follows:

1. The public ownership of land is specified by detailed regulations on the rights and obligations of State agencies to land, and the rights and obligations of users to land.

2. Land use right is a special merchandise, which was traded on real estate market.
3. Specific stipulations are provided on resolution of land related issued which happened in the past, which affirm that the Government would give the land that the Government borrowed or rented in the past back to the people.
4. Land use right certificate issued to a household includes names of both husband and wife.
5. Land price is set by the Government and must conform to market price in the normal context. In other words, the new fiscal system on land is established basing on a principal saying “land price must conform to the market”.
6. Economic organizations whose land use right is an asset are entitled to make land transactions on the market.
7. Create greater equality between domestic and foreign investors regarding rights and obligations to land (the difference in rights to land is highlighted as: firstly, foreign investors are not allowed to neither act as recipient in a land use right transfer, rent land nor take land use right as capital distribution directly from households or individuals; but can only rent land from the Government; secondly, they are not allowed receive land allocated by even housing development projects; and thirdly, land used by foreign investors are acquired by the State after the investment project, regardless of project type)
8. Narrow down the scope of State acquisition of land to projects serving public benefits and the purpose of defence and security; as well as economic development projects (industrial and urban development projects, projects sharing common use of facilities, projects investment topping the list in terms of amount of capital invested; and projects which are wholly invested by foreign investors). Investment projects excluded from that list have to undertake voluntary land transfer.
9. Specify regulations governing that the valuation of compensation has to be based on market price, and the resettlement areas must provide better or at least similar living conditions in comparison with where people live before land acquisition.
10. Establish a system of administrative procedures for land management which assures specificness, simplicity, low cost, fast process and transparency.
11. Enhance people’s participation in land administration.
12. Improve and complete the mechanism of resolving disputes, complaints and denunciations concerning land related issues, in terms of relevant responsibility of the local authority and competency of the court.

As to guide the implementation of Law on Land, the Government pay attention to issue mechanisms towards a better administration system. Details are as follows:

1. Administrative procedures for land acquisition, land allocation and land lease undertaken by the State for investment projects must show consistency and ensures equality among State owned enterprises, non-state enterprises, joint-stock enterprises and foreign investors of all types of investment projects.
2. If the price issued by Provincial People’s Committee is lower market price, the Provincial People’s Committee is responsible for setting land price for 4 particular cases,

including: the State allocates land requiring payment of land use fee, the State lease land; the State gives compensation for land acquisition; and equitization of SOE.

3. Specify the amount of compensation for land recovered according to market right as well as the supports concerning loss of livelihood, unemployment and life changing due to land acquisition.

4. Transparently undertake all the activities including: land use planning; land acquisition, allocation and lease; giving compensation, supports, arranging resettlement; issuing LURC; and processing procedures for land transactions.

5. The people participate in developing options for land use right planning; giving compensation, supports, resettlement; confirmation when LURC is issued, especially when the land is used without papers on land use right.

6. Specify the order and procedures for adopting administrative procedures on land, including disciplines for officials who do not comply with such regulations

Besides the improvements, Law on Land 2003 and its implementation shows quite a few shortcomings, details are as follows:

1. The system for land use planning works ineffectively and contains overlaps in the relation with socio-economic planning and construction planning.

2. Regulated duration for using agricultural land remains unchanged since Land Law 1993 due to failure in harmonizing 2 groups of opinions, in which one concludes opinions that majorly come from the northern provinces supporting the reallocation of land after the using period is up; and the other are from southern provinces saying their wish to have this using duration either eliminated or lengthened. Area quota for using agricultural land as stipulated is the area limit for receiving land use right transfer. According to regulations of the Standing Committee of the NA, quota for using agricultural land doubles the quota allocated by the State as provided in Law on Land 1993. Such duration and time limit do not facilitate the farmers to make long-term investment to improve productivity and production output.

3. Law on Land 2003 does not govern the allocation of land for community for customary use. Government's policy supports people of ethnic minorities by not allocating land the second time free of charge. Land use right of such allocated land shall not be transferred within 10 years.

4. Land price set by the State always equals to between 10% and 70% of market price; land price set by PPC for particular cases is always under market price also; which are the main reasons for the increasing number of complaints concerning land issues. 80% of administrative complaints made by the people relate to land administration, in which 70% relates to investment projects where land acquisition mechanism takes effect.

5. The system of land taxation does not operate towards becoming an effective tool for land management in market mechanism.

6. Despite great attempts, the mechanism for compensations, supports, and resettlement has not yet ensure legal benefits for people whose land use right is recovered.

7. Corruption in land management is always remarkable, and majorly takes place when land is allocated or directly leased to investors for self-benefits and in the first issuance of LURC.

8. The implementation of Law on land remains poor in terms of both managing bodies and land users.

9. The authorization of land management to local levels is not conducted in line with a good monitoring – evaluating system which would assist in controlling the practice of authority at local levels.

10. The current resolution of administrative complaints related to land fails to satisfy practical needs, the number of complaints made is directly proportional to area of land used for investment projects.

D. Land Law 2003 and forecasts

According to the NA's legislative program, the amendment of Constitution as well as amendment of Land Law has been viewed as national focuses in 2012 and 2013. In November, 2013, the (amended) Constitution and (amended) Land Law were passed by the NA. Land Law 2013 provides some new regulations including:

1. Land use planning is the aspect of land management that witnesses the most changes including: (1) land use planning at communal level is integrated in land use planning at district level; (2) land use plan at district level is developed annually; (3) the people's opinions are collected during development of land use planning options at all levels, and particularly during land use planning at district level, a community meeting must be hold in the planning areas to collect people's opinions; (4) planning methodology has been changed from of planning by total areas into planning by zones; (5) specify the content of land use plans for administrative agencies at levels, and for defence and security.

2. The criteria for land acquisition mechanism to be adopted conform better to international standards: the State acquires land when it is necessary for the purposes of defence, security, socio-development, and for national and public benefits. The assessment of "real necessity" is authorized to the NA, the PM and Provincial People's Councils. The scope of projects to which this mechanism is applied is also narrowed down, and now excludes: (1) projects of group A with large amount of investment; (2) 100% foreign invested projects.

3. SED projects can approach by auctioning for land use right regarding land acquired by the State once land use plan is approved. For infrastructure construction projects whose influence higher land price, the State acquire an area which is larger than the area needed for the infrastructure to auction that different area. The State undertakes resettlement at place if the different area is used for housing development projects.

4. Duration for using agricultural land, production forest land, aquacultural land, and land for salt production as regulated is 50 years and users of such types of land can get the duration lengthened to the next period (which is currently 20 years for agricultural land for annual crops, aquacultural land and land for salt production; and 50 years for agricultural land for perennial crops and land of production forest).

5. Area quota for receiving land use right transfer is set by the Government but shall not exceed 10 times of quota for land allocation (currently, the Standing Committees of the NA stipulates that quota for receiving land use right transfer shall not exceed 2 times of quota for land allocation, in which quota for allocation of agricultural land for annual crops, aquacultural land and land for salt production is 3ha in Me Kong River Delta and 2 ha in other regions, quota for allocation of agricultural land for perennial crops is 10 ha of plateau or 30 ha of mountainous land).

6. The allocation of land for communities to protect and develop protection forest is governed by Law on Forest Protection and Development.

7. Acquire the land which is located to organizations but is not used, used for the wrong purpose, contracted, leased, illegally lent, encroached or occupied in order to establish land fund to allocate to organizations, households, individuals, in which households or individuals of ethnic minorities who do not have or do not have enough land for production in the localities are prioritized. People who receive land allocated the 2nd time without paying land use fee is not allowed to make land use right transfer within 10 years.

8. Replace the issued LURC which includes the name of husband or wife by a LURC which includes names of both husband and wife.

9. The pricing framework set by the Government and price list set by Provincial People's Committee are issued every 5 years, ad hoc adjustments are made when the price fluctuates by 20%.

10. The price list set by Provincial People's Committee is used in some certain circumstances such as identifying the amount of taxes, fees, charges, and sanctions against administrative violations, etc. To define the value of land use right in cases including State allocation of land requiring land use fee, State recognition of land use right, State lease of land, compensation for State allocation of land, and SOE equitization, Provincial People's Committee must decide the land price for each particular case.

11. Establish Land Price Appraisal Council to appraise land price before it is set by the Provincial People's Committee for a certain case. The PPC's chairperson is the chairperson of council, and it is mandatory that the council provides independent appraisal service.

12. Independent land price service plays the role of defining appropriate land price for authorized State agencies to examine, appraise and make decision.

13. Specify the regulations on compensation, supports and resettlement.

14. Make decision of land acquisition and approval of compensation, supports and resettlement at the same time to avoid the difference in land price because land price when land is acquired differs from that when compensation is made.

15. Specify the collection of opinions of people who live in the acquisition areas concerning options for compensation, supports and resettlement.

16. Specify the resolution of "pending planning" and "pending project".

17. Stipulate the domination of transparency and people's participation in legal system.

Land Law 2013 takes effect from July 1st 2014. From the current moment to then, the Government will successively issue guiding Decrees for the implementation of Law on land, including detailed stipulations under the authority of the Government.

As reviewing the details of Law on Land 2013, some analysis might be developed as follows:

1. Will this law solve 2 major shortcomings which were observed during 2003 – 2013? Firstly, corruption in land management has been out of controlled. Secondly, the number of complaints concerning land issues remains high. These two pressing issues have close relation to State's mechanisms for land acquisition, land price setting and implementation of compensation, supports and resettlement. It is required for these three mechanisms to be drastically reformed to curb corruption and reduce complaints.

2. Requirements on social sustainability being associated to special land policies supporting the vulnerable such as farmers, the poor, women, and ethnic minorities are needed. Law on land 2013 has paid attention to this but fails to provide appropriate solutions, remarkably the establishment of a mechanism for to allocation for ethnic minorities to use under their customs; the minimization of shortcomings on agricultural land use for farmers (duration and quota); State's best supports to ensure land tenure right of women (not only by including names of both husband and wife on LURC, but also replace the LURC issued under name of husband or wife by LURC under names of both husband and wife, as well as including names of both husband and wife in decisions of land allocation decision, compensation, supports, resettlement, etc.); land for construction of apartment houses the special land use regime as well as for the poor and people with low income, etc.

3. Regulations on environmental sustainability and response to climate change have relatively close relation to land use but are not provided in Law on Land 2013. This should be put in to special consideration when Government's Decrees are developed. The goal to be set is that environmental pollution and climate change can be controlled through implementation of laws on land.

5 Land governance Assessment

5.1 Legal and institutional framework

Vietnam is in a move towards the rule of law. One of crucial responsibilities of National Assembly is law-making. Procedures for making most of the laws in Vietnam are following: the Government submits a proposal to National Assembly; which will be appraised by a Committee under Government, before the National Assembly discusses, give comments, revises the proposal and passes the law. It is said that the procedures are less objective; because Government, as a law enforcement agency, always tends to enhance its power. They are planning to transfer the entire procedures for deputies of National Assembly but which remains as an intention.

The Land Law is one of the law specifications that but draws much attention from public agencies and the people. It was one of legislations issued right after the decision of Doi Moi. Since 1987, the Vietnamese Government has promulgated 4 Lan Laws and 2 amended and supplemented laws. As so, the State has passed 6 Land Laws during 25 years, and a law on land was passed every 4 years. Up to now, the law in 2003 is the longest lasted one (10 years). It demonstrated that the Government has taken a strong consideration toward land issues, but without long-term vision.

Institutionally, the 4 level system of land administration has been established and maintained stably since 1993. Responsibilities of each level became clearer and less overlapped, except for several uncertain points between competence to decide public property on land (by Ministry of Finance) and competence of land administration (by provincial People Committees). Public ownership on land has been established and kept stably since 1980. Therefore, provincial People Committees play roles as a representative of ownership and a management agency at the same time. The unclearness between owners and manager has been so-called “player-referee”.

It is said that in near future there would be many modifications within the legislation on land in Vietnam in order to follow the market-oriented economy; especially when Vietnam is attempting to become an official member of the World Trade Organization (WTO).

6.1.1. Recognition and enforcement of rights (LGI-1, LGI-2 and LGI-3)

- **Dimensions of LGI-1 – *(Recognition of a continuum of rights: the law recognized a range of rights held by individuals as well as groups (including secondary rights and rights held by the minority communities and women)***

<p>LGI-1.i</p> <p>Rural land tenure rights are legally recognized.</p> <p>(Category: B)</p>	<p>A – Existing legal framework recognizes rights held by more than 90% of the rural population, either through customary or statutory tenure regimes.</p> <p>B – Existing legal framework recognizes rights held by 70% - 90% of the rural population, either through customary or statutory tenure regimes.</p> <p>C – Existing legal framework recognizes rights held by 50% -70% of the rural population, either through customary or statutory tenure regimes.</p> <p>D – Existing legal framework recognizes rights held by less than 50% of the rural population, either through customary or statutory tenure regimes.</p>
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1. Analysis:

One of key issues for legislation on land in Vietnam is the recognition of land use rights for those who have been using the land. Authorities shall not banish people away from public land where they encroached before. They are allowed to stay in the land until it is acquired by the State to use under planning. At that point of time, encroachers receive no compensation for land but for property on land as well as support of career change and new settlements especially for homeless people.

Regarding to legal land use, the Government issues Land Use Right Certificates (LURC) if the land is being in line with the overall land use plans without any disputes. Article 49 of Land Law 2003 regulates LURC issuance; Article 50 regulates LURC issuance in case of land with expired documents; Decree 84/2007/ND-CP regulates LURC issuance in case of no documents proving land use right. In 2009, National Assembly announced a joint registration system and a joint certificate for land and property on land (including ownership over houses and other assets-attached-to land which hereinafter referred to as the Certificate). National Assembly also passed a Resolution to speed up the basic completion of first-time LURC issuance in 2013 (basic completion means at least 85% of cases). In reality, progress of completion shall be constrained due to: (i) no documents on land use rights, (ii) houses with uncompleted legal procedures or non-compliance with the law on construction.

The certification of rural land use rights is also facing with many limitations. Before 1993, rural land through customary had a long-term use. Since 1993, Land Law set a time limit for rural land use which restricted the State’s recognition on rural land through customary. In some northern areas, land users transfer land use right without registration, forming an informal land use right market (MONRE, 2013).

2. Policy Recommendations: (i) For rural land, legislation should remove the using time limit and the restriction of transferring land use rights in order to guarantee that the State fully recognizes lands inherited from generations (ii) It is necessary to urgently monitor forest and rural lands which used to be granted for agriculture and forest enterprises and then return the lands for ethnic minority communities.

<p>LGI-1. ii</p> <p>Urban land tenure rights are legally recognized.</p> <p>(Category: B)</p>	<p>A – Existing legal framework recognizes rights held by more than 90% of the urban population, either through customary or statutory tenure regimes.</p> <p>B – Existing legal framework recognizes rights held by 70% - 90% of the urban population, either through customary or statutory tenure regimes.</p> <p>C – Existing legal framework recognizes rights held by 50% -70% of the urban population, either through customary or statutory tenure regimes.</p> <p>D – Existing legal framework recognizes rights held by less than 50% of the urban population, either through customary or statutory tenure regimes.</p>
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1. Analysis:

Vietnam Land Law does not differentiate criteria for granting LURC for rural and urban lands. The process of LURC issuance and land use right recognition on urban land is happening similar in rural land as analysed in Dimension LGI-1 above. Encroachment of public land is popular in urban areas, especially in suburbs. Informal real estate markets increase significantly, though there are no official reports so far. Certified urban lands accounted for 64% of total areas, but similarly to other types of land, the Government is directing big cities to speed up LURC issuance to basically complete by the end of 2013 (Source: Land Law 2003, MONRE, 2013).

2. Policy Recommendation: Unlike in rural areas, land-related issues in urban areas are more complex. Informal market accounts for a significant proportion of the transactions, but we need to have a survey to estimate this ratio. Corruption in land happens mostly in urban areas. Such as incidents as illegal constructions, constructions inconsistent with approved plans, happen in many places. Many projects were allocated land for years, but have not put in use, or do not construct according to the plans. To resolve such situation, it is necessary to enhance and supervise the implementation of laws on land and the detection of corruption on land administration.

<p>LGI-1.iii</p> <p>Rural group rights are formally recognized.</p> <p>(Category: A)</p>	<p>A – The tenure of most groups in rural areas is formally recognized and clear regulations exist regarding groups’ internal organization and legal representation.</p> <p>B – The tenure of most groups in rural areas is formally recognized but ways for them to gain legal representation or organize themselves are not regulated.</p> <p>C – The tenure of most groups in rural areas is not formally recognized but groups can gain legal representation under other</p>
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	<p>laws (e.g. corporate law).</p> <p>D – The tenure of most groups in rural areas is not formally recognized.</p>
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1. Analysis:

Laws on land in Vietnam regulate specifically regarding to land co-users as a group of people:

a. Where the land user is a community of citizens, LURC shall be delivered to the legal representative of such community of citizens.

b. Where the land user is a household, LURC shall be issued to both wife and husband of such household.

c. Where the land user is an organization, LURC shall be issued to the person assuming the legal highest responsibility of such organization.

d. Where the land user is a resident area, LURC shall be issued to the Management Board of such resident area.

d. Where the land user is a religious establishment, LURC right shall be issued to the person assuming the highest responsibility of such religious establishment.

e. Where the land user comprises a number of individuals, family households and organizations, LURC shall be issued to each individual, family household and organization being a land co-user.

g. Where the agricultural and non-agricultural land use by a commune People Committee, LURC shall be issued to the Chairman of such commune People Committee.

Institutionally, it is noticeable that a community of citizens has land use rights relevant to purposes of religious, customary or culture but not for business practices.

2. Policy Recommendation: Most of experts recommended that laws on land should recognize land use right for community of citizen for business purposes.

<p>LGI-1.iv</p> <p>Urban group rights are recognized in informal areas. (Category: C)</p>	<p>A – Group tenure in informal urban areas is formally recognized and clear regulations exist regarding the internal organization and legal representation of groups.</p> <p>B – Group tenure in informal urban areas is formally recognized but ways for them to gain legal representation or organize themselves are not regulated.</p> <p>C – Group tenure in informal urban areas is not formally recognized but groups can gain legal representation under other laws (for example corporate law)</p> <p>D – Group tenure in informal urban areas is not formally recognized.</p>
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1. Analysis:

Legislations of land use rights on informal urban areas for organizations has been established strictly, unlike for individuals and family households. Land used by organizations without LURC is not recognized by the Government; however, they are allowed to remain in the land.

As stated above, regarding to individuals and family households, the Government recognized their rights as long as there are no disputes and lands are used stably accordance with approved plans. The Government stated that those used land before 15/10/1993 (in which the Law on Land 1993 came into effect) do not need to pay land use fee; and those used land after this date must pay 50% of the fee. The regulation is not applicable for organizations.

Experts discussed that informal areas are supposed not to have any certificates. While the organizations are only certified with land use rights if they have legal documents. Without official documents, the organizations are not granted with land use right certificates. Thus, land law does not recognize land users' representative to be the organizations' representatives. Even if organizations do not have official documents, land associated assets are not legal. In fact, the organization does not have land use right certificates, they are not forced to leave the land immediately. Land law also state that the State recognizes land associated construction as the religion facilities with certificates. For reasons above, the panel members rank this dimension with **category C**.

2. Policy Recommendations: Laws on land should develop solutions to deal with problems in informal areas and set up long-term plans for eliminating gradually such areas.

<p>LGI-1.v</p> <p>When desirable, opportunities for tenure individualization exist and are accessible</p> <p>(Category: C)</p>	<p>A – When desirable, the law provides opportunities for those holding land under customary, group, or collective tenure to fully or partially individualize land ownership/use. Procedures for doing so are affordable, clearly specified, safeguarded, and followed in practice.</p> <p>B – When desirable, the law provides opportunities for those holding land under customary, group, or collective tenures to fully or partially individualize land ownership/use. Procedures to do so are affordable and include basic safeguards against abuse but are not always followed in practice and are often applied in a discretionary manner.</p> <p>C – When desirable, the law provides opportunities for those holding land under customary, group, or collective tenures to fully or partially individualize land ownership/use. Procedures are not affordable or clear, leading to widespread discretion or failure to apply even for cases where those affected desire to so.</p> <p>D – Although desirable, the law provides no opportunities for those holding land under customary, group, or collective tenures to fully or partially individualize land ownership/use.</p>
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1. Analysis:

In some cases, member of a group of land co-users may fully or partially individualize his or her land use rights as soon as a mutual agreement is established. Detailed procedures are as following: (i) family households inherit land for their heirs; (ii) cooperatives contribute their land and dissolve after that; (iii) group of land co-users divide land for its members; (iv) land investor for enterprises with an prior agreement of capital withdraw. Lands used by a community of citizens as a village or a parentage for cultural and religious purposes must not be divided to members.

The MONRE issued detail regulations on individualization of land use rights by integrated principles; however, the process stays complicated and ineffective, mainly due to land measurement and map revision. Formal expenses include: (i) notary fee - 0.1% of land price; (ii) registration fee – 0.5% of land price; (iii) cadastral surveying fees set by Provincial People’s Committee (commonly between 200,000 VND and 1,000,000 VND for urban land with different acreage and a half of that price for agricultural land in rural areas); (iv) administration fee and appraisal fee on land use right (45,000 VND for a registration form; 30,000 VND for excerpting documents for urban lands and a half of the price for rural areas); (v) income tax from land use right transfer: 25% or 2% of real estate’s value for land whose price and relevant expenses cannot be defined (except for tenure individualization for family members included in the first rank of inheritance). Informal expenses include: consultancy fee or payment for intermediaries who help implement administration procedures for the certificate, commonly called “broker”.

(Data sources: Laws on land; Law on personal income tax and Circular No. 124/2011/TT-BTC of MOF including provisions on registration fee; Report on “Identification and Detection of Corruption in Land Administration” – by the World Bank).

2. Policy Recommendations: Legislative system should generate better regulations on mechanism of splitting individual land use rights from common land use rights as the request of members, but no need for a mutual agreement. Orders and procedures should not limit in splitting parcel of lands but expand to wider scale for every particular case.

- **Dimensions of LGI-2 - (Enforcement of rights: The rights recognized by law are enforced (including secondary rights as well as rights held by the minority communities and women)**

LGI- 2.i Most communal or indigenous land is mapped and rights are registered (Category: A).	A – More than 70% of the area under communal or indigenous land has boundaries demarcated and surveyed and associated claims registered. B – 40-70% of the area under communal or indigenous land has boundaries demarcated and surveyed and associated claims registered. C – 10-40% of the area under communal or indigenous land has boundaries demarcated and surveyed and associated claims registered.
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	D – Less than 10% of the area under communal or indigenous land has boundaries demarcated and surveyed and associated claims registered.
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1. Analysis:

Laws on land in Vietnam recognized two types of land used by a community of hamlets and villages: (i) recognized land of hamlets and villages used for preservation of traditional identity and religion; (ii) agricultural land used for public purposes and non-agricultural land used by commune People Committees. Article 9, 50 and 71 of the Land Law 2003 regulate that these types of land must be surveyed and registred in cadastral record.

According to figures synthesized by MONRE, the rate of LURC issuance is 83% for religious land and 81.8% for agricultural production land. In short, over 70% of communal land or indigenous land is demarcated and surveyed, and relevant requests are registered.

(Data sources: The Law on Land 2003, Circular by MONRE, Report on LURC issuance in 2013 of MONRE submitted to the Prime Minister in June, 2013).

2. Policy Recommendations: Policies on land recognition and land allocation for hamlets and villages through customary are effective solutions to support the poor people, those do not own production land. Laws on land should be changed in accordance to these policies.

<p>LGI -2.ii Individually held land in rural areas is formally registered (Category: B).</p>	<p>A – More than 90% of individual land in rural areas is formally registered.</p> <p>B – Between 70% and 90% of individual land in rural areas is formally registered.</p> <p>C – Between 50% and 70% of individual land in rural areas is formally registered.</p> <p>D – Less than 50% of individual land in rural areas is formally registered.</p>
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1. Analysis:

According to laws on land in Vietnam, the term “first-time land registration” has same meaning with “the State’s recognition of land use rights” and “LURC issuance”. However, in other countries, these terminologies are understood differently, for example, a registered land does not refer to a recognized land or the land which was granted a LURC. The others even issue different certificates with different status of recognition.

The result of LURC issuance is the result of first-time land registration which will be recognized by the State (in accordance with guidelines on relevant procedures). Lands held by individuals in rural areas can be considered as rural homestead land, agricultural land, non-agricultural land used by households or individuals. According to the report of MONRE submitted to the Government on June 2013, certified rural land accounts for 82.9% of total rural land.

(Data sources: Report on issuance of LURC and ownership of land associated houses and other properties in 2013 by MONRE submitted to the Prime Minister in June, 2013).

2. *Policy Recommendations:* This is one of critical dimension regarding to rural land administration with land held by individuals or family households. To enhance land use effectiveness, it is necessary to adjust the following policies: (i) widen system of first-time land registration for providing various types of certificates with different legal status accordance with restrictions on rights; (ii) reduce financial obligations for rural land registration.

<p>LGI -2.iii Individually held land in urban areas is formally registered (Category: B).</p>	<p>A – More than 90% of individual land in urban areas is formally registered*. B – Between 70% and 90% of individual land in urban areas is formally registered. C – Between 50% and 70% of individual land in urban areas is formally registered. D – Less than 50% of individual land in urban areas is formally registered.</p>
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1. *Analysis:*

There are no difference between the registration of rural land and urban land. As stipulated by current laws on land, lands held by individuals or family households in urban areas may refer to homestead land, land for non-agricultural business and land for agricultural production.

According to the report of LURC issuance synthesize by MONRE, LURC issuance for urban land accounted for 76% of total land held by individuals and households.

(Data sources: Report on issuance of LURC and ownership of land associated houses and other properties in 2013 of MONRE submitted to the Prime Minister in June, 2013).

2. *Policy Recommendations:* This is one of crucial criteria for urban land management. To enhance land use effectiveness, it is necessary to adjust policies to widen the system of first-time land registration to provide various types of certificate relevant to different legal status accordance with restrictions on rights concerning informal land use in urban area.

<p>LGI- 2.iv Women’s rights are recognized in practice by the formal system (in both urban and</p>	<p>A – More than 45% of land registered to physical persons is registered in the name of women either individually or jointly. B – Between 35% and 45% of land registered to physical persons is registered in the name of women either individually or jointly. C – Between 15% and 35% of land registered to physical persons is registered in the name of women either individually or jointly.</p>
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rural areas). (Category: B)	D – Less than 15% of land registered to physical persons is registered in the name of women either individually or jointly.
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1. Analysis:

Since 2003, names of both wife and husband have been written in LURC for a parcel of land which held by wife and husband. However, the process of changing LURC issued before 2003 with only husband’s name to LURC with both husband’s and wife’s names remain very slowly implemented. Currently, there are no official reports on LURC issuance with women’s names.

According to survey report of “*Women’s rights for access to land – View from the status of issuing LURC under two names in 6 long-term development areas*” published on 12 October 2008 by ActionAid Vietnam, in 6 provinces of Hoa Binh, Lai Chau, Ninh Thuan, Gia Lai, Tra Vinh and Vinh Long, LURC is majorly issued under one name (the husband’s name). The rate of LURCs issuance under the names of husband and wife is very low: 1-5% in Hoa Binh and Lai Chau, 10-15% in the others. This process is only popularized in big cities.

Additionally, as stated in the Land Law 2003, the process of replacing LURC with only husband’s name with the ones with both husband’s and wife’s names is not compulsory but undertaken on demand. It is a disadvantage against the policy on eliminating all forms of women discrimination.

According to the current structure of urbanization, 32% households live in urban areas granted LURC with both husband’s and wife’s names; 68% households live in rural areas, but 10% of which granted LURC with both husband’s and wife’s names (as stated in survey statistic in northern, central and southern regions by Action Aid). In general, only 38.8% of total national-wide households have been issued LURC with both husband’s and wife’s names written on.

(Data source: Synthesis of result of LURC issuance in localities nation-widely; Report by Action Aid).

2. Policy Recommendations: As stated in the Declaration on the Elimination of Discrimination Against Women on 18/12/1979, legislative system guarantee the equality for women regarding to name of land user on LURC as well as other aspects of land policies. Therefore, all decisions on land allocation, land lease or compensation during the State’s land acquisition need to be written with both husband’s and wife’s names. The Government should invest to exchange LURC with one name to the ones with both names.

LGI- 2.v A condominium regime provides for appropriate management of common property (rules for common	<p>A- Common property under condominium is recognized and there are clear provisions in the laws to establish arrangements for the management and maintenance of this common property.</p> <p>B- Common property under condominium is recognized but the law does not have clear provisions to establish arrangements for the management and maintenance of this common property.</p> <p>C- Common property under condominium has some recognition but</p>
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property for management of driveways, parking, gardens, stairways, etc.) (Category: B)	there are no provisions to establish arrangements for the management and maintenance of this common property. D- Common property under condominium is not recognized.
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1. Analysis:

There were no construction projects of condominium before 1998. In order to deal with housing problems, the Government then encouraged development projects of condominium by giving land for free. In reality, condominium grew quickly without proper management framework. In 2005, the Law on Housing was passed by National Assembly with several regulations on development projects of condominium. Disputes between investors and buyers about private or common property and service fees have been increased in most of provinces. Later on, the Ministry of Construction promulgated a regulation on condominium that was not strong enough to solve ongoing disputes. As expected, in 2014 the National Assembly will pass an amended law on housing, including a chapter on condominium. Therefore, it can be concluded that a legislative framework on common property under condominium has been set up, which is not feasible for establishing a mechanism to preserve and maintain this common property as well as to reduce ongoing conflicts in many projects of condominium.

In detail, the legislative framework on condominium by the Ministry of Construction remains weak, especially regarding to the issue of common property. Much of property is being owned by investors. The incoherence results in many disputes. Moreover, a ministerial legislative framework is not feasible to put in effect compared with a central law while many countries have law on condominium.

(Data sources: the Law on Land 2003; the Law on Construction 2003; the Law on Housing 2005, the Government’s Decrees; Circular by the Ministry of Construction relevant to management on condominium; news about disputes in condominium).

2. Policy Recommendation: It is necessary for National Assembly to promulgate a specific law on condominium. If not possible, the chapter on condominium in the amended Law on Housing should contain particular regulations about rights of people toward common property, mechanism of housing maintenance, service providing and solutions for out-of-dated condominium.

LGI 2 -vi There is compensation for loss of rights due to land use changes (Category: no ranking since this	A – Where people lose rights as a result of land use change, outside the expropriation process, compensation in cash or in kind are paid such that these affected people have comparable assets and can continue to maintain the prior social and economic status. B – Where people lose rights as a result of land use change, outside the expropriation process, compensation in cash or in kind are paid such that these affected people have comparable assets but
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dimension is not relevant in Vietnam)	<p>cannot continue to maintain the prior social and economic status.</p> <p>C – Where people lose rights as a result of land use change, outside the expropriation process, compensation in cash or in kind are paid such that these affected people do not have comparable assets and cannot continue to maintain the prior social and economic status.</p> <p>D – Where people lose rights as a result of land use change, outside the expropriation process, compensation is not paid.</p>
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1. Analysis:

Laws on land in Vietnam promulgated evidently two mechanisms of land conversion: (i) compulsory land conversion, by which the State undertakes land acquisition and provides compensation, support or resettlement for land users and then re-allocates the land for investors with fee of land using or land leasing; (ii) voluntary land conversion based on a completely agreement between investors and land users. Thus, land transaction must be taken under a mutual agreement and understanding. Land use rights will be lost only in cases of natural disasters such as landslides, natural changes, etc. The State will then support land users the highest range as possible.

This dimension does not generate in Vietnam.

(Data sources: the Land Law 2003 and other instructing Circulars).

2 Policy Recommendations: the regulations on preventing loss of land use right not because of State acquisition of land are reasonable.

- **Dimension of LGI-3- Mechanism of recognition of rights: The formal definition and assignments of rights and process of recording of right records with actual practices or, where it does not, provides affordable avenues for establishing such consistency in a non-discriminatory manner.**

<p>LGI-3.i</p> <p>Non documentary forms of evidence for recognition of property claim are acceptable.</p> <p>(Category: A).</p>	<p>A- Non-documentary forms of evidence are used alone to obtain full recognition of claims to property when other forms of evidence are not available.</p> <p>B- Non-documentary forms of evidence are used to obtain recognition of a claim to property along with other documents (e.g. tax receipts or informal purchase notes) when other forms of evidence are not available. They have about the same strength as the provided documents.</p> <p>C- Non-documentary forms of evidence are used to obtain recognition of a claim to property along with other documents (e.g. tax receipts or informal purchases notes) when other forms of evidence are not available. They have less strength as the provided documents.</p>
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	D- Non-documentary forms of evidence are almost never used to obtain recognition of a claim to property.
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1. Analysis:

Laws on land in Vietnam have set up regulation on land use right held by family households and individuals, even in case of no formal documents for recognition of land use rights. Decree No. 84/2007/ND-CP by the Government regulates LURC issuance with non-documentary forms of evidence belonged to those who has lived at the starting time of land use or on the date 15th October 1993 (in which the Law on Land 1993 came to effect). This regulation is applied popularly throughout many localities.

(Data source: the Law on Land 2003, Decree No. 84/2007/ND-CP by the Government).

<p>LGI-3.ii</p> <p>There is formal recognition of long-term, unchallenged possession.</p> <p>(Category: B)</p>	<p>A- Legislation exists to formally recognize long-term, unchallenged possession and this applies to both public and private land although different rules may apply.</p> <p>B- Legislation exists to formally recognize long-term, unchallenged possession but applies only to one specific type of land (either public land or private land).</p> <p>C- Legislation exists to formally recognize long-term, unchallenged possession but due to the way this legislation is implemented, formal recognition is granted to very few or no applicants for recognition on either public or private land.</p> <p>D- Legislation exists to formally recognize long-term, unchallenged possession does not exist.</p>
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1. Analysis

Laws on land in Vietnam regulates: (i) the duration of use on agricultural land for annual trees, aquacultural land and land for salt production do not last longer than 20 years; (ii) the duration of use on agricultural land for perennial trees and forest production land do not last longer than 50 years (the Law on Land 2003 stated the common period of 50 years); (iii) the duration of use on land for non-agricultural business does not exceed 50 years; unless the business is taken under tight condition of trading, the duration of use does not exceed 70 years; (iv) the duration of use on other types of land (residential land and public land) is unlimited.

(Data source: the Law on Land 2003 and the Law on Land 2013).

2. Policy Recommendations: To encourage the long-term investment on land, it is necessary to eliminate the duration of use for lands held by households or individuals.

LGI 3.iii	A – The costs for first time sporadic registration for a typical
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First-time registration on demand is not restricted by inability to pay the formal fees. (Category: B)	<p>urban property do not exceed 0.5% of the property value.</p> <p>B – The costs for first time sporadic registration for a typical urban property do not exceed 2% of the property value.</p> <p>C – The costs for first time sporadic registration for a typical urban property do not exceed 5% of the property value.</p> <p>D – The costs for first time sporadic registration for a typical urban property exceed 5% of the property value.</p>
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List the actions or documentation required and associated costs for formal registration:	Administrative Activity Cost	Judicial Costs / Taxes Incurred
1. Charges for authentication of documents and papers.	√	
2. Charges for surveying the parcel	√	
3. Land use fees (charged or not charged depending on origin and time of land use), which in some cases can make a large amount, for example 170 million dong on 8m² exceeding quota in HCM city (data collected from Vietnam TV's News on May 2013)		√
4. Registration fee (which under current regulations equals 0.5% of land value * certified area)	√	
5. Administration fee (which is a tiny amount)	√	

1. Analysis:

In urban areas, fees for first-time registration include:

- a. Fees for notarizing and authenticating documents or original papers in ward People Committee (low rate of costing).
- b. Fee for cadastral surveying fees set by Provincial People's Committee (200,000 VND to 1,000,000 VND for urban land with different acreage)
- c. Registration fee accounted for 0.5% of assets' value according to the State's price (equal averagely by 50% of market price)
- d. Administration fee and fee for appraising applications (65,000 VND / certificate)
- đ. Tax on transferring land use rights: if land use rights were transferred without

paying tax, tax will be accounted for 2% of total asset value according to the State's price (equal averagely by 50% of market price). This tax is not applicable in all cases.

e. Fee of land use will be counted as following:

- No fee is charged for in-limit residential land used before 15 October 1993
- 50% of land use fee is charged for out-of-limit residential land used before 15 October 1993
- 50% of land use fee is charged for in-limit residential land used from 15 October 1993 to before 01 July 2004
- 100% of land use fee is charged for out-of-limit residential land used from 15 October 1993 to before 01 July 2004.
- 100% of land use fee is charged for all lands used after 01 July 2004

It is usually a big amount of money which exceeds the paying ability of land users, but not mandatory for every case.

Thus, the land use fee in some specific cases will be charged as following:

- a. Holders using ancestral land pay averagely around 600,000 VND and 0.25% value of assets (at market price) for first-time registration.
- b. Holders using land which transferred from ancestral land pay averagely 600,000 VND and 1.25% value of assets (at market price) for first-time registration.
- c. Holders those do not pay first-time registration's fee later on must pay averagely 600,000 VND and 25% value of assets (at market price).

The panel experts said that land use fee is an obvious obligation which could not accounted for first-time land registration fee. The fee should be charged 600,000 VND at highest level and 1.25% value of assets (at market price). This dimension was given a **Category B**.

(Data source: Decree No. 198/2004.ND-CP, Decree 120/2010/ND-CP, Decree 23/2010/ND-CP on financial responsibility for first-time land registration).

<p>LGI 3.iv First-time registration does not entail significant informal fees. (Category: C)</p>	<p>A – There are no informal fees that need to be paid to effect first registration.</p> <p>B – There are informal fees that need to be paid to affect first registration, but the level of informal fees is significantly less than the formal fees.</p> <p>C – There are informal fees that need to be paid to effect first registration and the level of informal fees is about the same as the formal fees.</p> <p>D – There are informal fees that need to be paid to effect first registration and the level of informal fees is significantly higher than the formal fees.</p>
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1. Analysis:

Informal fees include: consultancy fee, payment for intermediaries hired to carry out administrative procedures for LURC which are commonly called “brokers”.

According to statistics by MONRE, the lack of registration officers (12 officers in urban areas and 3-7 officers in other areas) leads to harassment in process of LURC issuance. Besides, registration fee is too low compared with notary and authentication fees. In several cases, no fee is applicable. Thus, registration offices have no revenues and actual incomes of officers remain low, for example in districts of Yen Bai province, salary of temporary officers is about 1,500,000 – 2,000,000 VND / month and 3,000,000 – 4,000,000 VND / month for permanent officers. The informal fees for first-time land registration are less popular compared with reports by online newspapers.

However, in fact, it’s seen that informal fees occur mainly in urban areas and rural areas supposed to be urbanized. No informal fees occur in rural areas. Thus the evaluation of this dimension in urban areas will be different from rural and mountainous areas. In Hanoi, Ho Chi Minh City or other big cities with high price of land, a C rank is given; on the other hand, a Category A is given for rural and mountainous areas. In many rural areas, district authorities use state budget for LURC issuance. However, in many cases, holders could not be able to receive the Certificate due to high payment of informal fee.

(Data source: Activity reports of land registration offices; reports of “Identification and Detection of Corruption in Land Administration” by the World Bank).

2. *Policy Recommendations:* These comments showed that it is necessary to adjust 3 policies on first-time land registration toward LURC issuance: (i) registration fee should be removed in rural and mountainous areas in order to reduce financial obligation for farmers; (ii) real estate price set by the State in urban areas should be increased up to 80% equal with market price and adjust fee rates closely with market price; (iii) registration fees should be adjusted reasonably, registration offices are allowed to provide high-quality services, the State pays registration fee out of State budget in cases of fee-free registration.

<p>LGI 3.v Formalization of urban residential housing is feasible and affordable. (Category: B)</p>	<p>A – The requirements for formalizing housing in urban areas are clear, straight- forward, affordable and implemented consistently in a transparent manner.</p> <p>B– The requirements for formalizing housing in urban areas are clear, straight- forward and affordable but are not implemented consistently in a transparent manner.</p> <p>C – The requirements for formalizing housing in urban areas are not clear, straight- forward or affordable but many applicants from informal areas are managing to satisfy the requirements.</p> <p>D – The requirements for formalizing housing in urban areas are such that formalization is deemed very difficult.</p>
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1. *Analysis:*

On one hand, formalization of residential land and housing remains complicated due to disagreement between land and housing administration agencies. In 2009, the National Assembly announced a unified system of land registration and LURC issuance for both residential land and housing. The Government issued a Decree regulating a unified system; the MONRE also promulgated a Circular instructing in detail orders and procedures. Nevertheless, practically, many complications within LURC issuance for residential land and housing in urban areas remain constantly, especially for cases of no document proving land use rights. What is most challenging is that land encroachment and land use accordant with planning cannot be differentiated. Legislation is formulated specifically and coherently but implementation process is taken inconsistently. Informal areas do not register as regulations.

On the other hand, there is also an inconsistency in collecting financial obligation for LURC issuance. The registration fee is unreasonable. In some provinces, informal fees other than those specified are even introduced.

In several provinces, papers other than those specified are required unreasonably such as marriage registration papers, household registration papers, birth certificates, etc. Lack of detailed instruction from registration officers causes complicated administrative procedures and inconvenience for land holders (instruction is given according to Government’s decree); completion of paperwork process is time-consuming. In some provinces, communal People Committees occasionally are required to issue a confirmation on land use status which is not included in their legal responsibilities.

All above information has shown that the common situation is inconsistent implementation in all provinces.

(Data source: The Law on Land 2003; Reports on enforcement process of the Law on Land 2003 by MONRE; Investigation reports on LURC issuance in housing projects in Hanoi and Ho Chi Minh city in 2011 by a ministerial investigation board of MONRE and Ministry of Construction; Report on “Identification and Detection of Corruption on Land Administration” by the World Bank).

2. *Policy Recommendations:* It is necessary to establish a hotline for people reporting shortcomings in the process of LURC issuance for both residential land and housing.

<p>LGI -3.vi There is an efficient and transparent process to formalize possession. (Category: B)</p>	<p>A – There is a clear, practical process for the formal recognition of possession and this process is implemented effectively, consistently and transparently.</p> <p>B – There is a clear, practical process for the formal recognition of possession but this process is not implemented effectively, consistently or transparently.</p> <p>C – The process for the formal recognition of possession is not clear and is not implemented effectively, consistently or transparently.</p> <p>D – There is no process for formal recognition of possession</p>
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Formalization	Formalization process	Implementation	Growth in informality	Comments
1. Informal urban settlement on private land	1	2	2	In spite of clear provisions regulating cases, in fact, migrant workers in the cities account for large number (freelance workers, graduated students remain in the cities...)
2. Informal urban occupation on public land	1	2	2	In spite of clear provisions, in fact, there are many cases of informal urban occupation on public land without prevention documents, so land use has been conducted in a long period which in some cases Land use right has to be formalized with relevant papers.
3. Informal occupation of forest land or protected areas (national parks, wildlife reserves, etc.)	1	3	2	In spite of clear regulations, in fact, many people occupy forest land for agricultural production as in Huong Khe district of Ha Tinh province where people occupy forest land illegally. Source: http://congannghean.vn/NewsDetails.aspx?NewsID=28736
Codes	1 = Clearly defined rules that cover most cases; 2 = Clearly defined	1 = Efficient & transparent; 2 = Some discretion in implementation;	1 = Very limited number of new informal settlers in the	

	<p>rules that cover about half the cases;</p> <p>3 = Rules not clearly defined, and/or most cases not covered</p>	<p>3 = Significant discretion</p>	<p>past year;</p> <p>2 = Some new informal settlers in the past year;</p> <p>3 = Many new informal settlers in the past year.</p>	
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1. Analysis:

The term “recognition of ownership rights” in this dimension has the same meaning with the term “recognition of land use rights” in Vietnam. Legislation highly recognizes land used rights for informal areas left through history, including areas established before 01 July 2004 (in which the Land Law 2003 came into effect) and strongly prohibits formation of new informal areas.

As matter of fact, encroachment of public land in urban areas and forestry land in mountainous areas remains popular. Regarding to existing informal areas, there are a range of specific regulations which are being implemented inconsistently (as above mentioned on LURC issuance for cases without documents of land use rights). In short, although legislative system for formal and informal area of lands has been clearly provided, the enforcement continues to be ineffective, incoherent, and complicated in localities. In other words, the enforcement of regulations reveals remaining problems to be examined.

(Data source: Current legislation on first-time land registration and LURC issuance; Report on LURC issuance in 2013 by MONRE submitted to the Prime Minister in June, 2013).

2. Policy Recommendations: It is necessary to introduce effective solutions that deal with informal land left through history and prevent the newly-formed ones.

6.1.2. Dimensions of LGI-4 –Restrictions of rights: Land rights are not conditional on adherence to unrealistic standards.

<p>LGI-4.i Compensation is</p>	<p>A – Where property is expropriated, fair compensation, in cash or in kind, is paid so that the displaced households have comparable assets and can continue to maintain prior social and economic</p>
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Owner type			√ √	- There are no regulations to deal with land use rights of organizations in informal areas. - Except for uncontrolled incidents, lands will be acquired if lands are not in use for 12 months or are used with wrong progress by business organizations.
Use		√	√ √	- The regulation restricts land use rights to land users within safety corridors of public works but the land is not be recovered by the State. - Use restrictions for planned areas of assignment - Use restrictions for cultivated rice lands.
Size of holding		√		- Use restrictions on agricultural, aquacultural, forest and salt production land.
Price			√	- Land price set by the State is much lower than market price (around 10% - 70% lower depending on types of land and locations)
Rent			√	- People those lease public land can only re-lease in case of industrial land.
Other (please specify: -----)				

1. Analysis:

Vietnam's Constitution and Land Law stipulate the public ownership of land represented by the State. The State shall grant land use rights to land users in the form of land allocation, land lease, and recognition of land use rights for persons using the land stably. Land users are entitled to enjoy the benefits from the land and make land use right transactions.

According to the above table (which was revised by Country Coordinator containing many differences from the one developed by Expert Investigators), land use restrictions are stipulated clearly and specifically. In practice, some of which are being implemented and some are not. Moreover, some restrictions are really accordant with community benefits, but to say that some others are set to serve the community benefits is not so persuasive. For example, it is not persuasive to argue that the State acquisition of land for economic

development projects or State acquisition of land of investment projects where land use is delayed,... are all for community benefits.

Similarly, according to regulations, foreign organizations, foreign investors and overseas Vietnamese may only access land through direct-lease land of State or sub-leased land in industrial parks, hi-tech parks and economic zones; and are not allowed to make direct land transaction with households and individuals. This makes the investment environment unfair between domestic enterprises and foreign direct investment enterprises, and goes against Vietnam’s commitments in investment field made when joining the WTO.

The panel experts argued that many restrictions are not accordant with community benefits. In practice, several ones are not in enforcement or taken unsystematically in different localities. Thus, **Category B** was given for this dimension.

(Data source: The Law on Land 2003, Decree No. 181/2004/ND-CP, Decree 17/2006/ND-CP by the Government and the Law on Land 2013).

2. Policy Recommendations:

a. Allow foreign investors to assign, lease and take capital contribution with land use rights together with households and individuals within scope of investment projects.

b. Allow real estate investors to mortgage with real estate in credit agencies with foreign legal status.

c. Comply with the purpose of land acquisition for national interest and community benefit as regulated in the Constitution (explaining properly what national interest is).

d. Replace the mechanism, in which the State acquires land of investment projects with delay of using land, by a mechanism of progressive taxation based on delaying time.

d. Provide compensations for all restrictions in planning areas, traffic safety corridors which create loss for land users

<p>LGI-4.ii Restrictions regarding rural land use ownership and transferability are justified (Category: B)</p>	<p>A - There are a series of regulations that are for the most part justified on the basis of overall public interest and that are enforced.</p> <p>B - There are a series of regulations that are for the most part justified on the basis of overall public interest but that are not enforced.</p> <p>C- There are a series of regulations that are generally not justified but are not enforced.</p> <p>D- There are a series of regulations that are generally not justified and are enforced.</p>
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Restrictions on land ownership (for each one of the restrictions listed)	Non-existent	Exists, but not enforce	Exist & enforce	Brief description of restriction and comments
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		√		compensation if the land is acquired by the State. - Restrictions of use for areas to be acquired according to the plan - Use restrictions for cultivated rice lands, which can only be used for rice cultivation.
Size of holding		√		- Use restrictions on agricultural, aquacultural, salt production land and production forest land
Price			√	- Land price set by the State is much lower than market price (around 10% - 70% of market price depending on types of land and locations)
Rent			√	- Those who rent public land can only re-lease the land in case of land of industrial zones.
Other (please specify: ----- -----)				

1. Analysis:

Similarly with the analysis of LGI-4.i, Current laws on land stipulate the public ownership of land represented by the State. The State shall grant land use rights to land users via the form of land allocation, land lease, and recognition of land use rights for persons using the land stably. Land users are entitled to enjoy benefits from the land and make land use right transactions.

According to the above table (which was revised by Country Coordinator containing many differences from the one developed by Expert Investigators), land use restrictions are stipulated clearly and specifically. In practice, some of which are being implemented and some are not. Moreover, some restrictions are really accordant with community benefits, but to say that some others are set to serve the community benefits is not so persuasive. For example, it is not persuasive to argue that the limitation of duration and quotas on agricultural land, the State acquisition of agricultural, forest, aquacultural and salt production land used with slow progress,... are all for community benefits.

Similarly, the experts considered that there are quite many stipulated restrictions which are suitable to objectives and benefit of community. In fact, many restrictions are hardly implemented in reality or inconsistently applied in different localities. Thus, **Category B** was given for this dimension.

(Data source: the Law on Lan 2003, Decree No. 181/2004/NĐ-CP, Decree No. 17/2006/NĐ-CP by the Government and the Land Law 2013).

2. *Policy Recommendations:*

a. Recognition of use rights on agricultural and forest land of the ethnic minority communities; acquisition of lands granted for agricultural and forest enterprises and re-allocation for communities.

b. Eliminating using duration and quotas on agricultural, forest, aquacultural and salt production land for farmers.

c. Replace the mechanism, in which the State acquires land of investment projects with delay of using, by a mechanism of progressive taxation based on delaying time.

d. Provide compensations for all restrictions in planning areas, traffic safety corridors generating loss for land users (as recommended above).

6.1.3. *Clarity of institutional mandates (LGI-5-The clarity of functions and activities: The functions of the competent authorities in land administration are clearly regulated, there is no overlap in responsibility and shared information when necessary.*

<p>LGI-5.i</p> <p>There is an appropriate separation of policy formulation, implementation, and arbitration roles.</p> <p>(Category: D)</p>	<p>A- In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) there is a clear separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy.</p> <p>B- In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) there is some separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy, but there are overlapping and conflicting responsibilities that lead to occasional problems.</p> <p>C- In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) there is some separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy but there are overlapping and conflicting responsibilities that lead to frequent problems.</p> <p>D- In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) here is no clear separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy.</p>
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<i>Institutions (central and decentralized authorities)</i>	<i>Type of land/resource</i>	<i>Responsibility / Mandate</i>	<i>Separation of policies and functions</i>	<i>Overlap occurs with other institution?</i>
The National Assembly	All	Discuss and pass the Land Law, Audit Land administration and use; Make decision concerning land planning and land use planning throughout the country, supervise the implementation of policies, land laws and land use.	The National Assembly decides land laws, land planning and use over the country based on the documents developed and submitted by the Government	The National Assembly is not entirely independent in legislative function; law formulation is still implemented by the Government.
The Government	All	Be in charge of unified management of land, Direct to develop the Land Law, promulgate decisions guiding the implementation. Approve land planning and use at provincial level.	Government is regarded as the key agency responsible for law making and enforcement.	The Government implements a part of critical tasks in building the Land Law of Legislative sector.
MONRE, Departments of Natural Resources and Environment, Divisions of Natural Resources and Environment	All	Support the Government in unifying land administration; draft Land Law and the Decree; issue a circular guiding the implementation of Government's Decree, propagate and publish policies on land; Inspect land administration and use; Manage the land pricing by the State; Manage land registration, Set	Functions and responsibilities in land administration in over the country	There is no overlap in function among provinces but there is some overlap in certain level among a number of other ministries and agencies responsible for land use and administration, financial management of land and handling administrative complaints on land.

<i>Institutions (central and decentralized authorities)</i>	<i>Type of land/resource</i>	<i>Responsibility / Mandate</i>	<i>Separation of policies and functions</i>	<i>Overlap occurs with other institution?</i>
		cadastral documentations and issue certificate; management of land use planning, draft and plan national land use; resolve disputes, complaints and denunciations on land in line with authority		
Ministry of Finance and Department of Finance	Some public lands held by the State	Manage public lands, specific land prices, and revenues from land; Manage the tax revenue on land	Develop policies on land pricing services based on Price law; Manage the revenue for the State budget including revenue from land.	There is an overlap with MONRE on the management of public land with public assets, management of land pricing and revenue from land; an overlap with MOC on the management of real estate pricing services; there an overlap with the PPC on the public assets on public land
Ministry of Construction	Some types of land for house construction , urban land, land of industrial parks and economic zone.	Be responsible for construction and urban planning management; manage the permission for construction; manage housing development and real estate market including land tenure market	Develop policies on real estate market including doing business on real estate and pricing services	There in an overlap between land and urban planning, there is an overlap with MONRE in managing land tenure market; there is an overlap in the management of land pricing with MOF and the management of land use rights with

<i>Institutions (central and decentralized authorities)</i>	<i>Type of land/resource</i>	<i>Responsibility / Mandate</i>	<i>Separation of policies and functions</i>	<i>Overlap occurs with other institution?</i>
				MONRE.
Ministry of Agriculture and Rural Development	Agricultural Land	Be responsible for planning and management of agriculture, forestry, fishery, salt production; rural land management in agriculture, forestry, fishery and salt production	Develop policies on agriculture land use, rural development and farmer protection; agriculture planning and rural development	There is an overlap between agriculture use planning and land planning with MONRE
Ministry of Transportation, Ministry of Industry and Trade and other relevant ministries	Some typical lands	Be responsible for the management of land use and planning in different sectors	Develop policies on the management of land planning and use for specific purposes under the control of each ministry and department.	There is an overlap between the management on the land planning and use for specific purposes with MONRE
Ministry of Justice, Notary offices, auction offices	All types of land	Be responsible for management of notarization and guarantee transaction services; manage auction of assets	Developing policies on auctioning, notarization and authentication	There is an overlap with functions of Land resource development centre and Registration office under DONRE
Government Inspectorate	All types of land	Be responsible for inspection; resolve the disputes, complaints and denunciations of citizens, combat and prevent corruption in all areas related to land.	Develop policies on the inspection, resolve civil litigations, administrative complaints and denunciations of citizens, prevent and combat corruption,	There is an overlap in the inspection of land administration and use; resolve civil litigations, administrative complaints and denunciations of citizens on land under the

<i>Institutions (central and decentralized authorities)</i>	<i>Type of land/ resource</i>	<i>Responsibility / Mandate</i>	<i>Separation of policies and functions</i>	<i>Overlap occurs with other institution?</i>
			including the land administration and use.	management of the Centre; prevent and combat corruption in the land administration and use.
Provincial's People Committee	All types of land in provinces	Make decisions on transferring, leasing, recognizing land use rights; allow transferring land use purposes and extending term of land use for organizations and foreign investors; resolve disputes, complaints and denunciations according to competence	Implement policies and laws in provinces including policies and laws on land	There is overlap in the decision on land under the control of the provincial People's Committee but assets attached to the land owned by the State are under the authority of particular ministries.
The People's Court	All types of land	resolve civil litigations, administrative complaints and denunciations of citizens including the field of land	Perform the functions of the judicial system, but not completely independent	There is no overlap but there are gaps in resolving solutions between administrative or judicial systems.

1. Analysis:

The above table (developed by Coordinators, which contains some differences from that developed by Expert Investigators), shows clearly the drawbacks of Vietnam which is that executive agencies cover responsibilities of legislative agencies in building policy and legislation system. The National Assembly had intended to increase the number of specialized delegates with the aim to increase its independence in formulating and deciding the legal system, which is not very effective so far.

On the other hand, there is inconsistency in resolving disputes, complaints and denunciations under executive or justice system. In general, people do not want to deal with disputes, complaints and denunciations in the court for many different reasons in which lack

of independence is the main reason. This current situation is quite clearly demonstrated through data on the rate of disputes, complaints and denunciations on land which accounts for 70% to 80% of the total number of disputes, complaints and denunciations of citizens, not much cases resolved in court, most of the cases which have no way to resolve but the court have to be dealt in the court. Citizens understand that complaints are not allowed to be beyond the levels but they still send complaints to the Central Level.

All experts agreed that the lack of separation among the legislative, executive and judicial powers in Vietnam caused the increasing complaints and grievances of the people. This dimension is ranked at **Category D**.

(Data source: Functions and duties of the National Assembly and the elected bodies, ministries and agencies of The Government, the Court system and the People's Procuracy; the report summarizes results of the implementation of the Land Law 2003 by the State agencies; Research report on improvement of complaint resolution system on compensation, support and resettlement in Vietnam" by the World Bank).

2. *Policy recommendation:* In Vietnam, it is impossible to separate the legislative, executive and judicial systems. In near future, 2 solutions are suggested: (i) the National Assembly is responsible for building legislation system entirely, (ii) a people's tribunal president of Supreme People's Procuracy and the Chief Procurator of the Supreme People's Procuracy are the members of Politburo.

<p>LGI-5.ii</p> <p>The responsibilities of the ministries and agencies dealing with land do not overlap (horizontal overlap) (Category: B)</p>	<p>A- The mandated responsibilities exercised by the authorities dealing with land administration issues are clearly defined and non-overlapping with those of other land sector agencies.</p> <p>B- The mandated responsibilities of the various authorities dealing with land administration issues are defined with a limited amount of overlap with those of other land sector agencies but there are few problems.</p> <p>C- The mandated responsibilities of the various authorities dealing with land administration issues are defined but institutional overlap with those of other land sector agencies and inconsistency is a problem.</p> <p>D- The mandated responsibilities of the various authorities dealing with land administration are defined poorly, if at all, and institutional overlap and inconsistency is a serious problem.</p>
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1. Analysis:

The horizontal overlap in land management among a number of Ministries and Government Agencies, among a number of Departments of Provincial People's Committee, as well as among several Departments of District's People Committee was serious problem in the past. There was an overlap between the systems of registration and certificate issuance for land and house of constructing agencies during 15 years (1994-2009), but the unified

management of all types of land is under the competence of land management agencies. In recent years, the Government has made the huge effort in rearranging functions and tasks of ministries to reduce this overlap significantly. Until now, to some extent, there are some overlaps in policies development and management

Currently, the overlap in the promulgation of policies and laws between the Ministries of land use and management and MONRE which is responsible for unified land management. Under this circumstance, there are some certain conflicts in legal documents on land. For example, the current Land Law contains provisions on restricting land transfer which is only applied to agricultural land used by households and individuals at commune-level; in the meanwhile, the current housing law allows of transferring house and certainly, land is also transferred. A fairly typical example is that there are two existing legal frameworks on land pricing services, one system is developed by the Ministry of Finance based on Pricing Law, another system is developed by the Ministry of Construction based on the Law on Real Estate Business, the problem is that there are many differences between the two systems of this legal framework.

A problems containing in lots of documents submitted by lots of Ministries and Departments to the Government for approval are the policies on compensation, support, resettlement in which there are a number of conflicts, overlaps and inconsistencies. Consequently, the localities have applied different policies on compensation, support and resettlement for different projects in the same locality. This is one of the reasons which have caused many complaints of people whose land is recovered. In many cases, the overlap in functions and tasks leads to the fact that the responsibilities is given to each other in law enforcement.

All members agreed that although overlap in the functions and tasks of ministries and departments still occurred but it was reduced remarkably compared to the previous period and not many negative inadequacies have risen. This dimension was ranked at **Category B**.

(Data source: Functions and duties of the National Assembly and the elected bodies, ministries and agencies of government, the Court system and the People's Procuracy; the summary report of the implementation of the Land Law 2003 by the State agencies; Research report on "Improvement of complaints resolution system on compensation, support and resettlement in Vietnam" by the World Bank).

2. Policy recommendation: It is necessary to adjust functions and tasks of a number of Ministries and Departments as well as to clarify the scope of management to reduce the overlaps in functions and tasks. On the other hand, it's necessary to control the process of policy development according to a more genuine process.

<p>LGI-5.iii</p> <p>Administrative (vertical) overlap is avoided.</p> <p>(Category: B)</p>	<p>A- Assignment of land-related responsibilities between the different levels of administration and government is clear and non-overlapping.</p> <p>B- Division of land-related responsibilities between the different levels of administration and government is clear with minor overlaps.</p> <p>C- Division of land-related responsibilities between the different levels of administration and government is characterized by large overlaps.</p> <p>D- Division of land-related responsibilities between the different levels of administration and government is unclear.</p>
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1. *Analysis* (using the above table)

Previously, vertical overlap in land management is a major obstacle. For example, under the 1993 Land Law, land acquisition for implementing economic development projects with an area of over 1 hectare is under the competence of the Prime Minister; the area which is less than 1 hectare is under the competence of the Provincial People's Committee. In some localities, the provincial People's Committee has taken advantage of the gaps in this law by dividing a large project into smaller projects next to each other of which area is less than 1 hectare. In such a formalistic circumstance, the illegal allocation and acquisition of land done by Commune and Provincial People Committees occurred in many places.

From the 2003 Land Law, decentralization on land and land administration is defined quite clearly. All specific decisions about land and land administration are under the authority of the local People's Committee; Provincial's People Committee has authority to organizations, religious organizations and foreign investors; District Provincial Committee as authority to households, individuals and communities. For land-use planning, administrative bodies at higher level approve land-use planning of localities; the National Assembly approves land use planning of the whole country. For the decision on land pricing of State, the Government decides the land price frame of localities and decides land price in specific circumstances.

Currently, there is an unreasonable point in decentralization: competence on land is under the localities but competence on public property on land owned by the State is under the Ministry of Finance. The mismatch in this competence can lead to irrational decisions. One important thing is that public property on land owned by State-owned Enterprises under the authority of which organizations and institution is not yet clearly defined.

All the members agreed that vertical overlap in land administration had been improved significantly compared to previous period but there are some overlaps in the competence on land-associated property. The competence on land-associated property is under the PPC, not under the Ministry of Finance. On the other hand, there is no clear competence on public assets belonging to state enterprises. Therefore, the dimension is ranked at the **category B**.

(Data source: Summary reports on the results of the implementation of the Land Law 2003 of ministries, sectors and localities at the provincial level).

2. *Policy recommendation:* It is vital to adjust the appropriate competence on public assets on land and land-associated properties. In this case, the Ministry of Finance needs to be given competence on public land; and the management board of economic zones, hi-tech parks; airports need to be given competence on allocating and leasing land.

<p>LGI-5.iv</p> <p>Land information is shared with interested institutions (Category: B)</p>	<p>A- Information related to rights in land is available to other institution that needs this information at reasonable cost and is readily accessible, largely due to the fact that land information is maintained in a uniform way</p> <p>B- Information related to rights in land is available to interested institutions and although this information is available at reasonable cost, it is not readily accessible as information is not maintained in a uniform way.</p> <p>C- Information related to rights in land is available to interested institutions but this information is not readily accessible as the information is not available at reasonable cost.</p> <p>D- Information related to rights in land is not available to interested institutions as a matter of policy or practice.</p>
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1. Analysis:

Under the provisions of the current land law, land information is not subject to confidential and everyone has the right to access information to use for permitted purposes. Ministry of Natural Resources and Environment issued Circular on the management and provision of information about resources and environment, including Land Information. Circular regulates that the land information has to be accurate and technical. The fee for providing information is not high. The Ministry of Finance has regulated that the fees for extracting the cadastral maps and records are only 10,000 / 1 paper for urban land, 5,000 VND / 1 paper for rural land.

In fact, there is no land information network so that it is impossible to access land information via the internet. Those who needs land information have to come to land registration office to request and get information.

One of the current difficulties is that there are no final regulations on accessibility on name of the land owners due to no consistent policies. A flow of ideas indicated that information of the land owners is not allowed to access because each person has the right to keep his property confidential. A second opinion is that the information should be accessible for the purpose of corruption prevention.

The land information management today has not been consistent. Each registration office of land use rights has its own management and provision on land information. When registration office does not want to provide any information, the answer is simply no.

All members agreed that it was possible to access land information. The fee was not high but the management of information was not unified and thus, it is not possible to access information online and it is not easy to access. Therefore, this dimension was ranked at **Category B**.

(Data source: The documents of the Ministry of Natural Resources and Environmental Management regulating the management and provision of land information, Circular of the Ministry of Finance on the fee for cadastral information, Survey report on disclosure of land management information of World Bank, Organization, UkAid and Depocen).

2. *Policy recommendation:* A major problem in accessing land information is that whether the information of the land owners is published or not. On the other hand, land information system should be developed consistently to focus on the development of land information stratification.

6.1.4. Participation and equity in land policies (LGI-6 –Equity and non-discrimination in the decision-making process: Policies are formulated through a legitimate decision-making process that draws on inputs from all concerned. The legal framework is non-discriminatory and institutions to enforce property rights are equally accessible to all)

<p>LGI-6.i Land policy is developed in a participatory manner. (Category: B)</p>	<p>A- A comprehensive policy exists or can be inferred by existing legislation. Land policy decision that affect sections of the community are based on consultation with those affected and their feedback on the resulting policy is sought and incorporated in the resulting policy.</p> <p>B- A comprehensive land policy exists or can be inferred by the existing legislation. Land policy decisions that affect sections of the community are based on consultation with those affected but feedback is usually not sought or not used in making land policy decisions.</p> <p>C- Policy exists or can be inferred by the existing legislation but it is incomplete (some key aspects are missing or only covers part of the country such as only urban or only rural areas) or land policy decisions that affect some sections of the community are made without consultation with those affected</p> <p>D- No clear land policy exists or can be inferred by the existing legislation and/or land policy decisions are generally taken without consultation of those affected.</p>
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1. Analysis:

Under the provisions of Decree No. 181/2004/ND-CP, the opinion of local community should be taken into consideration when planning land-use at commune level; as stipulated in Decree No. 84/2007/ND-CP, the ideas/opinions of the citizen whose land is recovered must be taken into account when making the policies on the compensation, support and resettlement

when State recovers land. In this case, the opinions of community must be recorded and reported in writing, in which the report has to point out the accepted ideas and explanations of unaccepted ideas. Urban Planning Law 2009 also specifies the consultation of people's opinions on land-planning.

Land Law 2013 has adopted the provisions of Decree No. 181/2004/ND-CP and Decree No. 84/2007/ND-CP on the community consultation on land use planning at local level and setting up compensation, support and resettlement plans to be included as the provisions in the Land Law.

The contents of the above laws show that the land law of Vietnam pays attention to community's opinions on land use planning as well as compensation, support and resettlement. In fact, the consultation of community is not carried out or carried out in very formalistic manner. Those who are responsible for community consultation say that it is difficult to do it because of the shortage of funds and time. Comments of former Chief Architect of Hanoi said that the opinions of the community on urban planning are often formalistic, and thus planning authorities did not pay attention to the acceptance of community's opinions.

At the end of 2012, Oxfam has collaborated with many social domestic organizations in collecting and considering the community's opinions in the revision of Land Law 2003 in 22 communes of 11 districts in the four provinces of Hoa Binh, Yen Bai, Quang Binh and Long An. Both government officials at grassroots level and people said that they have no information about land use planning. The opinions of community had not been taken into consideration when the policies on compensation, support and resettlement were made; officials only promulgated the policies and forced the citizen to follow.

All members agreed that the Law had specific provisions on collecting and considering community's opinion in making the policies, which has not been done effectively and seriously. Thus, this dimension was ranked at **Category B**.

(Data source: Land Law 2003, Land Law 2013, Decrees guiding the implementation of Land Law 2003; Report of Oxfam on "Recommendation for revising Land Law draft (revised)").

2. Policy recommendation: The 2013 Land Law has specific provisions on community consultation. The remaining task is that Government's Decree must have specific and effective sanctions to force the collection of community's ideas to be done in fact, and must have specific procedures for the acceptance of opinions. A better solution is that the policy is only approved if at least 2/3 ideas of community's ideas is accepted. New model of rural communes in Thanh Van has been developed based on that principle.

<p>LGI-6.ii</p> <p>There is meaningful incorporation and monitoring of equity goals in land policy.</p> <p>(Category: C)</p>	<p>A- Land policies incorporate equity objectives that are regularly and meaningfully monitored and their impact on equity issues is compared to that of other policy instruments.</p> <p>B- Land policies incorporate equity objectives that are regularly and meaningfully monitored but their impact on equity issues is not compared to that of other policy instruments.</p> <p>C- Land policies incorporate some equity objectives but these are not regularly and meaningfully monitored.</p> <p>D- Equity issues are not considered by land policies.</p>
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Rights of ...	Considered in policy	Meaningfully monitored	Impact compared to other policy instruments	Comments
Indigenous	2	2	2	<ul style="list-style-type: none"> - Indigenous community is recognized land use right on land use associated with belief and cultural identity, not on land used for agricultural, forestry, fishery and salt production under customs - Land used by community is allocated to State owned agricultural and forestry farms (1975 - 1985) and agricultural Cooperatives; since 1993, land of Cooperatives is allocated to households and individuals; - Government has had the policy on the second allocation of residential and agricultural production land without land use fee to households who lack or do not have production land (do not have forestry land). They are not allowed to transfer allocated land for 10 years; support resolving housing matters and providing domestic water to ethnic minorities (Decision No.132/QĐ-TTg, 134/QĐ-TTg, 135/QĐ-TTg)

				with the aim to reduce the poverty.
Migrants	2	2	2	<ul style="list-style-type: none"> - Migration organized by The State (resettlement, migrants for developing new economic zones) are considered and supported from the Government but the method is not appropriate due to lack of consideration in general infrastructure, quality of agricultural land, water resources and indigenous culture. The resolution has been carried out in some areas but the shortcoming still exists in some places. - There are not adequate policies such as policies for finding new job and livelihood for those whose land is recovered, thus complaints of those whose land is cover still at high level. - Free migration is occurring in many places, which causes deforestation for production, lack of jobs in the formal labor market, but there are not much appropriate policies of Government to ensure the rights of migrants.
Landless	2	2	2	<ul style="list-style-type: none"> - For residential land, The Government has policies to support housing for the poor in rural areas, the people in the flood areas, for low-income people in urban areas but always in the form of subsidies. This leads to the fact that the poor has no motivation in addressing the housing issues. - It is difficult to allocate production land for people born after 1993, the poor and farmers whose land is accumulated and recovered. There are no uniformed policies between land

				and labour transfers.
Women	2	2	2	<p>- The certification with names of both husband and wife have been prescribed in the Law on Marriage and Family in 2000 and the new Land Law in 2003, but it was implemented mainly in urban areas since 2003; in rural, it was implemented at low rate.</p> <p>- Although the above policies are promulgated, there are no provisions included to mandate the names of husband and wife on other land certificates such as land-transfer certificate, certificate on compensation when the State recovers the land, support in resolving housing matters.</p> <p>- The Government has no investment policy on transfer of Certificate with one name to that with two names; The 2013 Land Law also provides the provisions on the renewal of certificates which will be done on demands, not compulsory.</p>
Code:	<p>1 = Well considered;</p> <p>2 = Considered but could be improved;</p> <p>3 = Not considered;</p> <p>N/A = Not applicable.</p>	<p>1 = Well monitored</p> <p>2 = Monitored but could be improved</p> <p>3 = Not monitored</p> <p>N/A = Not applicable</p>	<p>1 = Impact compared;</p> <p>2 = Impact not compared</p> <p>N/A = Not applicable</p>	

1. *Analysis:*

Based on the analysis in the table above (reviewed by Coordinators, containing some differences from that prepared by the Expert Investigator), it can be seen that land policies for vulnerable groups are targeted policies of the State of Vietnam but some disadvantages still remains as follows:

a. Policies providing cash or in-kind support reflect the State's subsidy, and fail to motivate the Poor in addressing poverty by themselves.

b. Land policies for ethnic minorities are not consistent with customary laws of land use, which are not very effective. Specifically, the poverty rate of the whole society reduced but that of ethnic minority increases.

c. Inconsistent policies between lands and labour, between land and infrastructure, between economic development and social security have caused the obstacles in resolving the poverty issues of vulnerable groups.

d. There are not many land policies specific to vulnerable groups; implementation of policies has not been supervised effectively (new competence of supervision has just given to the National Assembly and elected bodies in localities, Fatherland Front and other political social organizations, and not given to the social organizations and people, 2013 Land Law has 1 article concerning the supervising rights of the people).

đ. Ideas/opinions of vulnerable groups have not been considered when doing the research for making and promulgating the policies, thus the policies are not reasonable and inconsistent to this group.

e. These policies are considered separately and not compared to other policies on the impact assessments. Except for State policies on land acquisition and compensation, support, resettlement which are pressing issues in Vietnam, the reports of the land laws regularly mention solutions to vulnerable groups.

g. The gender aspect is taken into consideration in the land law but just focused on the renewal of certification that shows the two names. The gender aspect is not considered in the transfer of land-use right, compensation supports in resolving the housing matters and especially transferring of certificate with one name to that with two names.

All the members mentioned that State had the policies but those policies had not ensured the equality of rights of migrants and the local, resettlement was not well implemented, livelihood conditions was not good, gender equality was not fully implemented and supervising tools were not effective. This dimension is ranked at **Category C**.

(Data source: Land Law 2003 and 2013, Decrees guiding law implementation, Government's Decisions on resolution of land disputes, housing and domestic water for ethnic minorities, social housing, housing for the poor in rural areas; reports on supervision of implementing the Government law on residential and agriculture lands for ethnic minorities in rural areas; Survey report on" Employment of people in the areas of purposes-transferred land of Employment Department under MOLISA; Report on "Recommendations to improve the Land law draft" (revised) of Oxfam and Landa; Report on" The roles of customary law in minority development of Vietnam" of SPERI and CODE; Report on the re-arrangement of agriculture and forestry farms and the linkages between land management of State Forestry Agencies and

local people by CODE institution).

2. *Policy recommendation:* Vietnam needs comprehensive adjustments on land policies for ethnic minorities and the poor; this adjustment is not based on subsidy principle. Regarding gender equality, the State has to ensure the budgets for changing certificates with one name to those with two names which should be done in all types of land certificates of family.

<p>LGI-6.iii</p> <p>The implementation of land policy is costed, matched with benefits and adequately resourced (Category: B)</p>	<p>A- Implementation of land policy is costed, expected benefits identified and compared to cost, and there are a sufficient budget, resources and institutional capacity for implementation.</p> <p>B- The implementation of land policy is costed, though not necessarily based on a comparison of expected benefits and costs. There is an adequate budget, resources and institutional capacity.</p> <p>C- The implementation of land policy is not fully costed and/or to implement the policy there are serious inadequacies in at least one area of budget, resources or institutional capacity.</p> <p>D- The implementation of land policy is not costed and there is inadequate budget, resources and capacity to implement the land policy. .</p>
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1. *Analysis:*

The National Assembly and Government of Vietnam are much interested in land management, including the development of legislative system, dissemination of law, resolution of disputes, complaints and denunciations, land-use planning, land pricing, the budget for cadastral mapping and records, the issuance of certificate. Moreover, the international community has significant supports in building and developing legal system of land administration. The Government allocates to localities approximately 1,000 billion annually for cadastral mapping and records.

In fact, there are lots of large investments but they are not very effective. For example, the Government has invested hundreds of billion in cadastral mapping of forest land but in local's opinions, because there was no map, forest land was not managed. This leads to large-scale disputes between State Forest Agencies and local people. The database for localities is not adequate and updated although the cadastral mapping is remarkably invested. Moreover, investment for land management was decided by the Ministry of Finance and there is no cost-efficiency analysis.

(*Data source:* Budget expenditure annually approved by the National Assembly, Budget expenditure by the MONRE; regulations on the approval of budget allocation; Report on the implementation of Land Law 2003 by the National Assembly; Report on the re-arrangement of agriculture and forestry farms and the linkages between land management of State Forestry Agencies and local people by CODE institution).

2. *Policy recommendation:* Vietnam has allocated large amount of budget for land administration and the people have to contribute a little to this but the effectiveness of land administration is not high. Land administration is still unsystematic and the people have no motivation in participating in land administration. Those adjustments are not regulated by the land law but by Budget law.

<p>LGI-6.iv</p> <p>There is regular and public reporting indicating progress in policy implementation.</p> <p>(Category: A)</p>	<p>A- Formal land institutions report on land policy implementation in a regular, meaningful, and comprehensive way with reports being publicly accessible.</p> <p>B- Formal land institutions reports on land policy implementation in a regular and meaningful way but reports are not made public.</p> <p>C- Formal land institutions report on land policy implementation but in a way that does not allow meaningful tracking of progress across different areas or in a sporadic way.</p> <p>D- Formal land institutions report on policy implementation only in exceptional circumstances or not at all.</p>
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1. *Analysis:*

Vietnam has annual report system on the area by area basis in administrative levels which has been formed since subsidy period. Its contents are relatively detailed, containing most of activities. During subsidy period, these reports are not publicly assessable. In the recent years, Anti-Corruption Law has required this report to be publicized in most of localities and management areas, including land management.

The disadvantage of this report system is not about timeliness or level of details. The drawbacks lie in the facts that subjective method is used as key method, more objective and quantative evaluation is not properly used. The reports used verbal description more than data, praised achievements more than critically analyzed shortcomings, and the accuracy of data is low.

The experts indicated that reporting of annual land administration had to be done annually and public accessible. The report had to cover all types of activities. Thus, this dimension was ranked at **Category A**. (Assessments does not refer to content, methods and accuracy of assessment).

(*Data source:* Reports on land management of authorities at various levels.)

2. *Policy recommendation:* Land administration system needs to be changed into the system associated with assessment criteria. The optimal solution is to operate a separated M&E system.

5.2 Land use planning, management of land use right and taxation

6.2.1. Land use planning and exemptions from land use restrictions (based on LGI-7, LGI-8 and LGI-9)

- **The dimension of Land Government Indicator LGI-7 (Transparency in limitation on land use: Changes in land use and management regulation are transparently made and can provide significant benefits for the whole society rather than just for specific groups)**

<p>LGI-7.i</p> <p>In urban areas, land use plans and changes in these plans are based on public input.</p> <p>(Category: D)</p>	<p>A- Public input is sought in preparing and amending land use plans and the public responses are explicitly referenced in the report prepared by the public body responsible for preparing the new public plans. The report is publicly accessible.</p> <p>B- Public input is sought in preparing and amending land use plans and the public responses are used by the public body responsible for finalizing the new public plans, but the process for doing this is unclear or the report is not publicly accessible.</p> <p>C- Public input is sought in preparing and amending land use plans but the public comments are largely ignored in the finalization of the land use plans.</p> <p>D- Public input is not sought in preparing and amending land use plans.</p>
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1. Analysis:

The Land Law 2003 stipulates that the community consultation for land-use planning at all levels is implemented by elected bodies at the same level included the National Assembly at the center level and the People's Council at same level. The consultation of National Assembly and People's Council at all levels has been only implemented only in the process of approving the land use plans, not in the process of amending the land use plans.

Furthermore, the use of wards, towns and communes' land planned to use for urban development has not planned. The land use planning of these localities have been included in the district-level land use plans.

Only one Article in the Decree 181/2004/NĐ-CP mentioned about the local community consultation for land-use planning at commune level. Thus, the land law itself does not have any regulations on community consultation for land-use planning in the urban area and the amendment of land use plans.

The Land law 2013 has significant changes in the formulation of land use plans, of which there is one article regulating the direct community consultation for land-use planning at all levels. The results are subject to the enforcement of this policy in the upcoming time.

On the other hand, the Law on urban planning in 2009 explicitly regulates local community consultation on urban planning including general planning, planning by areas, infrastructure and detail planning. The process of community consultation has been guided precisely by the Government and implemented in all most of the urban areas. Lots of experts

commented that although community consultation had been implemented in fact, it was very formalistic. The community consultation is transparent but the acceptance of comments/opinions contributed by the community is not transparent and difficult to be accessed.

As comments of members, the land law does not have the regulation on the community consultation on land-use planning in the urban area. However, the community consultation in urban planning, infrastructure expansion planning, and renovation planning of building apartments has been carried out in practice. Also according to experts, the Decree 71/2010/NĐ-CP guiding the implementation of Housing Law regulated that the building apartment renovation plans will be approved only if at least 75% people living in such building accepts. In the meanwhile, all the members said that the community consultation for urban planning is very formalistic and there is no specific procedure of the community consultation. While experts had different ratings, a strict follow the content of this dimension, this dimension is ranked at **Category D** resulted from the analysis on law formulation (without community consultation).

2. *Policy recommendation:* Community consultation for the land use planning at all levels is regulated in land law 2013. Accordingly, the decree guiding the law implementation should explicitly define the process of community consultation in the transparent manner by putting all information in the website. At the same time, community consultation should be done in the process of amending land use planning.

<p>LGI-7.ii</p> <p>In rural areas, land use plans and changes in these plans are based on public input.</p> <p>(Category: C)</p>	<p>A- Public input is sought in preparing and amending land use plans and the public responses are explicitly referenced in the report prepared by the public body responsible for preparing the new public plans. This report is publicly accessible.</p> <p>B- Public input is sought in preparing and amending land use plans and the public responses are used by the public body responsible for finalizing the new public plans, by the process for doing this is unclear or the report is not publicly accessible.</p> <p>C- Public input is sought in preparing and amending land use plans but the public comments are largely ignored in the finalization of the land use plans.</p> <p>D- Public input is not sought in preparing and amending land use plans.</p>
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1. *Analysis:*

Similar to the above analysis of the LGI-7.i, Land law 2003 regulates that the community consultation for land use planning at all level is implemented by elected bodies at the same level. The Decree 181/2004/NĐ-CP has one article regulating the community consultation for land use planning of communes which are not planned to develop to urban.

Therefore, the land law has stipulated community consultation for land use planning but has not any provisions on community consultation on land use plan and amendments. Moreover, up till now, there is no circular guiding in detail the methods of community consultation on land use planning.

In fact, regulations on community consultation on land use planning at commune level have not almost been enforced. In the local community's opinions, this is due to the shortage of budget. In the consultation workshops on amendment of land law organized by the end of 2012 in 22 communes in 4 provinces: Yen Bai, Hoa Binh, Quang Binh and Long An, all the local people confirmed that they were not involved in the process of consultation on land use planning at commune level, even the planning is not disclosed.

Experts pointed out that the land law has regulated the direct community consultation for land use planning in rural areas at commune level. In fact, most of research results concluded that community consultation has not been implemented due to the lack of guideline on how to implement this regulation and no financial resource for the implementation. Up till now, there is no report or any data which show that the community consultation for land use planning at commune level has not been implemented. Meanwhile, there are many researches indicating that the community consultation has not been carried out. As a result, this dimension can be ranked only at **Category C**.

(Data source: Land Law 2003, Land Law 2013, Decree No. 181/2004/NĐ-CP, Report on recommendation of draft land law (revised version) of Oxfam and Landa).

<p>LGI-7.iii</p> <p>The public captures benefits arising from changes in permitted land use.</p> <p>(Category: B)</p>	<p>A- Mechanisms to allow the public to capture significant share of the gains from changing land (for example: tax on housing expansion, tax on infrastructure renovation, tax on assess) use are regularly used and applied transparently based on clear regulation</p> <p>B- Mechanisms to allow the public to capture significant share of the gains from changing (for example: tax on housing expansion, tax on infrastructure renovation, tax on assess) land use are applied transparently but not always used.</p> <p>C- Mechanisms to allow the public to capture significant share of the gains from changing (for example: tax on housing expansion, tax on infrastructure renovation, tax on assess) land use are rarely used or applied in s discretionary manner.</p> <p>D- Mechanisms to allow the public to capture significant share of the gains from changing (for example: tax on housing expansion, tax on infrastructure renovation, tax on assess) use are not used or not applied transparently.</p>
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1. Analysis:

Land Law 2003 stipulated the budget revenue from land including: (1) fee of using land which State allocates and collects the land use fee, authorization of converting land use purpose, recognition of the land use right of the current users who are using land without paying fee of land use (except for the cases of land given by the family's earlier generation or

by the legal land use right transfer); (2) fee from leased-land by the State; (3) tax (tax of land use, tax from the land use right transfer; (4) revenue from the law sanctions on land; (5) compensation for the State for cases of the damage due to the land use and management; (6) fee, management fee, land use fee. The State budget revenue from the land in provinces is mainly contributed from the land use fee, accounting for 80% of the total revenue from the land. This is actually the “selling” deal made by the State. The rate of revenue from the land leasing and tax concerning to the land is not high, only accounting for 10% of the total revenue. Total budget revenue from land has been significantly increasing year to year, mainly from the fee of land use¹². Many experts said that the mechanism of revenue from land now was not sustainable; to the certain period, the land for lease will be run out of source and the revenue from land use will be reduced sharply.

The State has issued policy on exemption of fee of land use and lease for the cases of encouraging investment and ensuring the social security. Experts have listed all cases of exemption and reduction of fee of land use.

As regulated in the law and the implementation of collecting fee from land in practice, it is recognized that the regulations and the mechanism of collecting fee from land are transparent. Moreover, there are a number of comments indicating that fee from land is not properly and reasonable. For example, the revenues from the fee of the house use and land use are still very low, which causes the inadequacy of budget for the urban infrastructure development and public services (0.03% of the total value of residential land based on the valuation roll of State , not yet including the tax on house)

The expenditure from the revenue from land has been carried out in accordance with the Budget Law. The general principal of the Budget Law of Vietnam regulated that all the sources of the revenue will be consolidated into total budget and then, the expenditure will be decided to spend for the necessary cases. The Government also issued the Decree No. 69/2009/NĐ-CP which regulated that the provincial People Committee can use 30%-50% of the annual revenue from the land in order to build up the land development fund for the better solution of land compensation, supports and resettlement when the State recovers the land. Decisions on the allocation from above land revenue just create the frame for budget allocation of each level; specific allocation depends on the competent officials responsible for budget allocation. The big issue of amendment of current Budget Law is that how the benefits of people are controlled through budget allocation. It means that the budget allocation may be transparent but can not ensure that the people can benefit from revenue from land.

Panel Members concluded that the budget revenue from land and expenditure of that budget are not done properly; despite of the more transparence in the revenue and the expenditure, it has not yet totally ensured the beneficiary of the public citizens. This dimension can be ranked at **Category B**.

(Data source: Land law 2003, Decree No. 198/2004/NĐ-CP, Decree No. 17/2006/NĐ-CP, Decree No. 44/2008/NĐ-CP; Report on implementation of land law 2003 issued by Ministry of Natural Resources and Environment (Report No. 193/BC-BTNMT dated 06/9/2012).

¹² Revenue from land increases year by year(2002 is 5.5 thousand billion Vietnam Dong, 2005 is nearly 28 thousand billion Vietnam dong, 2006 is nearly 21 thousand billion Vietnam dong, 2007 is nearly 37 thousand billion Vietnam dong , 2008 is over 40 thousand billion Vietnam dong, 2009 is nearly 47 thousand billion Vietnam Dong and 2010 is 67 thousand billion Vietnam dong.

2. *Policy recommendation:* For the immediate action, the budget law should be revised and changed comprehensively. Accordingly, the changes in the mechanism of the budget revenue implementation could be discussed for the improvement in the implementation. After the land law 2013 being ratified by the National Assembly, it should be concentrated on the amendment and changes of the law on tax related to the land and land price evaluating system in order to calculate the fee of land use, land leasing and compensation for the cases of acquisition of land carried out by the State.

<p>LGI-7.iv Actual land use changes to the assigned land use in a timely manner. (Category: B)</p>	<p>A- More than 70% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use.</p> <p>B- Between 50% and 70% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use.</p> <p>C- Between 30% and 50% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use.</p> <p>D- Less than 30% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use.</p>
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1. Analysis:

According to the report of the implementation of the land use plans, land using programs at all levels, all most of indicators of land use with specific purpose have reached 90% and above, especially some indicators have been 100% higher than the standard such as land for housing, manufacturing, non-agricultural business operation, while some other indicators have been lower standard such as land for social infrastructure use. In consideration of the whole picture, it can be concluded that all the indicators of the land use plans and land using programs have been reached over 70%.

In fact, the status of “holding” land use plans caused many complains from the citizen in the area under the land plans when people have to carry out the land use right transfer, especially for case of 10-year holding plans. According to the survey data on the “holding” land use plans, total area of the “on-hold” land under the use plans is not higher 30% than the total area of land use plans. Land law 2013 and Decree No. 181/2004/ND-CP have defined regulation on the solution for the land use plans being hold over 3 years without feasibility of implementation.

In fact, the status of “on-hold” plans has been happened in several provinces. These projects have been handed over the land for a specific purpose of implementation. However, the land has not yet been put into the use, or only a part of the total land has been used. According to the current official reported data, only 50% of land has been used for industrial zones in the whole country against the total fund of land use plans.

Reviewing this actual data, it is seen that the planned land being put into use has been reached over 50% for all kinds of land. Since 2010, the downturn in the Vietnamese economy would be the cause for the low rate of putting land into use due to the lack of capital investment.

Panel Members concluded that the land use plans in Vietnam has not been implemented properly, partially, because of lacking precise regulation and capacity of investment to meet the expectation of fast development. This is the reason causing to the “holding” status of projects of land use plans which has been being popular issue. Al most of experts participating the discussion agreed that the area of land being in use according to the plans reached 50% so this dimension is ranked at **Category B**.

(Data source: Report of Ministry of Natural Resources and Environment on the implementation of land law, Report on the land use plans and land using program in the whole country).

2. *Policy recommendation*: There are important changes in land law 2013 regarding land use plans, of which a regulation on the relationship between lands used plans and the construction and urban development plans. The National Assembly has been conducting a draft law of unification plans on land use. In the short-term, there is no proposal on the policy regarding the sector of land use planning.

- **Dimensions of indicator LGI-8 (*Efficiency of land use planning: Land use planning and regulations are rationale, effectively performed, do not lead to informal land use and meet the demand of population growth*)**

<p>LGI-8.i Land use planning effectively controls urban spatial expansion in the largest city in the country. (Category: C)</p>	<p>A - In the largest city in the country urban spatial expansion is controlled effectively by a hierarchy of regional/detailed land use planning that are kept up-to-date.</p> <p>B- In the largest city in the country, while a hierarchy of regional/detailed land use planning is specified by law, in practice urban spatial expansion is guided by the provision of infrastructure without full implementation of the land use planning.</p> <p>C – In the largest city in the country, while a hierarchy of regional/detailed land use planning is specified by law, in practice urban spatial expansion occurs in an ad hoc manner with infrastructure provided some time after urbanization.</p> <p>D – In the largest city in the country a hierarchy of regional/detailed land use planning may or may not be specified by law and in practice urban spatial expansion occurs in an ad hoc manner with little if any infrastructure provided in most newly developing areas.</p>
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1. *Analysis*:

Land use planning was regulated in Vietnam by Land Law 1987, but it has not implemented in practice. Land Law 1993 provided more detailed regulations which were gradually enforced, but National Assembly did not make a decision on country land use planning. Land Law 2003 specified land use planning and required implementation at all 4 administrative levels. The important remark is that between 1987 and 2013, land use planning and plans are based on methodology of total area of each land types, not based on functional zoning by space. Thus, land use planning hardly has impacts on the process of urban spatial

expansion, which is determined by urban planning.

The largest city of Vietnam is Ho Chi Minh City, in which City PC pays attention to preparation and implementation of land use planning and plans. Land use planning and plans for periods were approved by the Prime Minister. 24/24 districts and 20 communes in rural areas have had their land use planning and plans approved. This shows that the implementation of land use planning and plans is pursuant to Land Law while they have no effect on urban expansion.

Ho Chi Minh City witnesses a relatively high growth rate. Urban planning takes the major role in upgrading existing urban infrastructure and expanding the urban area to the periphery of the city. The first role is performed according to the urban planning and the plan of City PC. For the second one, before 2005, the expansion primarily follows the manner in which urbanization is carried out before infrastructure is developed. Since 2005, the city has made a considerable effort to plan urbanization actively where infrastructure is developed, followed by infrastructure. As a telling example, traffic infrastructure and infrastructure of new urban areas are developed before projects are approved as in case of Thu Thiem Urban Area and East-West Avenue, etc. However, this development manner is only applied in some key areas, but not applied in other areas. Moreover, urban development is not completely based on the spatial analysis and spatial planning.

Panel members agreed that only in some areas, infrastructure development has been carried out; in general, expansion is without infrastructure. A number of dwelling projects is for commercial purposes, regardless of urban infrastructure. Therefore, this dimension is ranked at **Category C**.

(Data source: Resolution No. 17/2011/NQ-QH13 dated November 22, 2011 of the National Assembly on the land use planning up to 2020 and national five-year (2011-2015) land use plan; Report on land use planning up to 2020 and land use plan between 2011 and 2015 of Ho Chi Minh City; Master plan for urban development of Ho Chi Minh City and several major projects on urban development of Ho Chi Minh City).

2. *Policy recommendations*: Land Law 2013 provides considerable reforms in land use planning, in which land use planning is partly switched to spatial planning. Land use planning should be totally switched to zoning planning. We are waiting for a unified Planning Law which is being drafted.

<p>LGI-8.ii Land use planning effectively controls urban development in the four largest cities in the country, excluding the largest city. (Category: C)</p>	<p>A – In the four major cities urban development is controlled effectively by a hierarchy of regional/detailed land use plans that are kept up-to-date.</p> <p>B – In the four major cities, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban development is guided by the provision of infrastructure which implements only a part of the land use plans.</p> <p>C – In the four major cities in the country, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban development occurs in an ad hoc manner with</p>
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	<p>infrastructure provided some time after urbanization.</p> <p>D – In the four major cities in the country a hierarchy of regional/detailed land use plans may or may not be specified by law and in practice urban development occurs in an ad hoc manner with little if any infrastructure provided in most newly developing areas.</p>
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1. Analysis:

As analyzed in Dimension LGI-8.i, land use planning and plan system of Vietnam has no impact on urban expansion. Similarly, this shortcoming is seen and has an impact on urban expansion in entire urban areas in Vietnam.

Four selected major cities are likely four cities under central government, except for Ho Chi Minh City, including Hanoi, Hai Phong, Da Nang and Can Tho. In these four cities, land use planning and plans are approved as regulated. Urban expansion of the four cities occurs in the same manner of Ho Chi Minh City: in key areas, urban development takes place in a manner with infrastructure provided after urbanization while in other areas, urbanisation occurs before the provision of infrastructure.

(Data source: Resolution No. 17/2011/NQ-QH13 dated November 22, 2011 of the National Assembly on the land use master plan up to 2020 and national five-year (2011-2015) land use plan; Report on land use master plan up to 2020 and land use plan between 2011 and 2015 of Ho Chi Minh City of four cities namely Hanoi, Hai Phong, Da Nang and Can Tho; Master plan for urban development of four cities Hanoi, Hai Phong, Da Nang and Can Tho; Report on reviewing the implementation of Law on Land 2003 of MONRE).

<p>LGI-8.iii</p> <p>Planning processes are to cope with urban growth (Category B)</p>	<p>A – In the largest city in the country, the urban planning process/authority is able to cope with the increasing demand for serviced units/land as evidenced by the fact that almost all new dwellings are formal.</p> <p>B – In the largest city in the country, the urban planning process/authority is able to cope to some extent with the increasing demand for serviced units/land as evidenced by the fact that most new dwellings are formal.</p> <p>C – In the largest city in the country, the urban planning process/authority is struggling to cope with the increasing demand for serviced units/land as evidenced by the fact that most new dwellings are informal.</p> <p>D – In the largest city in the country, the urban planning process/authority cannot cope with the increasing demand for serviced units/land as evidenced by the fact that almost all new dwellings are informal.</p>
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1. Analysis:

In Vietnam, the management of building permit and dwellings development is deemed as a focus of attention. Its legal framework is specified in Construction Law 2003, Housing Law 2005 and Decrees on guidance. The management of building permit and dwellings development projects is considered as a focus of attention.

In Ho Chi Minh City, urban areas are fairly properly managed, but it is impossible to ensure that every case is pursuant to legal regulations and is granted certificate. Here, there are several projects is carried out in breach of building permit (with more stories, larger floor than permitted, etc.) or have not completed land-related procedures.

Panel members agreed on the fact that dwellings development projects sell dwellings to buyers without building permit. Ho Chi Minh City is so big that in some areas, construction is not strictly managed, and informal areas still exist but are not prevalent. Therefore, this dimension is rated as **Category B**.

(Data source: Construction Law 2003, Housing Law 2005, Decrees on guidance of Construction 2003 and Housing Law 2005, articles capturing construction in breach of planning and building permit in Ho Chi Minh City).

2. Policy recommendations: The problem to be considered is how to simplify building permit procedures and relieve building permit fee and to properly supervise the implementation and verify the quality of dwellings.

LGI-8.iv Residential plot sizes are adhered to in urban areas* (Category: C)	A – Existing requirements for residential plot sizes are met in at least 90% of plots. B – Existing requirements for residential plot sizes are met between 70% and 90% of plots. C – Existing requirements for residential plot sizes are met between 50% and 70% of plots. D – Existing requirements for residential plot sizes are met in less than 50% of plots.
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1. Analysis:

During subsidy period, due to socio-economic difficulties, residential land is arranged everywhere, even in areas of an administrative agency. Plot area is very small to save land and spending on construction. After DOI MOI, dwellings were still allocated by State. In 1994, Government issued Decrees No. 61-CP which end State subsidized regime of dwellings and residential land which was replaced by market mechanism. Since then, projects that construct dwellings for sale and lease have increasingly developed in term of the number. Residential areas of authorities are planned into residential plots. Only in poor residential plots that are unable to be upgraded are dwellings with narrow areas seen.

In about 2000, large cities such as Hanoi and Ho Chi Minh City come up with ideas of modernization of urban planning. Since then, all large cities provide their own limit of the smallest. For example, in Hanoi, the permitted smallest parcel is 30 m² with minimum width

of 3m. Decree No. 181/2004/NĐ-CP requires that the area of the smallest parcel is regulated by PPC in accordance with direction of local urban development, since regulation, parcel has to be larger than minimum area, but State will continue recognizing parcels less than minimum area if they are formed before enforcement of the regulation. Housing Law requires area of an apartment in communal residences shall be at least 45 m².

However, in practices, there are some characteristics as follows:

a. New approved housing projects and urban area projects shall ensure that parcel and the area of an apartment are not smaller than the required minimum area;

b. The division of existing residential parcel into smaller ones is permitted only if areas of smaller parcels are not smaller than the required minimum area;

c. In historical residential areas, there are parcels that are smaller than the required minimum area; in old residential areas of old quarters and slums, 50% to 80% of residential plots sizes are smaller than requirements (see the situation on Google Map).

d. A number of residents divide their residential parcel in to smaller parts for their children without following the formal procedure for parcel division, especially in old quarters with high land price.

d. When State recovers land for urban traffic infrastructure development, cities, except for Da Nang, recognize very small parcels as remains of areas recovered to build roads, which is called by “super narrow” house among modern urban areas in press (Da Nang recovers land in both sides of roads to re-plan urban areas along two sides of the roads

Currently, there are no accurate statistics on dwellings areas to provide the figure about the percentage of residential plots sizes which do not meet requirements. Moreover, the situations are different between large cities and small ones. For instance, the percentage is likely low in Da Nang thanks to re-planning while the figures of Hanoi and Ho Chi Minh City are relatively high because historical residential plots have not undergone re-planning. The percentage is usually estimated according to individual experience.

(Data source: Report on the number of houses Ministry of Construction submitted to Prime Minister accompanied enclosed with Proposal on approval of Housing Strategy up to 2020 and vision to 2030 (October, 2011), Decree No. 181/2004/NĐ-CP; Housing Law 2005).

2. *Policy recommendations:* For this dimension, policy recommendations are not totally in the domain of land law and mainly related to policy on re-planning historical residential areas in large cities. Regarding land policy, it is necessarily to stimulate the application of “land pooling & readjustment” to improve infrastructure of old urban areas, upgrade old urban areas and develop new ones.

<p>LGI-8.v Use plans for specific rural land classes (forest, pastures, wetlands, national parks etc.) are</p>	<p>A – The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is less than 10%.</p> <p>B – The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing</p>
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in line with actual use. (Category: B)	regulations is between 10% and 30%. C – The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is between 30% and 50%. D – The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is greater than 50%.
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1. Analysis:

The dimension focuses on analyzing contravention of regulations on agricultural land in use such as forestry land, pasture, wetland and special use forest (National Protected Area). These land types are primarily managed or used by State organizations. Households and individuals are allocated production forestry land only, which accounts for about 14% of total forestry land area and used for appropriate purposes. Currently, in some regions, production forest is substituted with plantation, which is deemed as appropriate.

According to land inventory for organizations allocated or leased by the State in accordance with Directive No. 31/2007/CT-TTg (up till now there is no more updated data), the area of land used in contravention of legal legislation is listed in the following table.

No.	Type of organization	The number of organizations in contravention	Total area in use	Area in contravention (ha)	Ratio
1	Economic organization	3,879	503,283.39	51,823.06	10.3%
2	Public service delivery organization	2,220	518,126.50	3,938.82	0.8%
3	Agricultural and forestry farm	137	6,162,653.11	58,017.69	0.9%
4	State agency	1,795	22,939.51	4,135.44	18.0%
5	Political organization	58	3,221.54	365.09	11.3%
6	Political and social organization	55	4,669.25	505.41	10.8%
7	socio-professional organization	15	1,057.34	1.65	0.2%
	Total	8,159	7,215,950.64	118,787.16	1.64%

As can be seen from the table, the share of land used for a purpose in contravention of

existing regulations is not much. The share of non-agricultural land used for a purpose in contravention of existing regulations in urban areas is higher.

(Data source: Report on land inventory for organizations allocated and leased by the State pursuant to Directive No. 31/2007/CT-TTg).

Panel Members agree that contravention of existing regulations on land use is prevalent, certainly more than 10% of used land, so this dimension is ranked at **Category B**.

➤ **Dimensions of indicator LGI-9 (Promoting and improving the capacity of making predictions about land use, including limited use areas: Issuance of building permit is rapid and transparent)**

<p>LGI-9.i Applications for building permits for residential dwellings are affordable and effectively processed (Category: B)</p>	<p>A – Requirements to obtain a building permit are technically justified, affordable, and clearly disseminated. B– Requirements to obtain a building permit are technically justified and affordable but not clearly disseminated. C – Requirements to obtain a building permit are technically justified but not affordable for the majority of those affected. D – Requirements to obtain a building permit are over-engineered technically.</p>
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Step	Agency	Justification	Efficiency and transparency of process	Estimate time (days)	Comments
1. Applications for building permits	One Stop Shop of competent PC	1	1		The agency reviews applications and guides applicants to complete applications before receiving.
2. Verification the validity of applications	Agency assigned to verify applications	1	1	10	Within 10 working days, verification agency reviews details and conducts field inspection if necessary, then decides to receive complete applications as required or informs applicants of

					inadequate documents for completion. Guidance of completion is carried out once. After completed, applications are received.
3. Sending applications for inviting comments of relevant agencies	Agency responsible for issuing building permit	1	1	10 days for construction or dwellings in urban areas, 7 days for dwellings in rural areas.	Agency responsible for issuing building permit sends applications to authorities to invite comments on issuing building permit
4. Deciding to issue building permit or not issue	Agency responsible for issuing building permit	1	1	Right after deadline for inviting comments of relevant agencies.	After receiving comments from authorities, Agency responsible for issuing building permit issue building permit or not in accordance with legal legislation.
Code		1 = Completely justified	1 = Efficient and transparent		
		2 = Partially justified	2 = There are exceptions when implementing		
		3 = Unjustified	3 = There are many exceptions		

1. Analysis:

As presented in the table above (prepared by Coordinator), sequences and procedures for issuing permit is clearly disseminated. In general, total time of issuing building permit is not more than 20 days for constructions, 15 days for residential dwellings in urban areas, 10

days for residential dwellings in rural areas from the reception of adequate and valid application.

Applications for building permit includes: (i) Application for issuance of building permit; (ii) Notarized or authenticated copy of one of the papers regarding land use right; (iii) Two set of drawings including drawings of horizontal surface and construction location maps; (iv) Drawings of horizontal surfaces of each storeys, and main vertical planes and sectional planes of the construction for residential dwellings in urban areas or drawings of main vertical planes of the construction for residential dwellings in rural areas; (v) Drawing of the horizontal surface of the construction’s foundation and drawing of sectional plane of the construction’s foundation , and a diagram of the system of rain water drainage, waste water processing, water supply, power supply and information system for residential dwellings in urban areas or a diagram of the system of rain water drainage, waste water processing, water supply, power supply and information system for residential dwellings in rural areas.

The cost of obtaining a building permit is regulated by PPC in accordance with practical situation of the locality. It is commonly said that, cost of consultation about applications for building permit and permit fee is not high.

(Data source: Decree No. 64/2012/ND-CP dated September 04, 2012 of the Government on building permit, Circular No. 10/2012/TT-BXD dated December 20, 2012 of the Ministry of Construction guiding in detail some contents of Decree No. 64/2012/ND-CP).

2. *Policy recommendations:* State agencies should control planning and architecture permit while technical building permit should be private.

<p>LGI-9.ii</p> <p>The time required to obtain a building permit for a residential dwelling is short.</p> <p>(Category: B)</p>	<p>A – All applications for building permits receive a decision within 3 months.</p> <p>B – All applications for building permits receive a decision within 6 months.</p> <p>C – All applications for building permits receive a decision within 12 months.</p> <p>D – All applications for building permits receive a decision after a period exceeding 12 months.</p>
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1. Analysis:

As analyzed in LGI-9.i, total time of issuing building permit is not more than 20 days as required by regulations. In practice, time required to obtain a building permit is many times longer than legal requirements (doubling as usual). On the other hand, it is difficult, complicated and time-consuming to complete applications.

Up till now, there is no formal report on actual average time to obtain a building permit. According to Panel Members, in many localities, the required time is more than 3 months.

LGI-10 and LGI-11)

- **Dimensions of indicator LGI-10** (*Transparency in valuation: Valuation for taxation is carried out in a clarified, consistent, regularly updated and publicly assessable manner*)

<p>LGI-10.i</p> <p>There is a clear process of property valuation. (Category: B)</p>	<p>A – The assessment of land/property values for tax purposes is based on market prices with minimal differences between recorded values and market prices across different uses and types of users and valuation rolls are regularly updated (at least every 5 years).</p> <p>B – The assessment of land/property for tax purposes is based on market prices, but there are significant differences between recorded values and market prices across different uses and types of users or valuation rolls are not updated regularly or frequently (greater than every 5 years).</p> <p>C – The assessment of land/property for tax purposes has some relationship to market prices, but there are significant differences between recorded values and market prices across different uses or types of users and valuation rolls are not updated regularly.</p> <p>D – The assessment of land/property for tax purposes is not clearly based on market prices.</p>
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1. Analysis:

Land Law requires land price regulated by the State (land price frame is regulated by the Government and valuation rolls are regulated by PPCs) has to be in line with market price; when market price changes by 20%, PPCs shall update valuation rolls respectively. Valuation rolls are publically disseminated on the first day of a year and used as a basis of land taxation and fees.

Therefore, land price for taxation has to be in line with market price while valuation rolls for taxation is updated on the annual basis.

In practice, valuation rolls of PPCs are equal to from 10% to 70% of market price, depending on land types and localities. Similarly, land price frame of Government is different from market price. PPCs of Hanoi and Ho Chi Minh City say that their valuation rolls are low because they are not allowed to require valuation rolls to excess State land price frame. Thus, the fact is that actual land price is fundamentally different from requirements of regulations.

2. Policy recommendations: According to Land Law 2013, land price frame of Government and valuation rolls of PPCs are issued on the 5 year basis. The most important matter is that land price frame and valuation rolls are subjected to competent authorities rather than subject to the market and legislation when there is no sanction for breach of regulations of officers.

<p>LGI-10.ii</p> <p>Valuation rolls are</p>	<p>A – There is a policy that valuation rolls be publicly accessible and this policy is effective for all properties that are considered for</p>
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publicly accessible (Category: B)	taxation. B – There is a policy that valuation rolls be publicly accessible and this policy is effective for most of the properties that are considered for taxation. C – There is a policy that valuation rolls be publicly accessible and this policy is effective for a minority of properties that are considered for taxation. D – There is no policy that valuation rolls be publicly accessible.
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1. Analysis:

According to land regulations and their implementation in Vietnam, valuation rolls and list of valuated land types are publicly accessible. Land users are aware of their land types, but no one identifies the price of their parcels when looking at valuation rolls. In other words, only competent officers know how to use valuation rolls to claim the price of a parcel. In practice, tax payers are unable to identify the price of parcels of interest. Only after asking tax officers can they know the price and taxation.

Therefore, legislation requires valuation rolls have to be publicly disseminated, even on the Internet, but residents are unable to know the regulated price of their land.

(Data source: Land Law, Taxation Management Law, Decrees on guidance of land pricing (Decree No. 188/2004/NĐ-CP, Decree No. 123/2007/NĐ-CP), Circular No. 45/2011/TT-BTNMT, guiding the determination of land areas improperly used, encroached or left unused against regulations for calculation of non-agricultural land use tax, annual decisions of PPCs, results of interview of tax payers (land use right transfer tax).

2. Policy recommendations: According to Land Law 2013, land price frame of Government and valuation rolls of PPCs are issued on the 5 year basis. The most important thing is how to keep land price frame and valuation rolls in line with market price when they are subjected to competent authorities instead of regulations because there is no sanctions against breach of regulations.

➤ **Dimensions of indicator LGI-11 (*Efficiency of revenue: revenue from land tax and property tax exceed the cost of collection*)**

LGI-11.i Exemptions from property taxes are justified and transparent (Category: A)	A – There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds and applied in a transparent and consistent manner. B – There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds but are not applied in a transparent and consistent manner. C – The exemptions to the payment of land/property taxes are not always clearly based on equity or efficiency grounds and are not always
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	<p>applied in a transparent and consistent manner.</p> <p>D – It is not clear what rationale is applied in granting an exemption to the payment of land/property taxes and there is considerable discretion in the granting of such exemptions.</p>
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1. Analysis:

According to non-agricultural land use tax (Article 11), taxpayers who are eligible for tax exemption and reduction are regulated by the list of investment promotion in areas with socio-economic difficulties or socio-economic extreme difficulties in accordance with legislation; the list of types, sizes and standards of socialized projects in educational, vocational training, healthcare, cultural, sports or environmental activities (enjoy tax exemption according to Decision of Prime Minister); poverty line for tax exemption according to Decision of Prime Minister or PPC.

According to statistics of General Department of Taxation, the number of taxpayers who enjoy tax exemption and reduction account for 30.80% of taxpayers, in which, economic entities enjoying tax exemption and reduction for investment promotion make up for 0.12%.

In the existing procedures, taxpayers register tax for each taxable parcel, enclosed with copies of documents relevant to taxable parcel and documents showing that they are eligible for tax exemption or reduction (if any). Taxation offices base on tax register applications to calculate the tax exemption or reduction amount and determine tax exemption and or reduction on the tax period basis.

In practice, land use tax of Vietnam is not high. National Assembly made decision on tax exemption on nonagricultural production land with taxable land area less than area quote. Tax imposed on nonagricultural production land is not high (0.03% of property value calculated according to regulated price; in urban areas, such a tax rate is equivalent to 0.015% of property price calculated according to market price). Therefore, tax exemption and reduction are deemed transparent and not a pressing issue.

(Data source: Law on nonagricultural production land use tax, Resolutions of National Assembly on tax exemption and reduction on nonagricultural production land use in 2004 and 2010, Decree No. 108/2006/ND-CP on detailing and guiding the implementation of a number article of the Law on Investment).

<p>LGI-11.ii</p> <p>Property holders liable to pay property tax are listed on the tax roll.</p>	<p>A – More than 80% of property holders liable for land/property tax are listed on the tax roll.</p> <p>B – Between 70% and 80% of property holder liable for land/property tax are listed on the tax roll.</p> <p>C – Between 50% and 70% of property holder liable for land/property tax are listed on the tax roll.</p>
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(Category: B)	D – Less than 50% of property holders liable for land/property tax are listed on the tax roll.
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1. Analysis:

Currently, population groups take responsibility for guiding households to register for nonagricultural production land use tax in case of land under management of local authority; project owners take responsibility for guiding households to register for nonagricultural production land use in case projects have not handed over to local authorities. Tax collection is not subject to the situation whether parcel is issued land use right certificate or not, but the current land use.

According to statistics of General Department of Taxation, by 31st, December, 2012, the number of taxpayers registering tax is 16,377,408; the number of registered parcels is 17,817,714 parcels with the area of 47,936,364,983 m², in which there are 11,850,811 parcels granted land use right certificates (66.51% of registered parcels; there are 36,383,442,892 m² granted land use right certificate (75.90% of registered areas).

According to data on land, urban land accounts for 10.13%, rural land accounts for 70.34%; commercial nonagricultural production land accounts for 19.53%. Thus, as can be calculated, urban registered area is 4,857,457,103 m², rural registered area is 33,718,552,588 m² and commercial nonagricultural production land is 9,360,355,293 m².

According to statistics of General Department of Taxation, only 80% of land users granted Tax Registration Certificate are listed and updated on the tax roll; if taxpayers are included, only from 70% to 80% of property holders liable for land tax are listed on the tax roll.

(Data source: Law on nonagricultural production land use tax, Resolutions of National Assembly on tax exemption and reduction on nonagricultural production land use in 2004 and 2010, Report on the implementation of National Assembly on tax exemption and reduction on nonagricultural production land use in 2004; Data synthesized by General Department of Land Administration and General Department of Taxation).

LGI-11.iii	A – More than 80% of assessed property taxes are collected.
Assessed property taxes are collected	B – Between 70% and 80% of assessed property taxes are collected.
(It does not have enough data for assessment)	C – Between 50% and 70% of assessed property taxes are collected.
	D – Less than 50% of assessed property taxes are collected.

1. Analysis:

According to regulations on tax payment of nonagricultural production land use, provincial tax offices provide tax declaration of each taxable parcel to land users with a uniform form and then authorize local authorities to collect tax. Annually, without changes in taxpayers and tax amount, taxpayers will not have to re-register tax payment. Taxpayers

register, declare and pay tax at tax office or authorized agencies and individuals in the location of land.

Authorized collection less than 8% a year (5% in Hanoi and Ho Chi Minh City, 8% in Northern mountainous provinces and Central Highlands and 6% in other provinces) has a positive effect on encouragement of tax collection in regions with a substantial source of tax revenue, but is unable to encourage tax collection in regions with a small source of tax revenue. In regions with a small source of tax revenue (slowly developing rural areas and remote areas), there is usually no mechanism to fully collect tax from taxpayers; tax revenue is low.

Tax offices calculate and prepare a unified Tax Notice, and taxpayers have the right to response, correct, register additional relevant information.

According to General Department of Taxation, tax roll manages 80% of land users granted Tax Payment Certificates and more than 70% of land users registering tax payment (including those without Certificates). Regretfully, tax offices do not have data on the share of land users who have paid tax to those liable for tax. Due to low tax amount, taxpayers are not encouraged to fulfill their obligations.

Panel Members think that it is impossible to rank this dimension because there is no necessary data publicized by tax offices.

(Data source: Electronic Portal of MOF).

<p>LGI-11.iv Receipts from property taxes exceed the cost of collection. (Category: A)</p>	<p>A – The amount of property taxes collected exceeds the cost of staff in charge of collection by a factor of more than 5.</p> <p>B – The amount of property taxes collected is between 3 and 5 times cost of staff in charge of collection.</p> <p>C – The amount of property taxes collected is between 1 and 3 times cost of staff in charge of collection.</p> <p>D – The amount of property taxes collected is less than the cost of staff in charge of collection.</p>
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1. Analysis:

According to regulations on tax payment of nonagricultural production land use, provincial tax offices provide tax declaration of each taxable parcel to land users with a unified form and then authorize population groups to collect tax. Annually, without changes in taxpayers and tax amount, taxpayers will not have to re-register tax payment. Taxpayers register, declare and pay tax at tax office or authorized agencies and individuals in the location of land.

Tax offices calculate and prepare a unified Tax Notice, and taxpayers have the right to response, correct, register additional relevant information.

Thus, administrative cost of urban and rural nonagricultural production land use include only cost of printing and distributing the tax form. Local authorities and population groups take responsibility for collecting tax. Besides, as stipulated by law on tax, commune

PCs are entitled to retain 5% of total revenue in Hanoi and Ho Chi Minh City; 8% of total revenue in provinces in Northern mountainous areas and Central Highlands; 6% of total revenue in other provinces. Thus, administrative cost of urban and developed rural areas is usually 20% less than receipts.

Moreover, in mountainous areas, several households pay only 1.000 dong per year while cost of declaration exceeds revenue and tax office has to take time to collect tax and settle tax. Therefore, in less developed mountainous areas, administrative cost exceeds revenue from nonagricultural production land use tax.

According to the country coordinator, Land use tax of Vietnam is too low. Currently, revenue from tax is about from 2% to 3% of total revenue. Administrative cost includes print cost and distribution cost of declaration form and authorized collection cost (less than 8%). This dimension is reliably ranked at Category A.

(*Data source:* Electronic portal of MOF, Law on Tax Management, Decree No. 60/ 2003/ND-CP guiding the Law on Tax Management, Circular No. 153/2011/TT-BTC guiding implementation of Decree No. 60/2003/NĐ-CP, synthesis reports of General Department of Taxation).

2. *Policy recommendations:* There are many shortcomings in tax policies on land use. Tax amount is too low to prevent speculation and raise fund for infrastructure and public service development. Policy makers worried about low income, so it is difficult to increase tax rate to meet the higher demand of receipts from land use for a sustainable revenue and modification of negative behaviors. Currently, there is only tax on land use, but there is not tax on house use. Tax administration is subject to grass root level authorities, which is not as appropriate as land management agencies with full records of tax payers.

Vietnam necessarily reforms tax on real estate as follows:

- a. Issue real estate tax that includes land use tax and land-associated property tax;
- b. Differentiation between 2 areas: tax exemption on real estate in rural areas where there has not been urban planning; only imposing tax on urban areas and rural areas where there has been planned to become urban;
- c. Step by step, raising real estate tax in urban areas to ensure spending on development of infrastructure and public services. Also, thanks to this, distribution of urban population is adjusted. Progressive taxation imposed on the areas exceeding quota should be applied to establish social equality, prevent land speculation, eliminate custom of savings on real estate and reasonably deal with projects delaying land use;
- d. Tax is calculated on market price basis; land price in valuation roll stipulated by PPCs shall be at most 20% different from market price.
- d. Amending law on income tax from transfer into tax on land use right transfer which is equivalent to 2% of land price regulated by the State to encourage residents declare the accurate price of parcel in contract (abolishing the regulation that requires land user to calculate tax on the contract price basis if contract price is higher than that stipulated by the State); this is the condition for providing evidence on land price in the market.

5.3 Management of public land

The public land in LGAF study is understood as all types of lands owned by the State. In most countries where the land multi-ownership is recognized, the public land is understood as the land not yet transferred to private ownership yet, possibly still in the form of reserve land, the land with natural mineral to be retained, the land being used by the state agencies or the land used for public purposes.

In Vietnam, only the regime of whole people ownership on land is recognized, in which land in current use is recognized or land is allocated or leased by the State to the organizations, community, households, and individuals for use. As such, it is not considered all the land in Vietnam is public one due to only one regime of whole people ownership as this will lead to inappropriate conclusions about land policy. An appropriate alternative is considered that the land use rights when the state recognizes or allocates land for public use purpose in Vietnam is the State's ownership in most of other countries. The public use is defined here as the national interest, public interest, national defense and security in accordance with the regulation of the current laws on land. Moreover, public land also includes the following lands: (i) land leased or allocated in a certain period to economic organizations for commercial purposes; (ii) land that is not being used is allocated to agencies, organizations for management and protection; (iii)) unused land allocated to agencies, organizations for management and protection. Specifically, public land includes:

1. Land being used by the Party, State authority agencies of the political, legislative, judicial, executive system under the regime of land allocation without collection of land use fee;
2. Land being used by the political-social member organizations including Fatherland Front, General Federation of Labor, Farmers' Association, Women's Union, Ho Chi Minh Youth Union, Veterans Association under the regime of land allocation without collection of land use fee;
3. Land being used by political-social-professional, social-professional, social organizations with the permission of the competent authority under the regime of land allocation without collection of land use fee;
4. Land being used by the armed force under the regime of land allocation without collection of land use fee;
5. Land being used by the public units of the State under the regime of land allocation without collection of land use fee;
6. Land being used by economic organizations under the regime of leasing or allocation in a limited period of time;
7. Agricultural land being used by households, individuals under the regime of leasing or non-agricultural being used by households, individual under the regime of allocation in a limited period of time;
8. Land used for public purposes associated or not associated with commercial purpose such as transport infrastructure, irrigation, water supply – waste treatment, telecommunications, power transmission, environmental treatment, historical monument, landscapes, park, public recreation places, etc. under the regime of land allocation for management and protection;
9. Protection forest land, special-used forest land;
10. Rivers, streams and specialized water surfaces;

11. Land for cemeteries;
12. Unused land is managed, and protected by Commune People's Committee for agricultural land and by land resource development organizations for non-agricultural land.

The public land resource (land used for public and state purposes) is formed from 2 major resources: (i) the unused land now is to be used for the purposes of the State or the public in accordance with the approved land use planning; (ii) the land being used is recovered by the State to allocate for use for the state and public purposes free of charge, including the cases associated or un-associated with commercial purpose. According to Vietnam land law, there is only one mechanism of the State's recovery of land including the cases associated and un-associated with commercial purpose. The people subjected to land recovery by the State is compensated by land of the same category or by cash with land price suitable to market price and supported for job change, income interruption, movement, livelihoods stabilization, etc. with the uniform process, procedure, irrespective of the coming use associated with commercial purpose or not.

Such is the provisions of the law, but in reality, most of the cases the State recovers land are compensated by cash once with the land prices relatively much lower than the market and some amounts of supports which are not enough for actual expenses. The total value of the compensation and supports can also be accepted by the people subjected to land recovery as total value of land and attached properties, not including the enduring damage to livelihood, culture and environment.

Households, individuals who use land in Vietnam have rights on land that are legally protected, including the rights of transfer, exchange, lease, inheritance, mortgage (the mortgage includes lien and guarantee), donation and capital contribution, irrespective of fundamental rights and secondary rights. These rights are only lost when losing the land use right due to self-transfer or recovery by State.

Thus, in Vietnam, except when the State recovers land, there is only one mechanism left that investors negotiate with current land users fully under the market principle. This is an advanced mechanism, but the fundamental drawback is that investors can be successfully negotiated with the majority of land users, but have problem with a small number of land users who want too much. The negotiation mechanism will fall into obstructiveness and is the opportunity for some ones to present the expansion of legal framework on the mechanism of the State's recovery of land.

The non-economic organizations who are using public land or allocated land by the State for public use have only the right on use, not any right on land transaction. Public land is able to convert to the land used for commercial purpose in accordance with the approved land use planning.

Economic organizations which have leased public land and pay annual leasing fee have right on use only, not any right on land transaction, when taking any transaction of property associated with land, the state agrees for the persons/organizations who receive properties can continue the land leasing.

Economic organizations which have leased public land and pay annual leasing fee or are allocated land for a certain time have right on land transaction.

Hence, private land includes non-agricultural land which is allocated for a limited time and agricultural land being used by households and individuals.

6.3.1. Justification of public land ownership and management clarity (LGI -12 – Public land is clearly justified and managed: Public land ownership is justified and checked with clearly defined management responsibility and public access to relevant information).

<p>LGI-12.i Public land ownership is justified and managed at the appropriate level of government (Category: C)</p>	<p>A- Public land ownership is justified by the provision of public goods at the appropriate level of government and such land is managed in a transparent and effective way.</p> <p>B- Public land ownership is generally justified by the provision of public goods at the appropriate level of government but management may be discretionary</p> <p>C- Public land ownership is justified in most cases by provision of public goods but responsibility is often at the wrong level of government.</p> <p>D- Public land ownership is not justified by the cost effective provision of public goods.</p>

1. Analysis:

The definition of public land has been discussed, analysed carefully by all panel members as shown above in order to have right concepts on public land in the land and public asset law in Vietnam. Thus, public land is not only used for purposes of providing public services but also for many other state’s purposes.

The management of public land in Vietnam which is assigned to Provincial People’s Committee for making decision is not appropriate. There are shortcomings in management of public assets when competence to make decision on assets associated with land belongs to central agencies (Ministry of Finance or any other ministries) but the competence to make decision on land is PPC. Next, management of protection forest land, special-used forest land is adequate from planning period to allocation for management. A large area of protection forest land being changed to protection forest land has shown the unstable master planning. Most of protection forest and special-used forest are allocated to Forest Management Board together with forest encroachment phenomenon in many localities; deforestation due to spontaneous migration has shown shortcomings in management. In the urban and regions planned for urban development, the encroachment of public land for extending houses often happens. All above shortcomings show that decentralization of management of public land does not correspond to appropriate level of government.

(Data source: Land Law 2003, Law of Management and Usage of state properties 2008 and reports on implementation of 2003 Land law of ministries and localities).

2. Policy recommendation: Competence to decide on public land in Vietnam is unified for unused land that to be used, recovered land that going to be used, and land being used with

granted land use right certificates. Decision competence is PPC to organizations, foreign investors and DPC to households, individuals, and communities. Public land management policies need to be adjusted in the direction that: People’s Committee has competence to decide on unused land, and recovered land for public purposes; and for public land being used and granted land use right certificates, competence to decide is agencies which manage public properties associated with land.

In law enforcement, the use of public lands must be completely publicized and is subject to the supervision of the society.

LGI-12.ii There is a complete recording of publicly held land (Category: A)	A- More than 50% of public land is clearly identified on the ground or on maps. B- Between 30% and 50% of public land is clearly identified on the ground or on maps. C- Less than 30% of public land is clearly identified on the ground or on maps. D- Public land is not clearly identified on the ground or on maps.
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1. Analysis:

According to kinds of public land mentioned above, with data on mapping and cadaster management, a summarized table is shown below:

No.	Type of public land	Area (ha)	Management status	Status of cadastral mapping
1	Land used by Party, political-social organizations, social organizations, State agencies, public bodies without collection of land use fee	18,716	Being managed clearly on the ground	Most of them have cadastral maps
2	Land for security and defense purposes	336,352	Being managed clearly on the ground	Most of them have cadastral maps
3	Land used by economic organizations is leased or allocated by the State in a limit time period	252,752	Being managed clearly on the ground	Most of them have cadastral maps

4	Agricultural land which households, individuals leased from the State for usage	<i>There is no statistic for this item; this area is included in land used by households, individuals.</i>		
5	Land for public purposes	1,186,659	Being managed clearly on the ground	Most of them have cadastral maps
6	Protection Forest Land, special-used forest land	7,859,564	Being assigned to Management Board or CPC for management and protection	Already in the cadastral map and handed over to provincial Forest Protection Agency
7	Rivers, streams and specialized water surfaces	1,075,736	Being managed clearly on the ground	Most of them have been shown on cadastral map
8	Land for cemeteries	100,939	Being managed clearly on the ground	Most of them have been shown on cadastral map
9	Unused land which is managed and protected by CPC and land resource development organization.	3,323,512	Being managed clearly on the ground	Most of them have been shown on cadastral map

Generally, types of public land are managed specifically on the ground and most of them are shown on cadastral map. At present, there is small area of land which is encroached, occupied, or unresolved disputes; this area does not exceed 50% of total public land area.

(Data source: Land Law 2003; land inventory data 2010; Report on the implementation of the 2003 Land Law made by the Ministry of Natural Resources and Environment)

2. *Policy recommendation:* Indices of statistics, land inventory should be more detailed to reflect the groups of public and private land.

LGI-12.iii The management responsibility for public land is unambiguously assigned. (Category :B)	A- The management responsibility for different types of public land is unambiguously assigned. B- There is some ambiguity in the assignment of management responsibility of different types of public land but this has little impact on the management of assets. C- There is enough ambiguity in the assignment of management responsibility of different types of public land to impact to some extent on the management of assets.
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	D- There is serious ambiguity in the assignment of management responsibility of different types of public land with major impact on the management of assets.
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1. Analysis:

The management of public land has been decentralized in the Land Law, Law on Managing and Usage of public properties, Law on protection and development of forest. In terms of law, it can be considered tight management but there are still obligations which are not attached to specific responsibilities. Much area of forest is not allocated to usage but to management only, with not much financial support, it is not closely managed. Similar to analysis in LGI- 12.i, responsibility of the manager of public asset attached to land and responsibilities of land managers are different; it makes the management process complicated. Many types of land used for public purpose are assigned to CPC for management without specific boundary but the border line of private land is used as landmark, which easily leads to encroachment and land dispute.

It can be concluded that decentralization is systematic but some points are not irrational, unclear, hence, it has a certain influence but not much to the management of public asset.

(Data source: Land Law 2003; Law on Managing and Usage of public properties in 2008; Law on protection and development of forest; reports on implementation of Land Law 2003 of Ministries and localities).

<p>LGI-12.iv</p> <p>Sufficient resources are available to fulfill land management responsibilities.</p> <p>(Category: C)</p>	<p>A- There are adequate budgets and human resources that ensure responsible management of public lands.</p> <p>B- There are some constraints in the budget and/or human resource capacity but the system makes most effective use of available resources in managing public lands.</p> <p>C- There are significant constraints in the budget and/or human resource capacity but the system makes effective use of limited available resources in managing public lands.</p> <p>D- There are either significantly inadequate resources or marked inefficient organizational capacity leading to little or no management of public lands.</p>
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1. Analysis:

Budgets and human resources for public land management are assigned to different kinds of land. As for land allocated to users, users have to manage it. As for public land allocated to organizations for management and protection, budgets and human resources can't be ensured. For example, protection forest land and special-used forest land are assigned to Management Board or CPC for management and protection with limited budget and resources, which leads to dispute, encroachment, land crime in many places. According to Panel Members, budget allocation and management board of public land is limited. Some areas of public land which have high value in the urban areas are also not well-managed, and are subject to beneficiary

group.

(Data source: Government’s regulations on forest management and protection; reports on implementation of the Land Law 2003 of ministries, sectors and provinces; report of CODE institution on arrangement and renovation of state agricultural enterprises, state forest enterprises, the land use management relations between state forest enterprises and local citizens)

2. Policy recommendations: It’s necessary to invest more budget and human resource for management of public land which is protection forests and special-used forests; to create a good linkage between general management agencies and local community attached to benefits from forestry.

<p>LGI-12.v</p> <p>The inventory of public land is accessible to the public</p> <p>(Category: C)</p>	<p>A- All the information in the public land inventory is accessible to the public.</p> <p>B- All the information in the public land inventory is accessible to the public, but information for some types of public land (land used by the military, security services, etc) is not available for justifiable reasons.</p> <p>C- All the information in the public land inventory is only available for a limited set of public property and there is little or no justification why records are not accessible.</p> <p>D- No information in the public land inventory is accessible to the public</p>
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1. Analysis:

In Vietnam, The government has made inventory of public assets including public land (in 1998, 2007), the results were reconciled and reported by the Ministry of Finance. In principle, these reports are publicized but it’s not really accessible to the public. In 2009, the anti corruption research team of the World Bank, Embassies of Denmark and Sweden desired to access to these data but it was impossible.

Former General Department of Cadaster and Ministry of Natural Resources and Environment investigated the land used by organizations, reported to the Prime Minister but derogation still could not be handled. These reports are hardly accessible.

(Data source: Directives of the Prime Minister regarding public asset inventory, investigation of land used by organizations, specific examples on assessment to inventory and investigation reports).

2. Policy recommendation: There should be specific provisions on the right to access information which is not subject to confidentiality. The inventory reports on public assets, public lands, and investigation of the use of public land should be publicized on land information website.

<p>LGI-12.vi</p>	<p>A- The key information for land allocations (the locality and area of</p>
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<p>The key information on land allocations is accessible to the public. (Category: B)</p>	<p>the land allocation, the parties involved and the financial terms of the land allocation) is recorded and publicly accessible.</p> <p>B- The key information for land allocations (the locality and area of the land allocation, the parties involved and the financial terms of the land allocation) is only partially recorded but is publicly accessible; or the key information is recorded but only partially publicly accessible.</p> <p>C- The key information for land allocations (the locality and area of the land allocation, the parties involved and the financial terms of the land allocation) is recorded or partially recorded but is not publicly accessible.</p> <p>D- There is no recorded information on land allocations.</p>
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1. Analysis:

The Decision No. 09/2007/QD-TTG allows the transfer of public land use right for business purposes but it has to be publicized on websites (transfer in the mode of auction). When having an auction, the decision for this auction is required and a pricing organization is hired. The requirement of announcing auction result is not mandatory. The decision also allows the type of nominated sales but nominated persons are not required to be public. Generally, it's impossible to access information on results of persons who are transferred public land. In most cases of land allocation to enterprises directly, no information is public.

Information on transfer conditions, financial clause in the transfers through auction or nominated sales is accessible to involved parties, not to the public. In general, information on transfer of public assets is public in related agencies of state management system, not to individuals.

Recently, most of Ministries have moved to new office spaces on the basis of transfer of some old facilities to the market. There are many opinions about law compliance in transfer and the lack of public information.

(Data source: Decision No.09/2007/QD-TTg; situation of implementation of auction, transfer of public assets in Hanoi and Ho Chi Minh City).

2. Policy recommendation: There should be more detailed, specific provisions on the transfer process of public assets based on the principle of complete transparency.

6.3.2. Justification and fairness of expropriation procedures (based on LGI-13 and LGI-14)

- **Dimensions of indicators LGI-13 (Adequacy and appropriateness in terms of time in the recovery of land: Government recovers land for public interest and efficient implementation)**

<p>LGI-13.i There is minimal transfer of expropriated land to private interests</p>	<p>A- Less than 10% of land expropriated in the past 3 years is used for private purposes</p> <p>B- Between 10% and 30% of land expropriated in the past 3 years is used for private purposes.</p> <p>C- Between 30% and 50% of land expropriated in the past 3 years is</p>
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*	used for private purposes.
(Category: C)	D- More than 50% of land expropriated in the past 3 years is used for private purposes.

1. Analysis:

Mechanism of land recovery in Vietnam does not only apply to creation of public land but also to creation of land for business and production purpose. This dimension focuses on land recovery for country benefit, public interest, security, defense but it's used for private purposes, this dimension does not refer to land recovered for business purpose.

According to reports of localities from 2006 to 2011, total of recovered land area is 287,921 ha including 257,921 ha of agricultural land, 30,000 ha of non-agricultural land. Recovered land area which is used includes 102,190 ha for business purpose, 156,214 ha for infrastructure and 29,517 ha for urban development. Land for business purposes in urban areas occupies 50% of residential land, which is equivalent to 14,758 ha. So, total area of recovered land to change to public land (one for business purpose excluded) is 185,731 ha, of which 14,758 ha used to private purpose, accounting for **7.9%**. If the recovered land includes total area of land for business and residence, land for private purpose is 116,948 ha of total 287,921 ha.

If the ratio of land used for private purpose is calculated based on total land recovered for public one, this dimension can be ranked at **Category A** (7.9%); if it is calculated on total recovered land, this dimension can be ranked at **Category C** only (40.6%).

(Data source: Provinces' reports on land recovery which are submitted to GDLA).

2. Policy recommendation: It's necessary to make adjustment to the law, in which land recovered by the State is only used for public purpose.

LGI-13.ii	A- More than 70% of the land that has been expropriated in the past 3 years has been transferred to its destined use.
Expropriated land is transferred to destined use in a timely manner.	B- Between 50% and 70% of the land that has been expropriated in the past 3 years has been transferred to its destined use.
(Category: A)	C- Between 30% and 50% of the land that has been expropriated in the past 3 years has been transferred to its destined use.
	D- Less than 30% of the land that has been expropriated in the past 3 years has been transferred to its destined use.

1. Analysis:

According to the reports on the land law enforcement of the provincial localities as well as the results of inspection, monitoring on the land law enforcement of the central agencies, the recovered land is always used for right purposes. The change of purpose has to be approved by the competent People's Committee. The use of recovered land is always monitored closely in terms of purpose of use by the people whose land is recovered. It can be seen that the

status of improper use of agricultural land. For recovered land, there are some delays in using land in many projects, but it is still used for right purpose.

(Data source: The report of the provincial localities on implementation of the land law, the report of Ministry of Natural Resources and Environment on the inspection of the implementation of the land law, the monitoring report of the National Assembly on the implementation of the land use planning, conversion of land use purpose)

➤ **Dimensions of indicator LGI-14 - (Transparency and equality in land recovery procedures: procedure is clear, transparent and compensation in kind or in cash at market prices is completed fairly and quickly)**

<p>LGI-14.i</p> <p>Compensation is paid for the expropriation of the registered property.</p> <p>(Category: C)</p>	<p>A- Where property is expropriated, fair compensation, in cash or in kind, is paid so that the displaced households have comparable assets and can continue to maintain prior social and economic status.</p> <p>B- Where property is expropriated, compensation, in kind or in cash, is paid so that the displaced households have comparable assets but cannot maintain prior social and economic status.</p> <p>C- Where property is expropriated, compensation, in kind or in cash, is paid but the displaced households do not have comparable assets and cannot maintain prior social and economic status.</p> <p>D- Compensation is not paid to those whose rights are expropriated.</p>
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Status	Fairness of compensation	Compensated rights	Timeliness of compensation	Implementation	Comments
Registered urban property	2	1	2	2	
Registered rural property	2	1	2	2	

Code:	1 = Compensation enabling comparable assets and maintenance of social and economic status; 2 = Compensation enabling comparable assets but not maintenance of social and economic status; 3 = little or no compensation.	1 = All secondary rights recognized; 2 = Some secondary rights recognized; 3 = No secondary rights recognized	1 = Most receive compensation within 1 year; 2 = About half receive compensation within 1 year; 3 = Most do not receive compensation within 1 year.	1 = Consistently implemented; 2 = Implemented with some discretion; 3 = Implemented in highly discretionary manner.	
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1. *Analysis:*

First, it's necessary to explain the meaning of word "asset". In Vietnam, an asset is understood as an asset attached to land, land excluded (asset is land use right). Under the provisions of the law of Vietnam, (Decree No. 17/2006/ND-CP, Decree No. 123/2007/ND-CP), asset is land use right that is compensated at land prices which is appropriate to market price. In fact, in most cases, asset that is land use right, is always compensated at lower prices than market ones, which causes pressing manner of people having recovered land. The assets attached to land are compensated by the value for creation of new one. The inventory, evaluation and classification that are not carried out well have brought much of pressing to people.

With regard to the maintenance of socio-economic conditions after the land recovery, it's provided by Land Law 2003 that the resettlement area must have conditions better or equal to the old places. For new livelihood and job after the land recovery, there is a provision to provide a certain support for changing job, creating new jobs, livelihood interruption, and moving in a certain time (Decree No. 107/2004/ND-CP, Decree No.69/2009/ND-CP). In fact, most of resettlement areas have worse conditions than the original ones. Supporting time and amount for income interruption, creating new jobs are not enough for livelihood recovery.

However, this dimension does not relate to assets attached to land only but it has to also include land use right and attached assets. Value of asset which is land use right is much higher than value of asset attached to land; thus, this dimension is ranked at **Category C**.

(Data source: The Land Law 2003, Decree No. 197/2004/ND-CP, Decree No. 17/2006/ND-CP, Decree No.84/2007/ND-CP, Decree No.123/2007/ND-CP, Decree No. 69/2009/ND-CP, articles reflecting compensation, support, resettlement, some researches on the satisfactory of people whose land is recovered).

2. *Policy recommendations:* The policy on compensation of property associated with land is justified. Policy on compensation of land should be based on the market price and provide appropriate valuation procedures. Financial support to ensure social and economic conditions should be turned into compensation with the amount equaling the income land holders earned before recovery until they have another stable livelihood.

<p>LGI-14.ii</p> <p>Compensation is paid for the land expropriation of all rights regardless of the registration status.</p> <p>(Category: C)</p>	<p>A- Fair compensation, in kind or in cash, is paid to all those with rights in expropriated land (ownership, use, access rights, etc.) regardless of the registration status.</p> <p>B- Compensation, in kind or in cash, is paid however the level of compensation where rights are not registered does not allow for maintenance of social and economic status.</p> <p>C- Compensation, in kind or in cash, is paid for some unregistered rights (such as possession, occupation etc.), however those with other unregistered rights (which may include grazing, access, gathering forest products etc.) are usually not paid compensation.</p> <p>D- No compensation is paid to those with unregistered rights of use, occupancy or otherwise.</p>
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Status	Fairness of compensation	Compensated rights	Timeline of compensation	Implementation	Comments
Unregistered urban property	2	1	2	2	
Unregistered rural property	2	1	2	2	

Code:	<p>1 = Compensation enabling comparable assets and maintenance of social and economic status;</p> <p>2 = Compensation enabling comparable assets but not maintenance of social and economic status;</p> <p>3 = little or no compensation paid.</p>	<p>1 All secondary rights recognized;</p> <p>2 = Some secondary rights recognized ;</p> <p>3 = No secondary rights recognized..</p>	<p>1 = Most receive compensation within 1 year;</p> <p>2 = About half receive compensation within 1 year;</p> <p>3 = Most do not receive compensation within 1 year</p>	<p>1 = Consistently implemented;</p> <p>2 = Implemented with some discretion ;</p> <p>3 = Implemented in highly discretionary manner.</p>	
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1. Analysis:

According to Vietnamese laws (Decree No.84/2007/ND-CP), the compensated land does not base on the land registry status but on the provisions of the law on the recognition of the government on the land use right. As for assets attached to land, agencies which are responsible for compensation, support, resettlement often have a principle that no compensation is granted to asset created illegally, only support is considered.

Similarly, this dimension does not only relate to assets attached to land but it also includes land use right and attached assets. Value of asset which is land use right is often much higher than value of the assets attached to land, so this dimension can be ranked at **Category C**.

(Data source: The Land Law 2003, Decree No. 197/2004/ND-CP, Decree No. 17/2006/ND-CP, Decree No.84/2007/ND-CP, Decree No.69/2009/ND-CP, articles reflecting compensation, support, resettlement, researches about satisfactory of land lost people).

2. Policy recommendation: The compensation policy with regard to assets attached to land is reasonable. Compensation policy regarding land should be calculated based on market price with suitable pricing procedure. Support to maintain socio-economic conditions as good as before the land recovery should be adjusted to compensation and compensation is equivalent to income before the land recovery until having new stable livelihood.

<p>LGI-14.iii</p> <p>Expropriated owners are compensated promptly.</p> <p>(Category: C)</p>	<p>A- More than 90% of expropriated land owners receive compensation within one year.</p> <p>B- Between 70% to 90% of expropriated land owners receive compensation within one year.</p> <p>C- Between 50% and 70% of expropriated land owners receive compensation within one year.</p> <p>D- Less than 50% of expropriated land owners receive compensation within one year..</p>
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1. Analysis:

With regard to the timeliness of compensation, there is a provision that hand over of land will be done after the completion of compensation. According to the Vietnamese law Decree No.197/2004/ND-CP, Decree No.84/2007/ND-CP, Decree No. 69/2009ND-CP), the compensation time is less than 1 year but in fact, the process of compensation, support, resettlement can last longer, within couples of years since the decision of recovery is available. It takes quite long time to agree on the proposal of compensation, support and resettlement when proposed prices are less than market prices.

In fact, people in many localities are required not to plant on the land and leave it for investors to take measurement, geological survey while compensation and support in cash is not received. It normally takes more than 1 year from the time of no planting till receiving the compensation and support.

Panel members pointed out that there are not detailed statistic data for this dimension. As per their practical observation, it is at least 2 years for the process from the approval of decision of recovery till compensation receipt. This dimension can be ranked at **Category C**.

(Data source: The Land Law 2003, Decree No. 197/2004/ND-CP, Decree No.84/2007/ND-CP, Decree No.69/2009/ND-CP, articles reflecting compensation, support, resettlement, researches about satisfactory of people whose land are recovered).

2. Policy recommendation: the Land Law 2013 has adjusted provision that the decision of land recovery is issued on the same day with approval of proposal of compensation, support and resettlement.

<p>LGI-14.iv</p> <p>There are independent and accessible avenues for appeal against expropriation.</p> <p>(Category: C)</p>	<p>A- Independent avenues to lodge a complaint against expropriation exist and are easily accessible.</p> <p>B- Independent avenues to lodge a complaint against expropriation exist but there are access restrictions (i.e. only accessible by mid-income and wealthy).</p> <p>C- Avenues to lodge a complaint against expropriation exist but are somewhat independent and these may or may not be accessible to those affected.</p> <p>D- Avenues to lodge a complaint against expropriation are not</p>
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	independent.
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1. Analysis:

The term “Independent Channel” here interpreted in a unified manner. Vietnamese Law (Law on Complaints, Land Law 2003) has detailed provisions regarding process, procedure, receiver of complaints, resolution time, types of documents, settlement contents, etc. for all types of complaints; there is no separate channel to receive and resolve complaints against land recovery, land pricing, compensation, support and resettlement.

(Data source: Land Law 2003, Law on complaints and Decrees guiding the implementation process, results of some case studies about complaints and resolutions on land issues).

2. Policy recommendation: It’s necessary to have a really independent channel for solving all complaints against land recovery, land pricing for compensation, compensation value, support and resettlement.

<p>LGI-14.v</p> <p>Timely decisions are made regarding complaints about land expropriation.</p> <p>(Category: B)</p>	<p>A- A first instance decision has been reached for more than 80% of the made complaints about expropriation lodged during the last 3 years.</p> <p>B- A first instance decision has been reached for between 50% to 80% of the complaints about expropriation lodged during the last 3 years.</p> <p>C- A first instance decision has been reached for between 30% and 50% of the complaints about expropriation lodged during the last 3 years.</p> <p>D- A first instance decision has been reached for less than 30% of the complaints about expropriation lodged during the last 3 years.</p>
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1. Analysis:

According to Vietnamese law, procedure of complaints and complaint resolution is very clear. For the first resolution, it takes 10 days for preparation and 30 days for making decision. Format of documents, resolving contents, procedures are regulated clearly. In fact, resolution does not really comply with the law. The common situations are improper competence to solve (often being pushed down to subordinates); wrong format of document (using official letter instead of decision); extended timeline, or even quietness or switching around; and poor quality.

According to the Government Inspectorate, over 85% of the land complaint cases under the central authority of settlement are resolved, except the complex, long lasting complaints. Up to 50% quality of resolutions at provincial level does not really comply with the law in whole or in part (conclusion of Government Inspectorate). The large volume of complaints about land recovery from households, individuals which are resolved by District People’s Committee for the 1st time is not in compliance with provisions of law. Summarizing some of the recent pilot studies, it is seen that the first

instance decision at the district level only achieved at about 50% - 80%. At present, there is no accurate statistic data about percentage of resolution at district level for the last 3 years. A phenomenon that everyone can agree is that complaints about land recovery, compensation, support and resettlement are most pressing matters of the citizen. Since the Law on Administrative Procedure 2010 and Law on Complaints 2011 are effective, the settlement of complaints under the provincial authority is better but resolution at district level is still no improved.

All panel members agreed that summary of some pilot researches shows that 50-80% of complaints have been resolved in the first resolution for the last three years. This dimension can be ranked **Category B**.

(Data source: Government Inspectorate's Reports on resolution of complaints on land issues, reports on implemented pilot researches of organizations including the World Bank).

2. *Policy recommendation*: It's necessary to have specific provision about sanction policy which is applied to persons in charge of resolution but does not do correctly in compliance with the law.

6.3.3 Fairness and transparency of public land transfer (LGI-15 - Transparent process and economic benefit: Transfer of public land to private use follows a clear, transparent, and competitive process and payments are collected and audited)

<p>LGI-15.i Public land transactions are conducted in an open transparent manner. (Category: D)</p>	<p>A- The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is greater than 90%.</p> <p>B- The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is between 70% and 90%.</p> <p>C- The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is between 50% and 70%.</p> <p>D- The share of public land disposed of in the past 3 years through sale or lease through public auction or open tender process is less than 50%.</p>
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Purpose of allocated land use	Area leased out/sold in last 3 years (ha)	Transparent process	Compared to market values	Percentage of allocated lands that were used
Residential land in urban areas	-	3	1	-

Commercial non-agricultural production land	-	3	2	-
Agricultural and forestry production land	-	3	No collection of land use fee or leasing land	-
Codes:		1 = All by open tender or auction; 2 = Most by open tender or auction; 3 = Most by other procedures than open tender or auction.	1 = At market prices for similar land; 2 = A greater than 50% market prices; 3 = Less than 50% market prices.	

1. Analysis:

The public land associated with commercial purposes is allocated for use through land auction, project tender or direct allocation including 3 cases: (1) the investors carrying urban development projects or dwellings development projects from recovered land or public land; (2) the economic organizations, households, individuals are winners of land auction for housing development or commercial purposes; (3) the economic organizations, households, individuals receiving agricultural, forestry production lands from un-used land or land used by agricultural farms or forest agencies. Under the provisions of the laws, all these 3 cases must follow a public, transparent process through land auction or direct allocation.

In current reality, land of most investment projects is allocated through contractor nomination while most small residential land is allocated in the form of land auction. Up till now, the auctioned areas are seen in small land projects at district PCs. Large projects are mainly directly allocated land to nominated investors. For agricultural, forestry production lands, direct allocation is popular, in which individuals and households use land for social welfare, and organizations use land for profit

(Data source: Reports on implementation of land law, Report on recognition of corruption in land management).

2. Policy recommendations: Land auction and open tender have to be compulsory and carried out in a public, transparent and supervised manner in projects.

<p>LGI-15.ii</p> <p>Payments for public leases are collected.</p> <p>(Category B)</p>	<p>A- More than 90% of the total agreed payments are collected from private parties on the lease of public lands.</p> <p>B- Between 70% and 90% of total the agreed payments are collected from private parties on the lease of public lands.</p> <p>C- Between 50% and 70% of the total agreed payments are collected from private parties on the lease of public lands.</p> <p>D- Less than 50% of the total agreed payments are collected from private parties on the lease of public lands..</p>
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1. Analysis:

Regarding land management situation of Vietnam, all payments for public land leases or transfers are collected as decided or signed. The holders hardly delay the payment or do not pay fees as these payments are considered as tax duty and managed by the tax authority as a tax obligation. The complicated, unhealthy issue of Vietnam is to decide whether the payment level is in line with the market price, not delay or no payment (not fulfilling the financial obligation is a reason for land recovery of government). The share of collected payments is certainly more than 90%.

Panel Members claim that data is not enough to prove this rate. Many localities or enterprises may delay payments, but not be sanctioned. In practice, there are cases when State-owned Enterprises with transformed forms such as equitization, or State Owned Agricultural or Forestry Enterprises, or Public Service Delivery Units transformed to Enterprises delay payments or do fulfil obligations, but are not sanctioned. This dimension should be rated as **category B**.

(Data source: Reports on the implementation of land law).

2. Policy recommendations: There is necessarily solution to financial obligations of enterprises allocated land from subsidy period.

<p>LGI-15.iii</p> <p>Public land is leased and/or sold at market prices.</p> <p>(Category: C)</p>	<p>A- All types of public land are generally divested at market prices in a transparent process irrespective of the investor's status (e.g. domestic or foreign).</p> <p>B- Only some types of public land are generally divested at market prices in a transparent process irrespective of the investor's status (e.g. domestic or foreign).</p> <p>C- All types or some types of public land can be divested at market prices in a transparent process, but this only applies to a particular type of investor (e.g. domestic only or foreign only).</p> <p>D- Public land is rarely or never divested at market prices in a transparent process.</p>
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1. Analysis:

According to the provisions of the laws, the allocation of public lands to the commercial projects or housing development projects in Vietnam must ensure to be in line with the market price, in a public, transparent process through land auction or bidding of projects with land use, regardless the economic sectors of the investors. In practice, the open tender of land use is not implemented in projects. The auction is only implemented popularly in Da Nang city for those projects which need land for investment of housing development or commercial projects and the auction of housing land for households, individuals at the town, townships. In general, the land lease rental as well as the land use fee in land allocation only accounts for 70% of the average market price. The process and procedure of land allocation and, land lease have already been specified but the application is mainly in the form of nomination of investment projects and nomination of investors. In Vietnam, land allocated in line with price market is only seen in certain cases and it is not popular.

(Data source: Reports on the implementation of land law, Report on Recognition and reduction of the risk of corruption in land management).

2. Policy recommendations: Land pricing in land allocation and land lease attached to corruption is a pressing issue and

5.4 Public provision of land information

6.4.1. Reliability of land registries (based on LGI-16 and LGI-17)

- **Dimension LGI-16** (*The land registry provides information on different private tenure categories in a way that is geographically complete and searchable by parcel as well as by right holder and can be obtained expeditiously by all interested parties*)

LGI-16.i The mapping or charting of registry records is complete. (Category B)	A – More than 90% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre. B – Between 70% and 90% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre. C – Between 50% and 70% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre. D – Less than 50% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre.
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1. Analysis:

According to the local incomplete reports, over the past 3 years, the nation has surveyed and mapped about 13,648,120 ha, in which majorly are forestry land (about 11,904,510 ha at rate 1/10,000); the provinces that conduct survey, allocation, LURC issuance for forestry land (in accordance with Decision No.672/QĐ-TTg dated 28 April 2006 of Prime Minister) have basically accomplished surveying and mapping forestry land.

Surveying and mapping activities in 37 provinces which received financial support from Central budget over the past 3 years witness remarkable raise in results (about 1,241,736 ha, accounting for 69% total surveyed and mapped area nation-wide – regardless of map of forestry land).

Panel members told that cadastral registration, setting up cadastre and grant land use right certificates are improved in 2013 under resolution of the National Assembly. According to the latest data at the end of 2013, the dimension is ranked at **Category B**.

(Data source: Report on surveying, mapping and LURC issuance presented in Conference on LURC issuance at MONRE, December 2012).

<p>LGI-16.ii Economically relevant private encumbrances are recorded. (Category: D)</p>	<p>A – Relevant private encumbrances are recorded consistently and in a reliable fashion and can be verified at low cost by any interested party.</p> <p>B – Relevant private encumbrances are recorded consistently and in a reliable fashion but the cost of accessing them are high.</p> <p>C – Relevant private encumbrances are recorded but this is not done in a consistent and reliable manner.</p> <p>D – Relevant private encumbrances are not recorded.</p>
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1. Analysis:

In the context that database of land information has not been established consistently in localities, information transparency is not met, information is difficult for people to access. Therefore, obstacles for private sector in approaching land services are not noted to be resolved so that people can use public services in land management.

(Data source: Analysis of practical status of local land administration).

2. Policy recommendations: It is necessary to immediately develop database on land for managing, exploiting, updating and promptly providing information to land users to reduce burden on accessing to land services.

<p>LGI-16.iii Socially and economically relevant public restrictions or charges are recorded. (Category: A)</p>	<p>A – Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party.</p> <p>B – Relevant public restrictions or charges are recorded consistently and in a reliable fashion but the cost of accessing them is high.</p> <p>C – Relevant public restrictions or charges are recorded but this is not done in a consistent and reliable manner.</p> <p>D – Relevant public restrictions or charges are not recorded.</p>
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1. Analysis:

Decree No. 63/2010/NĐ-CP dated 08 June 2010 of the Government on controlling administrative procedures takes effect from 14 October 2010, stipulating that Ministry leaders, Ministerial-level agencies, PPC have responsibility to input data on administrative procedures that have been published on National Database as provided in Articles 13, 14, 15 and 24 of the above mentioned Decree; organize serious performance of administrative procedures published on National Database for administrative procedures. As stated in Article 17 of this Decree, beside mandatory publishing on National Database for administrative procedures and posting information at the offices of agencies and units that directly process administrative procedures for individuals and organizations; information disclosure can be implemented in one of the below forms including: (i) Posting on Government portal or websites of agencies that issue documents regulations on administrative procedures and agencies that execute administrative procedures; (ii) Informing on mass media; (iii) Other forms.

Therefore, for land administration of localities currently, offices for Land use right registration disclose list of services with respective schedule of fees as a basis for charging and issuing invoices for customers. Hence, relevant restrictions or charges of State are recorded consistently and reliably, and whoever those are interested in it can be verified the data at low cost.

(Data source: Examination in provinces and cities throughout the country on database of land administrative procedures).

<p>LGI-16.iv</p> <p>The registry (or organization with information on land rights) is searchable.</p> <p>(Category: A)</p>	<p>A – The records in the registry can be searched by both right holder name and parcel.</p> <p>B – The records in the registry can only be searched by right holder name.</p> <p>C – The records in the registry can only be searched by parcel.</p> <p>D – The records in the registry cannot be searched by either right holder name or parcel.</p>
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1. Analysis:

Under current regulations, documents of land registration and cadastre include cadastral map and papers which can be looked up under the parcel and the name of land owners. Moreover, the land owners can only access the information of their own parcels and can not access information of other's.

In terms of technical solution, in Vietnam, it is possible to access to information on land plot and owners' land; however, legally, the information on land owners is not be accessed freely. This dimension is ranked at category A only in terms of technical solution.

(Data source: Regulation on cadastre under Land Law, Circular No.09/2007/TT-BTNMT and Circular No.17/2009/TT-BTNMT, searching for practical land information).

<p>LGI-16.v</p> <p>The records in the registry (or organization with information on land rights) are accessible.</p> <p>(Category: B)</p>	<p>A – Copies or extracts of documents recording rights in property can be obtained by anyone who pays the necessary formal fee, if any.</p> <p>B – Copies or extracts of documents recording rights in property can only be obtained by intermediaries¹⁸ and those who can demonstrate an interest in the property upon payment of the necessary formal fee, if any.</p> <p>C – Copies or extracts of documents recording rights in property can only be obtained by intermediaries upon payment of the necessary formal fee, if any.</p> <p>D – Records on land rights are not publicly accessible or can only be obtained by paying an informal fee.</p>
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1. Analysis:

Under Circular No.09/2007/TT-BTNMT, Land use right registration offices at levels and Commune People’s Committee are responsible for providing information for organizations and individuals who have demand for information, except for national confidential information which is not allowed to be published. Information recipients shall pay for information providers.

Examinations show that information is provided very properly by most of localities.

However, due to poor management, update and readjustment of cadastres, information is not completely realistic, fluctuated and limited in quantity, resulting in small number of organizations and individuals asking for information.

(Data source: circular No.09/2007/TT-BTNMT and Report on surveying and issuing LURC in 2012 of MONRE).

<p>LGI-16.vi</p> <p>There is a timely response to a request for access to records in the registry (or organization with information on land rights).</p> <p>(Category: C)</p>	<p>A – Copies or extracts of documents recording rights in property can generally be obtained within 1 day of request.</p> <p>B – Copies or extracts of documents recording rights in property can generally be obtained within 1 week of request.</p> <p>C – It generally takes more than 1 week after request to produce a copy or extract of documents recording rights in property.</p> <p>D – It is not unusual that an extract or copy of a record cannot be produced in response to a request as the original record cannot be located.</p>
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1. Analysis:

Though access to land information is legally stated not to be confidential, information which is available in one day is impossible because land information has not been recorded in electronic database. In fact, it often takes more than one week to access required information.

2. Policy recommendations: It is necessary to have specific provisions on the time to provide land information.

➤ **Dimension LGI-17 (Reliability: Information on Registration is updated, sufficient to make meaningful inferences on ownership)**

<p>LGI-17.i Service standards are published and monitored. (Category: B)</p>	<p>A – There are meaningful published service standards, and the registry actively monitors its performance against these standards.</p> <p>B – There are meaningful published service standards, but the registry does not actively monitor its performance against these standards.</p> <p>C – Meaningful service standards have been established, but have not been published and there is little attempt to monitor performance against the standards.</p> <p>D – There are no meaningful service standards set and no attempt to monitor customer service.</p>
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1. Analysis:

On 14 December 2011, General Department of Land Administration issued Decision No.703/QĐ-TCQLĐĐ on issuing manual on performing service of registering and providing information on land, land associated properties, which contains criteria on organizing and providing services in a transparent and sustainable manner as well as criteria for evaluating the completion of resources of LURC registration offices at all levels in localities under VLAP project funded by the World Bank.

The issuance of such criteria is significant to VLAP provinces in particular and 55 others in general, making a basis for localities' scrutiny and striving for meeting service criteria in providing land and land associated properties registration services. In fact, the service criteria are available but the implementation is not supervised.

(Data source: Decision No 703/QĐ-TCQLĐĐ of General Department of Land Administration, supervision of actual implementation).

2. Policy recommendations: Provisions on compulsory implementation of cadastral service standards should be formulated.

<p>LGI-17.ii Registry/cadastre information is up-to-date. (Category: D)</p>	<p>A – More than 90% of the ownership information in the registry/cadastre is up-to-date.</p> <p>B – Between 70% and 90% of the ownership information in registry/cadastre is up-to-date.</p> <p>C – Between 50% and 70% of the ownership information in registry/cadastre is up-to-date.</p> <p>D – Less than 50% of the ownership information in the registry/cadastre is up-to-date.</p>
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1. Analysis:

According to MONRE’s assessment, in general, there are shortcomings in cadastre establishment in localities, mostly in 37 provinces which are financially supported by the State: 3 copies of the cadastre have not been created adequately for use in 3 levels as stipulated, commonly there is one copy and it is used at commune level (typically in Vinh Phuc, Thai Binh, Binh Duong, Kien Giang); or two copies which are used at commune and district levels (as in Thai Nguyen, Hai Duong, Lam Dong); many communes of mountainous provinces do not have a cadastre because it has been missing, or not passed over during land officer replacement (as in Quang Ninh, Lai Chau, Ha Giang, etc.); effectiveness of cadastre use for administration remains low.

Typically, in recent years, many localities have failed to update and readjust changes regularly which lead to poor and decreasing effectiveness of cadastre use. In many cases, the State has recovered parcels to launch projects for year or has finalized land use transfer procedures; however, information in local map and cadastre remain unchanged and issued LURCs have not been withdrawn or readjusted.

(Data source: Report on surveying, mapping and LURC issuance in 2010, 2011).

2. Policy recommendations: It is necessary to formulate provision and guidelines on a united procedure of adjusting variety.

6.4.2. Efficiency and transparency of land administration services (based on LGI-18 and LGI-19)

➤ Dimension LGI-18 (Cost-effectiveness and sustainability: Land administration services are provided in a cost-effective manner)

<p>LGI-18.i The cost of registering a property transfer is low. (Category: C)</p>	<p>A – The cost for registering a property transfer is less than 1% of the property value.</p> <p>B – The cost for registering a property transfer is between 1% and less than 2% of the property value.</p> <p>C – The cost for registering a property transfer is between 2% and less than 5% of the property value.</p> <p>D – The cost for registering a property transfer is equal to or greater than 5% of the property value.</p>
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List the procedures or documentation required for registering a property transfer for property valued at [_____]	Transfer Related Costs [cost or % of value]
1. Personal income tax	2% of value
2. Registration fee	0.5% of value
3. Notarized Contract of Land use transfer	0.1 % of value
4. Fee for surveying set by PPC for cases with split parcels	About 0.1% of value
5. Average administration fee	100,000 d/file

1. *Analysis:*

Under Law on Personal Income Tax, fee and expense in land transaction, the table above shows the fee level. Total expense for land use right transfer is about 2.8% under price list of the government. At average, land price of the Government is about 50% of price of land in the market, so the charge is only about 1.4% price of land in the market.

(*Data source:* Law on Personal Income Tax; Decree No. 45/2011/NĐ-CP on registration fee; Decree No. 23/2013/NĐ-CP on amending and supplementing some articles in Decree No.45/2011/NĐ-CP; Circular No. 97/2006/TT-BTC of MoF guiding charges and fees to be decided by people's Councils of provinces, survey of State on land price in the market.)

2. *Policy recommendations:* Expense for land use right transfer is still higher than that in other countries, so it should have provision on reducing this expense.

<p>LGI-18.ii</p> <p>The registry is financially sustainable through fee collection.</p> <p>(Category: D)</p>	<p>A – The total fees collected by the registry exceed the total registry operating costs*.</p> <p>B – The total fees collected by the registry are greater than 90% of the total registry operating costs.</p> <p>C – The total fees collected by the registry are between 50% and 90% of the total registry operating costs.</p> <p>D – The total fees collected by the registry are less than 50% of the total registry operating costs.</p>
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* *Total operating costs include all non-capital investment costs (i.e. salaries and wages, materials, transportation, etc.) associated with operation of registration system. Registry operating costs do not include long-term capital investment or depreciation expenses.*

1. *Analysis:*

Under Joint Circular No. 05/2010/TTLT- BTNMT-BNV- BTC dated 15 March 2010 by inter-ministries of MONRE, Ministry of Home Affairs and MOF, land use right registration offices at levels are public service units which operate under regime of financial autonomy and accountability in organization, staffing and finance. These offices' financial resource for operation is from two sources: State budget and operating revenue. In fact, however, examinations in localities show that most of these offices operate on allocation from State budget. Only a few offices which locate in large cities or provinces have many land transactions. Almost all district registration offices in provinces have low revenue, even insufficient budget for power bill, water bill, and environment sanitary fee of the offices.

In according to result collected at some provincial registration offices, total amount of expense registration is 50% lower than total expenses for operating registration system.

(*Data source:* Report on issuance of certificate of land use right, ownership of houses and other land associated properties in 2013 of MONRE submitted to Prime Minister in June 2013 and Report No. 16/BC-BTNMT dated 19 February 2013 of MONRE about the implementation of Directive No. 1474/CT-TTg of Prime Minister. Report of task force in Yen Bai province, May 2013).

2. *Policy recommendations:* The State should spend budget for the offices in which there are cases of registration for free under requirement of the State.

<p>LGI-18.iii</p> <p>There is sufficient capital investment in the system.</p> <p>(Category: C)</p>	<p>A – There is significant investment in capital in the system to record rights in land so that the system is sustainable.</p> <p>B – There is investment in capital in the system to record rights in land but it is insufficient to ensure that the system is sustainable in the medium to long-term.</p> <p>C – There is investment in capital in the system to record rights in land but it is insufficient to ensure that the system is sustainable in the short-term.</p> <p>D – There is little or no investment in capital in the system to record rights in land.</p>
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1. Analysis:

Fund allocation for system of registration offices and for the work of surveying, mapping and cadastral database establishing has attracted attention as well as direction for implementation from the Government (Resolution No. 07/2007/QH12 and Resolution No. 30/2012/QH13 by National Assembly and Directive No. 1474/CT-TTg in 2011, Directive No. 05/CT-TTg in 2013 by Prime Minister requesting localities to allocate 10% of land revenue for the work of surveying and issuing LURC. Notwithstanding, most of localities fail to follow that direction because of low income while activities to allocate money to are numerous.

According to reports issued by MONRE, many localities have not spent money for surveying, registering, issuing LURC and establishing cadastral database for years. In 2013, although issuing LURC is an important mission implementing NA’s Resolution No. 30/2012/QH13 of the national Assembly but many provinces have not allocated budget for LURC issuance (Son La, Lai Chau, Dien Bien, Kon Tum, Gia Lai, Dak Lak, Dak Nong, Ba Ria - Vung Tau, Ninh Thuan). In general, budget allocation is often not adequate to sustain the system.

(Data source: Report on issuance of LURC and ownership of land associated houses and other properties in 2013 of MONRE submitted to the Prime Minister in June, 2013; Report No. 16/BC-BTNMT dated 19 February 2013 of MONRE about the implementation of Directive No. 1474/CT-TTg of Prime Minister; Circular No. 3241/BTNMT-TCQLĐĐ dated 13 September 2012 of MONRE stipulating regulations on identifying quantity and need of financial resources to accomplish missions of issuing LURC, establishing cadastral database and land database.)

2. *Policy recommendations:* The government should invest more in completion of certificate issuance.

➤ **Dimension LGI-19** (*Transparency: Fees are determined and collected in a transparent manner*)

<p>LGI-19.i</p> <p>The schedule of fees is publicly accessible.</p> <p>(Category: B)</p>	<p>A – A clear schedule of fees for different services is publicly accessible and receipts are issued for all transactions.</p> <p>B – A clear schedule of fees for different services is not publicly accessible, but receipts are issued for all transactions.</p> <p>C – A clear schedule of fees for different services is publicly accessible, but receipts are not issued for all transactions.</p> <p>D – A clear schedule of fees for different services is not publicly accessible and receipts are not issued for all transactions.</p>
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1. Analysis:

Under current stipulations, every kind of fees and charges are promulgated at Departments for receiving files and returning results on registration and issuance of LURC, and come with legal receipts. However, as analyzed above, people have to pay informal fees so obviously receipts cannot be provided for every transaction.

(Data source: Legal provision on administrative procedures of land administration under Program 30 of the Government; Surveys on corruption of land administration).

2. Policy recommendations: It is necessary to develop legal frame for high-quality services to operate officially which can prevent unofficial expenses.

<p>LGI-19.ii</p> <p>Informal payments are discouraged.</p> <p>(Category: B)</p>	<p>A – Mechanisms to detect and deal with illegal staff behavior exist in all registry offices and all cases are promptly dealt with.</p> <p>B – Mechanisms to detect and deal with illegal staff behavior exist in all registry offices but cases are not systematically or promptly dealt with.</p> <p>C – Mechanisms to detect and deal with illegal staff behavior exist in some registry offices.</p> <p>D – Mechanisms to detect and deal with illegal staff behavior are largely non-existent.</p>
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1. Analysis:

In Decree No 181/2004/ND-CP, there is a chapter on handling violations applicable to managers if they violate administrative procedures but most contents of this chapter is rarely applied. In fact, the some officers of land use registration offices are sanctioned but the handling is not consistent. People still complaint that there are many violations of Decree 181/2004/NĐ-CP but they are not sanctioned.

(Data source: Decree No. 181/2004/ND-CP, report on the implementation of transparency, publicity (Depocen); report on detecting and reducing risks of corruption in land management).

2. Policy recommendations: Mechanism of supervision of the people should be enhanced under provisions of the Government

5.5 Dispute resolution and conflict management

There are particular characteristics in civil and administrative disputes (administrative appeal) of land in Vietnam. Under legal provisions, civil disputes regarding to land are divided into 2 groups: dispute with and without land use rights certificates. Group of dispute with land rights certificates must be resolved in civil court; the cases without certificates must be resolved in administrative agencies. The cases resolved in administrative agencies always start with self-conciliation and then reconciliation implemented by the commune people committee (CPC). After the cases are successfully reconciled by itself, the CPC must certify the results of the reconciliation. Currently, the law has not recognized institution of conciliation under the village conventions, customary laws, community reconciliation, but in fact these types of conciliation are still being applied before the disputes become a formal dispute. Civil disputes on land are accounting for 10 % of land disputes, complaints and denunciations.

Administrative disputes (administrative complaint, lawsuit) are the disputes with numerous cases. Administrative disputes on land account for 70% to 80 % of all administrative disputes of the population, in which about 70% are related to land acquisition, compensation, assistance and resettlement. The disputes can be resolved by administrative agencies or in court. The complainants have rights to submit complaints twice to administrative agencies. The first time must send the complaints to the agency which is complained for being resolved, the second is submitted to the upper agencies of the agency complained. The complainants have rights to convert administration complaint into administrative lawsuit so that the lawsuits can be settled by the court.

Generally, Vietnamese just want to send their complaints to upper administrative agencies, even to the Government, or to the National Assembly but they do not want to convert the complaints into lawsuits in administrative courts. There are many reasons for this situation but the main reason is the complainants do not believe in independence enough to settle the lawsuits. In addition, the complainants must pay for cost of the settlement in the court while they pay for nothing if the complaint is addressed by administrative agency.

6.5.1. Accessibility of conflict resolution mechanisms (LGI-20 - Responsibility for conflict management at different levels is clearly assigned, in line with actual practice, relevant bodies are competent in applicable legal matters, and decisions can be appealed against.)

<p>LGI-20.i Conflict resolution mechanisms are accessible to the public. (Category: A)</p>	<p>A – Institutions for providing a first instance of conflict resolution are accessible at the local level in the majority of communities.</p> <p>B – Institutions for providing a first instance of conflict resolution are accessible at the local level in less than half of communities but where these are not available informal institutions perform this function in a way that is locally recognized.</p> <p>C – Institutions for providing a first instance of conflict resolution are accessible at the local level in less than half of communities, and where these are not available informal institutions do not exist or</p>
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	<p>cannot perform this function that is locally recognized.</p> <p>D – Less than a quarter of communities have institutions formally empowered to resolve conflicts and a variety of informal institutions may be available in the rest.</p>
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1. Analysis:

Under Land Law 2003, with respect to a dispute about land use right where the parties concerned do not have a certificate of land use right the dispute can be resolved under the mechanism:

a. Conflict resolution at grassroots levels without participation of local government which is the first institution of land dispute resolution.

b. If the dispute is not resolved successfully, CPC is the next institution to solve the dispute; the CPC will associate with Vietnam Fatherland Front to chair the dispute resolution and support both parties in getting consensus.

c. If the dispute is not resolved at commune level, either parties has rights to complaint to District People’s Committees (DPC) if the disputes are occurred among households, individuals, communities; complaint to Provincial People’s Committee (PPC) if one party is an organization, religious facilities or foreign investors.

If the parties concerned have land use right certificates, the disputes are solved by court.

Average ratio of the disputes resolved by mediating is very low (1% of total cases resolved in 2008). In addition, complainants have trend to submit the complaints to provincial or central agencies because they do not agree with resolution of DPC. In fact, a large amount of cases (528 cases of Vietnam Government Inspectorate (GI)) are solved in long period by the state agencies but the final results have not been achieved and the people continue to request for resolving the complaints again.

According to the content above, capacity for dispute resolution at locality and related agencies is still not very effective and should be improved.

(Data source: Law on Land 2003, Decree No. 181/2004/NĐ-CP, Annual reports on updating dispute and complaints resolution in 2008 to 2013 of the Government Inspectorate (GI)).

2. Policy recommendations: Effectiveness of dispute resolution at grassroots level should be improved before the disputes are solved in administrative system or court.

<p>LGI-20.ii</p> <p>Decisions made by informal or community based dispute resolution systems are recognized.</p> <p>(Category: C)</p>	<p>A – There is an informal or community-based system that resolves disputes in an equitable manner and decisions made by this system have some recognition in the formal judicial or administrative dispute resolution system.</p> <p>B – There is an informal or community-based system that resolves disputes in an equitable manner but decisions made by this system have little or no recognition in the formal judicial or administrative dispute resolution system.</p> <p>C – There is an informal system or community-based that makes decisions that are not always equitable but have recognition in the formal judicial or administrative dispute resolution system.</p> <p>D – There is an informal or community-based system that resolves disputes in a manner that is not always equitable and decisions made by this system have limited or no recognition in the formal judicial or administrative dispute resolution system.</p>
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1. Analysis:

In according to official legal provisions, all disputes must be conciliated at communities. However, in respect to procedures, there is no specific roadmap for dispute conciliation. Communities, Farmers’ Unions and Front fatherland come forward to conciliate the disputes but the minutes on the dispute conciliation are not certified legally if the CPC does not recognize the minutes. In other words, the results of dispute conciliation is not admitted legally and the minutes must be recognized by the CPC (under Decree No 181/2004/NĐ-CP)

In addition, dispute resolution system created by head of family, village patriarch, village regulation, customary law is very important but it is not recognized with legal provisions.

(Data source: Law on Land 2003, Decree No. 181/2004/NĐ-CP, Law on Grassroots Conciliation, annual report on updating disputes and complaint resolution from 2008 to 2013 of the GI).

2. Policy recommendations: Law should admit result of dispute resolution under customary law, village regulations.

<p>LGI-20.iii</p> <p>There is clear assignment of responsibility for conflict resolution.</p> <p>(Category: B)</p>	<p>A – There are no parallel avenues for conflict resolution or, if parallel avenues exist, responsibilities are clearly assigned and widely known and explicit rules for shifting from one to the other are in place to minimize the scope for forum shopping.</p> <p>B – There are parallel avenues for dispute resolution but cases cannot be pursued in parallel through different channels and evidence and rulings may be shared between institutions so as to minimize</p>
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	<p>the scope for forum shopping.</p> <p>C – There are parallel avenues for dispute resolution and cases can be pursued in parallel through different channels but sharing of evidence and rulings may occur on an ad-hoc basis.</p> <p>D – There are parallel avenues for dispute resolution and cases can be pursued in parallel through different channels and there is no sharing of information.</p>
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1. Analysis:

In respect to parallel avenues for conflict resolution, there are 2 parallel avenues including administrative and court systems but cases cannot be pursued in parallel by the systems. Under the current legal regulations, civil disputes can only be resolved by administrative system or court. For administrative disputes, complainants have rights to convert their cases from administrative resolution into court. There is no legal document or other documents prove that there is sharing of information or evidence between two systems.

In fact, there are cases which are not put in any system because no legal documents clarify this. For example, one person asks for the parcel which was belonged to him previously, but the land was allocated to another person by a state agency. The case can be considered as administrative dispute because it relates to an administrative decision. However this case can be seen as a civil dispute between new and old land owners. Many such cases are passed from administrative to justice system and vice versa.

(Data source: Law on Land 2003, Civil Code 2005, Law on complaints in 2011, some annual report on complaints, dispute resolution of the GI in recent years).

<p>LGI-20.iv</p> <p>There is a process for appealing dispute rulings.</p> <p>(Category: C)</p>	<p>A – A process exists to appeal rulings on land cases at reasonable cost with disputes resolved in a timely manner.</p> <p>B – A process exists to appeal rulings on land cases at high cost with disputes resolved in a timely manner.</p> <p>C – A process exists to appeal rulings on land cases but costs are high and the process takes a long time.</p> <p>D – A process does not exist to appeal rulings on land cases.</p>
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1. Analysis:

Under Law on complaints 2011 and Law on Land 2003, complaints procedures and resolution are stated clearly, specifically but it takes too long time to resolve the cases or the cases are not resolved correctly according to legal regulations. If one administrative dispute is handled, cost is not required, average duration for resolution is about 40 to 75 days. Up to now, there has not been any report on average time or cost for resolving a dispute in Vietnam. If a case is handled by a court, the party concerned must pay VND 200,000 for each civil dispute and cost for resolving will be calculated by value of assets/real estate disputed; average time for resolving a lawsuit is 90 days. Currently, there is no report on average time

and actual cost for resolving dispute in court system in Vietnam.

According to some reports of GI, there are 528 administrative disputes on land with long time for resolving, even some case last more than 20 years of resolution. This shows that it is difficult to maintain dispute resolution system for each case in timely manner.

(Data source: Law on Complaints 1998; Law amendment and supplementation of a number of articles of the Law on Complaints and denunciations 2004, 2005; Law on Complaints 2011; Law on Land 2003, some updated reports on resolution result of 528 complex, prolonged and delayed cases of GI; number of regulations relating to administrative appeal and administrative processes).

6.5.2 Efficiency of conflict resolution (LGI-21 - Low level of pending conflict)

LGI-21.i Land disputes constitute a small proportion of cases in the formal legal system. (Category: C)	A – Land disputes in the formal court system are less than 10% of the total court cases. B – Land disputes in the formal court system are between 10% and 30% of the total court cases. C – Land disputes in the formal court system are between 30% and 50% of the total court cases. D – Land disputes in the formal court system are more than 50% of the total court cases.
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Type of Dispute	Number of conflicts (in sample or dataset)	Average Time to Resolve (months)	Average Cost to Resolve
Total cases in sample/dataset			
Inheritance/family dispute	9,171	No information	No information
Property transaction/contract	21,822	No information	No information
Challenge to ownership			
Expropriation			
Boundary dispute (Dispute over use, trespass, right of access/passage)	99,059	No information	No information
Mortgage/loan	4,183	No information	No information

Other (Please specify)			
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1. Analysis:

Under the report on summarizing enforcement of Law on Land 2003 of People’s Supreme Court, in the period from 01/7/2004 to 30/9/2010, people court at all levels handled 210,808 records in which 99,478 records related to land, accounting for 47,23%. There is not statistical data on average time and cost for a dispute resolution.

In implementation of LGAF, semi-structure interviews are not conducted because there are statistical data and no expense for interviews implementation.

(Data source: Report on summarizing enforcement of Law on Land 2003 of People’s Supreme Court).

<p>LGI-21.ii Conflicts in the formal system are resolved in a timely manner. (Category: B)</p>	<p>A – A decision in a land-related conflict is reached in the first instance court within 1 year for more than 90% of cases.</p> <p>B – A decision in a land-related conflict is reached in the first instance court within 1 year for between 70% and 90% of cases.</p> <p>C – A decision in a land-related conflict is reached in the first instance court within 1 year for between 50% and 70% of cases.</p> <p>D – A decision in a land-related conflict is reached in the first instance court within 1 year for less than 50% of cases.</p>
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1. Analysis:

Under the report on summarizing enforcement of Law on Land 2003 of the People’s Supreme Court, average rate of cases resolved account for 80-85% of total of cases received in a year in 10 recent years.

(Data source: Report on summarizing enforcement of Law on Land 2003 of the People’s Supreme Court).

<p>LGI-21.iii There are few long-standing land conflicts (greater than 5 years). (Category: C)</p>	<p>A – The share of long-standing land conflicts is less than 5% of the total pending land dispute court cases.</p> <p>B – The share of long-standing land conflicts is between 5% and 10% of the total pending land dispute court cases.</p> <p>C – The share of long-standing land conflicts is between 10% and 20% of the total pending land dispute court cases.</p> <p>D – The share of long-standing land conflicts is greater than 20% of the total pending land dispute court cases.</p>
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1. Analysis:

Land dispute resolutions in Vietnam is often complex because there is lack of papers/documents on land records. In many cases, land transaction is not conducted in line with stated procedures because of lack of documents. Incomplete land records cause prolonged cases. According to annual report on summarizing enforcement of law on Land 2003 of the People's Supreme Court, 20% of cases are long-lasting.

However, the data provided is only the data on civil disputes, excluding administrative disputes. Furthermore, this dimension does not mention to resolution on trial but to long-lasting resolution procedure. The data provided are not appropriate to requirement of the dimension. In general, category C for this dimension is acceptable in Vietnam. If the data is sufficient, it is ranked at category D because characteristic of dispute resolution in Vietnam is about 85% of cases are prolonged regardless of in administrative agencies or court.

(Data source: Report on summarizing enforcement of law on Land 2003 of the People's Supreme Court).

5.6 Large Scale Acquisition of Land Rights

Large-scale acquisition of land rights requires specific governance as this has a huge impact not just on economy, society, and living environment of a specific community, but also on culture and spiritual aspect of the minority ethnics

Large-scale acquisition of land rights always goes along with exploitation projects and natural resources protection projects such as hydropower, mine exploitation or forest plantation...etc. In Vietnam, current law does not allow the large-scale acquisition of rural land with the purpose to accumulate land for agricultural development. This situation is completely different from that of in other South East countries such as Indonesia, Laos and Cambodia...etc. The mechanism where the State conducts the large-scale acquisition of land rights has been existing in Vietnam in the period from 1975 to 1985 with the purpose to establish the very huge state-owned plantations and farms while State was implementing the subsidized economy. The problem currently is how to deal with the hug area of land owned by the state-owned plantations and farms but not anymore of use or inefficient used while local people have no land to use.

The question on how to accumulate rural land in Vietnam nowadays is solved by many different mechanisms to be in line with the market economy, such as agricultural cooperative on volunteer basis, land accumulation and land exchange, cooperation between enterprises and farmers...etc. The large-scale acquisition of land rights currently in Vietnam is mainly for hydropower or mine exploitation projects purposes.

Among its safety policies, World Bank is very much interested in the process of large-scale accumulation of rural land for the agricultural development purpose. Methodology used for land acquisition can be either the State administrative interference or just based on land use planning decision with the agreement between the investors and the farmers using land. Among these indicators, many of them relating to safety assurance mechanism for land concentration and accumulation/assemble.

Rural land accumulation encouragement policy in Vietnam is focused on the cooperation between the investors and farmers, according to which the farmers have the

right to use land for plantation on their lands while the investors provide services and in charge of agricultural products consumption in the market. This policy can help avoid complexity and difficulty in the relationship between the enterprises and the farmers in connection to their lands. Also due to the fact that the land accumulation is not implemented, several safety assurance policies of the World Bank in connection to large-scale acquisition of rural land will not be considered in the circumstances of Vietnam. Similarly, some indicators in LSLA will not be assessed as it does not exist in Vietnam.

<p>LSLA 1 Most forest land is mapped and rights are registered. (Category: B)</p>	<p>A – More than 70% of the area under forest land has boundaries demarcated and surveyed and associated claims registered.</p> <p>B – 40-70% of the area under forest land has boundaries demarcated and surveyed and associated claims registered.</p> <p>C – 10-40% of the area under forest land has boundaries demarcated and surveyed and associated claims registered.</p> <p>D – Less than 10% of the area under forest land has boundaries demarcated and surveyed and associated claims registered.</p>
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1. Analysis:

According to the Land law implementation 2003 of the Ministry of Natural Resources and Environment (MONRE), 74.9% of total natural land in the whole country has been measured and land map has been established, while 85% of total agricultural land and 86.3% of total forestry land has been certified for land use right.

In 2006, the Prime Minister approved the project on establishing the land map on scale 1/10,000 for all forestry land of Vietnam, with total investment of VND 234 billion. Up to now, this whole mapping system has been completed and handed over to all provinces.

On the other hand, according to the report of CODE institute on restructuring plantations and forestry farms, and the land use and management relationship between the state-owned forestry farms and local people, it shows that the land dispute and land transgression is now happening on a very large scale. According to the statistic data of MONRE, Vietnam has 15.37 million ha of forestry land, of which 12.13 million ha have been handed over to the owners for usage and management (4.46 million ha under the management of households, 2.06 million ha under the management of state-owned forestry farms, 4.53 million ha under the management of state organizations; the rest for other organizations and communities), and another 3.24 million ha is now temporarily under the management of commune people committees and communities. Obviously, the identified forestry land only makes of 78.9%, while it is forecasted that it is up to 50% land of state-owned forestry farms is now under land dispute and transgression with local people.

(Data sources: Statistic data of MONRE; Report of CODE institute on restructuring plantations and forestry farms, and the land use and management relationship between the state-owned forestry farms and local people).

2. Policy recommendation: Irrationality in land use and land management of state-owned forestry farm needs to be solved as soon as possible.

<p>LSLA 2</p> <p>Land acquisition generates few conflicts⁴¹ and these are addressed expeditiously and transparently.</p> <p>(Category: D)</p>	<p>A – Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are scarce (less than 5% of rural land area affected) and emerging conflicts are addressed expeditiously and in a transparent manner.</p> <p>B – Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are scarce (less than 5% of rural land area affected) but the process for addressing conflicts is slow and lacks transparency.</p> <p>C – Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are relatively frequent (more than 5% of rural land area affected) but emerging conflicts are addressed expeditiously and in a transparent manner.</p> <p>D – Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are relatively frequent (more than 5% of rural land area affected) and the inability to address these conflicts expeditiously and in a transparent manner results in long pending disputes.</p>
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1. Analysis:

According to the reports on land acquisition related dispute, this kind of conflict in Vietnam is at rather high level. The main conflict includes disagreement with land acquisition decision or unreasonable compensation. During 2001-2010, more than 600,000 ha rural land has been recovered throughout the whole country. From 1st July 2004 to 30th August 2010, courts at all levels dealt with 307,912 civil cases according to first instance court procedure, of which 69,806 cases relating to land dispute, made of 22.70% (including 8,808 cases on compensation and ground clearance, 3,077 cases reclaiming their former land, 10,603 land dispute cases, 3,289 cases denouncing and 42,023 cases appealing of certificate grant and others. Also during this time, people committees at all levels handled and successfully completed 62,706 cases (made of 93.46% total cases received), of which 7,252 cases on compensation and ground clearance, 2,580 cases reclaiming former land, 9,326 land dispute cases, 3,144 denouncing cases and 23,810 cases on land use certification and others. Administrative dispute relating to land use right made of more than 70% of total administrative dispute of people, of which 70% is on compensation upon land acquisition.

(Data sources: Official reports of state management organs).

2. Policy recommendation: The root cause of the issue is always relating to the State mechanism on land acquisition and compensation and support for resettling.

<p>LSLA 3</p>	<p>A – The land use restrictions applying to any given plot of rural land</p>
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<p>Land use restrictions⁴² on rural land parcels can generally be identified.</p> <p>(Category: A)</p>	<p>can be unambiguously determined on site for land occupied by more than 70% of the population.</p> <p>B – The land use restrictions applying to any given plot of rural land can be unambiguously determined on site for land occupied by 40 – 70 % of the population.</p> <p>C – The land use restrictions applying to any given plot of rural land can be unambiguously determined site for land occupied by 10 – 40 % of the population.</p> <p>D – The land use restrictions applying to any given plot of rural land can be unambiguously determined on site for land occupied by less than 10% of the population.</p>
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1. Analysis:

Limitation in the rural land use is mainly on the fact that the land users are allowed to use land for some specific purposes. Before the launch of the Land Law 2003, the purpose of rural land use was regulated to the very details on which plants have to be cultivated on which type of land, which created a lot of disagreement among farmers. The Land Law 2003 allows farmers to make their own decision and register rural land use conversion, except for 2 cases when they have to ask for permission: (i) conversion of the land specialized for rice plantation to longer-term plants and aquaculture and (ii) conversion of forestry land into the purpose that resulting in the disappearance of forestry. The limitation in the rural land use is very obvious and easy to recognize for each piece of land; no cases reporting of inability to realize as such.

According to the regulations of the land law, another limitation needs to mention is the limitation of the duration of rural land use. This limitation is also easy to recognize.

(*Data sources:* Land law regulations; monitoring and evaluation reports on land law implementation do not show any obstacles in rural land use limitation).

<p>LSLA 4</p> <p>Public institutions involved in land acquisition operate in a clear and consistent manner.</p> <p>(Category: no assessment)</p>	<p>A – Institutions that promote, channel or acquire land for purposes of interest to this study operate following clear guidelines and have high standards of ethical performance that are consistently implemented. Their accounts are regularly audited with results being made available publicly (e.g. for parliamentary debate).</p> <p>B – Institutions that promote, channel or acquire land for purposes of interest to this study have high standards of ethical performance that are consistently implemented and have their accounts regularly audited although results are not available publicly.</p> <p>C – Institutions that promote, channel or acquire land for purposes of interest to this study have clear standards of ethical performance but implementation is variable and accounts are not subject to regular audits.</p> <p>D – Standards of ethical performance for institutions that promote,</p>
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	channel or acquire land for purposes of interest to this study are not clearly defined and accounts are not regularly audited.
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1. Analysis:

Land Law 2003 created a legal corridor for Provincial Land Fund Development organizations, according to which, they are considered as public services identity to be in charge of compensation, support for resettlement when State conduct the reserved land acquisition according to the approved land use planning. Other cases of land acquisition for investment projects are delegated to the committee on compensation, support for resettlement at district level. The investors are responsible to provide financial support or expenditures to conduct the compensation and support for resettlement, and all such expenses will be deducted from their financial obligation to the Government in the later stage.

Since the Land Law 2003 came into force up to present, the Land Fund Development organizations have no independent activities relating to land financing. Such organizations have been established even at district level, with the main task is to manage the recovered land while waiting for the decision of the PPC. Therefore, potential corruption of these organizations is yet possible, but at the same time the ethics monitoring mechanism as well as audit for them yet implemented either. Land Law 2013 has been revised, according to that the land acquisition will mainly base on land use planning with the participation of the land fund development organizations and land development funds.

In current circumstance, we propose not to assess this dimension as the assessment criteria do not exist.

(Data source: Land Law 2003, Decree No. 197/2004/NĐ-CP, Decree No. 69/2009/NĐ-CP, Reports on Land Law implementation practice of MONRE).

<p>LSLA 5</p> <p>Incentives for investors⁴³ are clear, transparent and consistent.</p> <p>(Category: C)</p>	<p>A – Incentives for investors are clearly specified in law or regulations, uniform and stable over time, and applied in an equitable and transparent fashion.</p> <p>B – There are written provisions in law or regulations regarding incentives for investors but frequent changes (i.e. limited predictability) do not ensure their consistent application in the future.</p> <p>C – There are written but unclear provisions in law or regulations regarding incentives for investors and their applicability have to be negotiated on a case by case basis in a way that is often discretionary.</p> <p>D – There are no written provisions in law or regulations regarding incentives for investors.</p>
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1. Analysis:

Encouraging the investors is a great policy of Vietnam. The policies are regulated in detailed in the Law on Investment and decrees of the Government. Before 2005, such policies

are varied from this group to another group of investors of different economic sectors. Since 2005, National Assembly has approved the united enterprise law and united investment law. The encouraging policy is therefore completely transparent and open.

In reality, in order to attract more and stronger investment to the provinces, many of them create their own specific privilege which resulting in inconsistency in application of the investment encouragement policy. In 2006, Government examined the application of investment encouragement policy in different provinces and found out the mistakes in most localities.

On the other hand, Vietnamese law delegates completely the decision making right to PPC with regard to land price for investment projects (directly to the Chairman of the PPC). According to the majority investors, relationship plays a vital role in getting the land use privileges. Small and medium enterprises claim that they do not have chances to approach land for investment.

It is more reasonable to rank this dimension at **category C** due to the fact that the decision on the land price applied differently to different cases and investors. The land pricing process is not consistent and there is no monitoring mechanism for it.

(Data source: Law on Investment 2005, Land Law 2003, Decrees on implementation, Reports of Ministry of Planning and Investment on investment encouragement at provinces, survey to get enterprises' opinion on their ability to approach land (among provincial competitive capacity assessment indicators).

2. *Policy recommendation:* To apply the land investment encouragement policy in close relation with mechanism for land approach and land price evaluation – all these mechanisms need to be consistently implemented and closely monitored.

<p>LSLA 6</p> <p>Benefit sharing mechanisms for investments in agriculture (food crops, biofuels, forestry, game farm/conservation) are regularly used and transparently applied.</p> <p>(Category: D)</p>	<p>A – Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are regularly used and applied transparently based on clear regulation.</p> <p>B – Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are applied transparently but not always used.</p> <p>C – Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are rarely used or applied in a discretionary manner.</p> <p>D – Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are not used or not applied transparently.</p>
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1. Analysis:

Vietnamese law has no regulations on interest sharing mechanism application. During the Land Law 2013 drafting process, there are many proposals and opinions of the National Assembly members to add this interest sharing mechanism into the law but has not been approved.

(Data source: Land Law 2003; Land Law 2013).

2. Policy recommendation: It is necessary to have regulations on the interest sharing mechanism in the law system.

<p>LSLA 7</p> <p>There are direct and transparent negotiations between right holders and investors.</p> <p>(Category: C)</p>	<p>A – Final decisions on land acquisition for large scale investment are made between the concerned right holders and investors; government’s role is limited to checking compliance with applicable regulations which is done in a transparent manner and with clear time limits.</p> <p>B – Final decisions are made in direct negotiations but a non-transparent and often discretionary process for obtaining approval is required.</p> <p>C – Transfer of land use or ownership rights for large scale investment requires previous acquisition of these rights by the state which follows a clear, transparent, and time-bound process with decision-making authority clearly assigned.</p> <p>D – Expropriation of land by the state is required and the process is murky.</p>
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1. Analysis:

According the regulations of the Land Law 2003 and the Land Law 2013, all the investment projects using a large area of land is subject to land acquisition by the State, meaning the State can have a direct influence by administrative decision and the last stage would be forceful implementation (judicial implementation). The Land Law 2003 and Decree No. 84/2007/NĐ-CP have a regulation, according to that the agreement mechanism between the investors and the land users can be accepted and implemented if it is proposed by the investors, and decided by the State for land acquisition for the land area of disagreement. This mechanism is applicable mainly in Hochiminh City but yet applied in other provinces.

(Data source: Land Law 2003, Decree No. 84/2007/NĐ-CP, Land Law 2013).

2. Policy recommendation: It is necessary to have regulations on application of different mechanisms to get consensus on the principle that land needs compulsory movement and transfer.

<p>LSLA 8</p> <p>Sufficient information is required from investors to assess the desirability of projects on public/community land.</p> <p>(Category: C)</p>	<p>A – Investors are consistently required to provide exhaustive information on company background and financial/technical analyses that is sufficient to assess viability and benefits from the project. ;</p> <p>B –Investors are consistently required to provide exhaustive information on either company background or financial/technical analyses (but not both) that is sufficient to assess viability and benefits from the project. Investors are required to provide meaningful information but this is not always sufficient to assess the desirability of the project.</p> <p>C –Investors are consistently required to provide information on company background or financial/technical analyses but this information is not sufficient to assess viability and benefits from the project.</p> <p>D –Information required from investors is not consistently and generally insufficient to assess viability and benefits from the project.</p>
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1. Analysis:

Land Law 2003, Construction Law 2003, and Law on Investment of Vietnam 2005 all require investors to provide sufficient information about their enterprise, operational process, operation efficiency, financial capacity and legal violation in the past (if any) etc. However, the detailed dimension of information requested is not regulated hence it is lack of consistency in term of information received. Moreover, selection criteria for projects and investors are not quantified mainly based on the decision of the authorities bodies (PPCs). This is also the reason why the designated tender mechanism is mainly applied.

Many investors also claim that the information provision request is very much depending on the specific relationship. The investor selection criteria at the moment still primarily about proving to have sufficient investment of 30% of total project value.

(Data source: Land Law 2003, Construction Law 2003, Law on Investment 2005, and decrees on implementation, reports on law implementation practice at provinces, investors survey (survey to assess competitive capacity at provincial level).

2. Policy recommendation: It is necessary to have a regulation on rationality evaluation of investor selection through audit report and financial report analysis of the most current years.

<p>LSLA 9</p> <p>For cases of land acquisition on public/community land, investors provide the required information and this information is publicly available.</p> <p>(Category: B)</p>	<p>A – Investors provide all the information required from them and - subject to reasonable limits on confidentiality - this information is publicly available.</p> <p>B – Investors provide some information required from them and - subject to reasonable limits on confidentiality - this information is publicly available.</p> <p>C – Investors provide some or all the information required from them but this information is not publicly available.</p> <p>D – Investors do not provide the information required from them.</p>
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1. Analysis:

Land Law 2003, Construction Law 2003, and Law on Investment of Vietnam 2005 all have a regulation on transparency of information about the investment projects and investors but again there are not any detailed regulations on what type of information is requested. Therefore, the investors often agree with the authorities on the information to be published.

(Data source: Land Law 2003, Construction Law 2003, and Law on Investment of Vietnam 2005, Anti-corruption Law 2005, Revision and supplementation of anti-corruption law 2013, reports on implementation of Investment law, anti-corruption law, Construction Law and Land Law).

2. Policy recommendation: It is necessary to have detailed regulation on transparency and openness of information provided by the investors.

<p>LSLA 10</p> <p>Contractual provisions regarding acquisition of land from communities or the public are required by law to explicitly mention of the way in which benefits and risks will be shared.</p> <p>(Category: B)</p>	<p>A – Contracts must specify risk sharing and benefit sharing arrangement that are understood and agreed to by all parties.</p> <p>B – Contracts must specify arrangement regarding sharing of benefits or risk (but not both) that are understood and agreed to by all parties.</p> <p>C – Contracts must specify arrangement regarding sharing of benefits or risks but are poorly understood or agreed to by all parties.</p> <p>D – Contracts do not have to specify either risk sharing or benefit sharing arrangement.</p>
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1. Analysis:

As mentioned above, Vietnamese law has no regulation on interest sharing mechanism, similarly for risk sharing as well. The investors often have the commitment with the local authorities to support in infrastructure construction or accept the local labour to work for the investment projects. However, the law has no detailed regulation on this issue, only

encourages the investors to open job opportunities to local labourers.

Neither the investors have commitment with community nor does the law have regulation that the investors have to commit with the community. The investors only have the commitment with the local authorities as a specific or private condition in order to get the approval on land use agreement from the local authorities. Therefore, in all official papers or contracts or agreements there are not any regulations about interest or risk sharing conditions between the stakeholders.

(Data source: Land Law 2003, Construction Law 2003, and Law on Investment of Vietnam 2005, reports on implementation of Investment law, Construction law and Land law).

2. *Policy recommendation:* It is necessary to have a legal regulation detailing the compulsory commitment between the investors and local authorities and communities on interest and risk sharing mechanism.

<p>LSLA 11</p> <p>The procedure to obtain approval for a project where it is required is reasonably short. (Category: C)</p>	<p>A – In most cases, investment application related documents are reviewed and receive a response within 3 months of date of submission.</p> <p>B – In most cases, investment application related documents are reviewed and receive a response within 6 months of date of submission.</p> <p>C – In most cases, investment application related documents are reviewed and receive a response within 9 months of date submission.</p> <p>D – In most cases, investment application related documents are reviewed and receive a response within greater than 9 months from date of submission.</p>
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1. *Analysis:*

Law on Investment of Vietnam is already simplified at the highest possible level. Response for investment permit within 3 months is appropriate and in line with the law regulations, at the same time it has been implemented efficiently as all provinces want to improve their competitiveness capability.

Some opinions however claiming that in reality in some cases the implementation is not in line with the regulations of the law. In general, the investment permit application process takes almost 1 year.

(Data source: Law on Investment 2005; Steps and procedures for investment permit application according to the Programme 30 on administration reform; survey on competitiveness capability assessment at provincial level).

<p>LSLA 12</p>	<p>A – Social safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and</p>
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<p>Social requirements for large scale investments in agriculture are clearly defined and implemented. (Category: D)</p>	<p>elements in the assessment), include provisions for assessment and mitigation of direct and indirect effects, and consistently implemented.</p> <p>B – Social safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment) and consistently implemented but do not include provisions for assessment and mitigation of direct and indirect effects.</p> <p>C – Social safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment) but implemented with discretion.</p> <p>D – Social safeguard requirements for investors are not clearly documented and defined.</p>
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1. Analysis:

As mentioned above, the policy on rural land concentration of Vietnam is in different direction compared with the large-scale acquisition of land. Therefore it is not necessary to evaluate this dimension for large-scale agriculture investment projects.

In Vietnam, the investment projects that require a large-scale land acquisition mostly are hydropower projects, mine exploitation or urban development projects.

According to the Land Law 2003, acquisition of land and compensation/support for resettlement is the responsibility of the State, including social welfare policies for recovered land owners such as support to find job...etc. Such kind of support is implemented within a certain period of time (6 months), regardless the social welfare has been conducted or not. Law has no regulations on responsibility of the investors, except for encouraging them to offer job opportunities for local labour.

(Data source: Land Law 2003, Decree No. 197/2004/NĐ-CP, Decree No. 69/2009/NĐ-CP, reports on implementation of compensation, support for resettlement at localities).

2. Policy recommendation: Responsibility of the investors in dealing with social welfare for local people whose land is recovered for investment projects needs to be regulated in the Land Law.

<p>LSLA 13 Environmental requirements for large scale investments in agriculture are clearly defined and implemented. (Category: C)</p>	<p>A –Environmental safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment), include provisions for assessment and mitigation of direct and indirect effects, and consistently implemented.</p> <p>B – Environmental safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment) and consistently implemented but do not include provisions for assessment and mitigation of direct and indirect effects.</p>
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	<p>C – Environmental safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment) but implemented with discretion.</p> <p>D- Environmental safeguard requirements for investors are not clearly documented and defined.</p>
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1. Analysis:

As mentioned above, Vietnam does not allow the land acquisition mechanism by the State for the agricultural development projects, this dimension should be changed to the assessment of hydropower, mine exploitation or urban development projects.

Law on Environment has detailed regulations on methodologies for environment protection applicable for the investment projects, through environment impact assessment report or environmental protection commitment. In fact, majority opinions claim that such report is just formality while the investors do not often follow the regulations. A lot of problems in term of environment protection of investment projects was mentioned by media and newspapers and even discussed during the National Assembly sessions.

(Data source: Law on Environment Protection 2005, Decree No. 29/2011/NĐ-CP on assessment of strategic environment, environment impact assessment, environment protection commitment, other articles on newspapers on these issues).

2. Policy recommendation: It is necessary to complete legal regulations on environmental impact assessment (EIA), at the same time integrate environment protection requirements in land use planning work.

<p>LSLA 14</p> <p>For transfers of public/community lands, public institutions have procedures in place to identify and select economically, environmentally, and socially beneficial investments and implement these effectively.</p> <p>(Category: C)</p>	<p>A – Procedures to fully cover economic, social, and environmental issues are in place and implemented effectively.</p> <p>B – Procedures to partly cover economic, social, and environmental issues are in place and implemented effectively.</p> <p>C – Procedures to fully cover economic, social, and environmental issues are in place but not implemented effectively.</p> <p>D – Procedures provide at best partial coverage of economic, social, and environmental issues and are not implemented effectively.</p>
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1. Analysis:

According to the Land Law 2003, the approval of land use planning or approval of investment projects has to ensure the highest level of efficiency economically, socially and environmentally, but again the regulated criteria are vague and not in details, nor clear in term

of economic efficiency, social efficiency and environmental efficiency. The assessment and approval of land use planning and investment projects are under competence of provincial people committee, with the support of related specialized management offices. In reality, economic and social and environment efficiency issue is always mentioned but the implementation is not effective at all.

(Data source: Land Law 2003, Construction law 2003 and Investment Law 2005, Process step for developing, evaluating and approving land use planning and Process steps for reviewing and approving investment projects).

2. *Policy recommendation:* it is necessary to complete the legal regulations on economic, social and environment efficiency based on detailed indicators/criteria to ensure the effectiveness in reality.

<p>LSLA 15</p> <p>Compliance with safeguards related to investment in agriculture is checked.</p> <p>(Category: C)</p>	<p>A – The responsible government agencies follow up on the agreements to check for compliance and consistently take reasonable action in cases of non-compliance.</p> <p>B – Responsible government agencies follow up on the agreements to check for compliance and, on a discretionary basis, take reasonable action in cases of non-compliance.</p> <p>C – Responsible government agencies follow up on the agreements to check for compliance and but do not take reasonable actions in cases of non-compliance.</p> <p>D – Responsible government agencies do not follow up on the agreements to check for compliance.</p>
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1. *Analysis:*

In Vietnam, the mechanism for monitoring and overseeing of agricultural development projects is similar to that of the investment projects in other fields/sectors. In general, administrative law system of Vietnam has regulated rather detailed on checking and inspecting tasks of the higher administrative bodies toward their subordinates, but in reality this is evaluated as rather weak and not on regular basis. Normally, the inspection or check will only be conducted once specifically required by certain authorities. Due to the fact that this task has not been conducted on regular basis, the negative cases have been realized not on time and often too late.

The monitoring has been implemented on regular basis at National Assembly and people council at all level with limited effectiveness. The monitoring by people is set out as a principle, but yet implemented in reality.

(Data source: Law on Inspection 2010, Land Law 2003, report on implementing and monitoring tasks of Government Inspectorate).

2. *Policy recommendation:* It is necessary to complete mechanism for implementation of, and handling the monitoring and inspection outcome conclusions in the land management aspect.

<p>LSLA 16</p> <p>There are avenues to lodge complaints if agricultural investors do not comply with requirements. (Category: C)</p>	<p>A – There is a clear process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards. Mechanisms to deal with these fairly and expeditiously are in place and consistently implemented.</p> <p>B – There is a clear process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards. Mechanisms to deal with these fairly and expeditiously are in place but not consistently implemented.</p> <p>C – There is a process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards but mechanisms to deal with these fairly and expeditiously are not in place.</p> <p>D – There is no clear process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards.</p>
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1. Analysis:

Complaint mechanism for agricultural investors who do not fulfil the commitment is not yet mentioned in Vietnam. In case an investor commits by a signed contract but fails to do so, the farmers can apply the process steps in resolving contract dispute. This type of dispute is quite common in Vietnam in case of financial contribution into real estate projects, but in reality not many cases have been solved.

Moreover, in Vietnam there is not any regulation on handling the dispute of local people who are affected by investment project at project level (meaning Grievance Redress Mechanism).

(Data source: Land Law 2003, Decree No. 181/2004/NĐ-CP).

2. Policy recommendation: It is necessary to implement the mechanism in dealing with complaints of local people affected by the investment projects at project level.

5.7 Forestry Governance

<p>FGI-1.i</p> <p>Country signature and ratification of international conventions and treaties in support of forest conservation (CITES, CBD, CCD,</p>	<p>A – The country has committed to follow the requirements of the most relevant treaties, and their implementation is excellent. It is following all of them.</p> <p>B – The country has committed to follow most or all of these treaties, and its implementation is fairly good. It is following most of them.</p> <p>C – The country has committed to follow most or all of these</p>
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Ramsar, UNFCCC) (Category: C)	treaties, but its implementation needs improvement. D – The country has not committed to follow most of these treaties, or it is ignoring most of the treaty requirements.
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Treaty/Convention	Relevance	Signature	Ratification /in Force	Implementation	Remarks
CITES	High	20/01/1994	20/01/1994	Ranked at level 1 by the CITES Secretariat for the implementation of the Convention. Government issues 02 Decrees: Decree 32/2006/NĐ-CP on the management of endangered and rare species of wild plants and animals. Decree 82/2006/NĐ-CP on managing activities of export, import and breed wild fauna and flora.	Well implemented at central level, but in fact, Vietnam is one of countries in which wild animals are killed for medicines and sources of food.
CBD	High	16/11/1994	16/11/1994	Implementing activities of CBD and development of Vietnam biodiversity action plan (BAP). NA approved Law on Biodiversity 2010	Well implemented at central level, but biodiversity is degraded due to mining and deforestation, etc.
CCD	High	23/11/1988	23/11/1988	Prime Minister issues Decision No.204/2006/QĐ-TTg National Action Plan against Desertification 2006 - 2010 and orientations to 2010	The action program implemented in 04 key areas.
RAMSAR	High	1989	1989	Vietnam has 04 international Ramsar areas including Xuan Thuy National Park, Bau Sau (Cat Tien) National Park, Ba Bể Lake, Tram Chim National Park	Well implemented; Vietnam is the first country of Southeast Asia joining in the Convention. Environmental

					pollution is seen in some Ramsar area such as Ba Be Lake, Cat Tien National Park.
UNFCCC C	High	6/1992	6/1992	Vietnam has early joined and ratified the UN Frame Convention on Climate Change and Kyoto Protocol. Prime Minister at the Decision No. 2139/QĐ-TTg on approving the national strategy for responses to climate change.	Identifying 10 strategic tasks of response to climate change; disseminating scenarios of impacts climate change has on Vietnam

1. Analysis:

As can be seen from the above table, Vietnam is one of the first countries that ratify international Conventions related to forest preservation; and the State issues Laws, Decrees and specific activities. In practice, regulations are not followed. That wild species are killed for medicines (rhinoceros horns, tigers born glue and snakes wine, etc.) and special dishes (snakes and pangolins, etc.) are popular. Natural resources exploitation is the main cause of biodiversity degradation in Vietnam.

(Data source: Laws, Decrees, related to the above international Conventions; articles demonstrating the situation of killing and trading wild species and degrading biodiversity in Vietnam; foreign documentaries about killing of rhinoceros for horns trading in China and Vietnam).

2. Policy recommendations: There are necessarily specific sanctions against the violent of international commitments of Government.

<p>FGI-1.ii Implementation of incentives to promote climate change mitigation through forestry (Category: B)</p>	<p>A – Relevant and potentially effective incentives are widely available, including for PES and REDD+. These incentives are backed by the necessary funds and the programs are implemented in a cost effective manner.</p> <p>B – Some incentive mechanisms are available, including for PES and REDD+. Funding is available and the programs are implemented in a cost effective manner.</p> <p>C – A few incentive mechanisms are available, including for PES and REDD+. Funding is often not available and the programs are not considered cost effective.</p> <p>D – No incentive mechanisms are available, neither for PES nor for REDD+.</p>
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Scheme	Relevance	Cost effectiveness	Financial Sustainability	Is Implementation Monitored?	Remarks
1.PES - Carbon	High	High cost effective	Stable and sustainable	Yes, but not effective	Very effective in economic and social terms
2. REDD+ - CAC - MBI	Medium	Effective	Stability and sustainability are not high as there is no appropriate mechanism for different forest status	Yes, but not effective	Being under the pilot form (2011-2015) in 8 provinces and implementation of period 2 (2016-2020)in the areas of provinces with forests

1. Analysis:

For PES, the Government issued the Decree No. 99/2010/NĐ-CP on the payment of forest environmental services, and Prime Minister issued Decision No.380/QĐ-TTg (10/4/2008) of the on the pilot policy on the payment of forest environmental services. Decision No. 2284/QĐ-TTg (13/12/2010) on the approval of the Strategy to implement Decree No. 99/2010/NĐ-CP; Ministry of Agriculture and Rural Development and Ministry of Finance issued Inter-Ministerial Circular (No. 80/2011/TTBNNPTNT; No. 60/2012/TT-BNNPTNT; No. 20/2012/TT-BNNPTNT and No. 62/2012/TTLT-BNNPTNT-BTC guiding the mechanism of management and use of the payment on forest environmental services. Such legal documents are appropriate and give forestry sector as well as the forestry participants has legitimate source of income to actively contribute in the cause of hunger eradication and poverty reduction, attracting off-harvesting labourers in the rural mountainous areas, participating in the protection and development of forests. It also contributes to the reduction of state budget investment for the forest protection and development.

Vietnam Forest Protection and Development Funds (VNFF) established in 2012 with 24 funds at central level and provincial levels collecting VND 1.172 billion from environmental services.

In practice, that ethnic minorities are not allocated forestry land to protect forest and improve income is a cause of an increase in their income.

For REED+, national REED+ office and the Centre for People and Forest (RECOFTC) widely disseminate information and raise awareness of the goal to reduce gas emissions, increase forest carbon reserves, conserve biodiversity and at the same time contribute to the hunger eradication, poverty reduction, environmental protection and promotion of sustainable

development in Vietnam. Vietnam has participated in the Forestry Carbon Partnership Fund (FCPF) managed by WB, participated in the UN-REED program phase 1 (2009-2011) and is preparing for the phase 2. Vietnam has established 5 technical groups including: implementation at the localities; follow-up the appraisal report, sharing interests, private sector and governance. 4 technical activities are implemented includes (i) drafting emission scenario in forestry; (ii) studying the proposed system of sharing benefits from implementation of REED+ and UN-REED; (iii) developing the plot system of measurement system, reports and examination PCM (UN-REED) are developed; (iv) Supporting in the development of the system of national forest survey and inventory (UN-REED, FAO; FINIDA).

However, the implementation of REED+ is potential, which has not become popular. Activities such as logging of watershed forest, burning forest, and illegal logging are out of control.

(Data source: Legal instruments related to PES and REED+, reports on activities of PES and REED+, articles about negative behaviours in the media).

2. *Policy recommendations:* There is necessarily mechanism for implementing in communities, especially ethnic minorities.

<p>FGI-2.i Public goods aspects of forests (biodiversity, soil and water conservation, social and cultural values) recognized by law and protected (Category: B)</p>	<p>A – The law recognizes and strongly promotes the sustainability of and offers protection for a wide variety of public goods and services. B – The law recognizes some and offers protection for just a few of the public goods and services. C – The law recognizes a few public goods and services, but there is no effective protection. D – The existing legal framework for forests does not even recognize the public goods and service functions.</p>
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Public Good	Relevance	Status in Law	Type of Actions and their Effectiveness	Remarks
Biodiversity	High	The Law on forest protection and development; The Law on Biodiversity	Performing planning and plans on management and protection of national parks; nature reserves; biosphere reserves, Ramsar areas etc.	Recognized and protected by law because of the important role of forests. In practice, there are negative behaviours related to mining.

Soil	High	The Land Law; The Law on Forest Protection and Development	The planning, plans on land use and management result in efficiency of land use and forest and surface water.	Forest protection plays a big role in protecting soils, against erosion, runoff, soil degeneration, and anti-desertification. In fact, forests are not protected in many regions.
Water	High	Water resource Law	Manages and exploits water appropriately	It is needed to protect water resources and forests have an important role in retaining surface water

1. Analysis:

In Vietnam, forest is a key point in a large number of laws such as Law on forest protection and development, Law on Biodiversity, Land Law and Law on Water Resource, etc. The State usually pays attention to and supports in design of these laws.

The considerable shortcoming is the approach to sustain natural resources in which the State management mechanism is strictly applied instead of governance based on recognition of public goods and services, attached to indigenous communities. As a stark example, Land law recognizes the allocation of protection forest land to organizations, not indigenous communities for protection attached to forestry-relevant public goods and services. The communities are allocated sacred forests and ghost forests linked to ethnic cultural identities.

The popular public goods and services are festivals relevant to historical and cultural monuments in regions.

Panel Members consider the practical efficiency of public services. Environmental services have a great economic potential, whose benefits are not directly brought to forest owners. Natural forests are deteriorating, turning from rich forest into average forest, average forest become poor one and poor forest turn into planted forest. A common phenomenon is deforestation for rubber and coffee plantation in many regions. It is agreed to rank this dimension as **category B**, the law recognizes some and offers protection for just a few of the public goods and services.

(*Data source:* Law on forest protection and development 2004, Law on Biodiversity 2008, Land Law 2003, Law on Water Resource 2012, Directive No. 38/2005/CT-TTg of December 5, 2005 on resurveying and re-planning forests of three kinds (there are 30 national parks in the whole country, 63 natural conservation areas with 58 natural reserve areas; 11 species conservation areas, 45 history-culture protection landscape areas, 20 scientific experimental research forests, 8 world biosphere reserve zones including Can Gio Mangroves Forest, Cat Tien National Park, Cat Ba archipelago, Red River Delta, the western region of Nghe An province, Kiên Giang Coastal and islands areas, Ca Mau Cape and Cu Lao Cham).

2. *Policy recommendations:* It is necessary to change the approach to public goods and

services relevant to forest protection with the involvement of indigenous communities.

<p>FGI-2.ii</p> <p>How well forest management plans and budgets address the main drivers of deforestation and degradation (Category: B)</p>	<p>A – Addressing the drivers of deforestation and degradation appears to be high on the list of priorities in forest development plans and budgets.</p> <p>B – Addressing the drivers of deforestation and degradation appears to be given the same level of priority as other activities in forest development plans and budgets.</p> <p>C – Addressing the drivers of deforestation and degradation appears to be low on the list of priorities in forest development plans and budgets.</p> <p>D – Addressing the drivers of deforestation and degradation is not explicitly considered in forest development plans and budgets.</p>
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Budget Allocation	Annual in a Multi-Year Planning Frame	Annual with no clear long-term horizon	Linkage to underlying pressures for deforestation	Stability and reliability of budget allocations	Remarks
At the Central Agency Level	Yes	Medium term time frame (3 years)	Yes	The stability and reliability are not high	The allocation of annual plan and budget under the authority of the Ministry of Planning and Investment
Decentralize provincial level	Yes	Medium term time frame (3 years)	Yes	The stability and reliability are not high	The allocation of annual plan and budget under the authority of the Department of Planning and Investment
Lower Levels	Annual in a Multi-Year Planning Frame				

1. Analysis:

Similarly to other areas, central and provincial levels pay attention to preparation of long term, medium term and annual plans for forest protection and development. The leading ministry takes responsibility for proposing plans which are then reviewed and approved by Ministry of Planning and Investment (MPI). The same procedures occur at local level. For example, State budget allocated for the sustainable forest protection and development program is 975.500 million dong in 2013 (Decision No.1756/QĐ-BKHDT dated 20/12/2012 issued by MPI on detailing allocation of budget for development investment. In budget balance, spending on forest development is equal to spending on forest protection. In practice, spending from state budget is usually not enough for specific assignments related to afforestation and forest protection, including spending on anti-deforestation, anti-forest degradation. In fact, deforestation and forest fires are seen in localities.

(Data source: Decision No. 60/2010/QĐ-TTg of the Prime Minister promulgating rules, criteria and norms for allocation of development investment capital by the state budget for the period 2011-2015; Decision No. 147/QĐ-TTg (10/9/2007) and No.66/QĐ-TTg (09/12/2011) on some policies of production forest development for the period 2007-2015; Decision No. 1756/QĐ-BKHDT (20/12/2012) of by Ministry of Planning and Investment; Decision No. 161/QĐ-BNN-TCLN of Ministry of Ministry of Agriculture and Rural Development dated 24/01/2013 on the assignment of the implementation of the 2013 plan for forest protection and development).

<p>FGI-3.i</p> <p>Country's commitment to forest certification and chain-of-custody systems to promote sustainable harvesting of timber and non-timber forest products (Category: A)</p>	<p>A – The government requires and actively supports and encourages certification and chain-of-custody systems; the area under certification in the country is growing rapidly.</p> <p>B – The government does not require certification but supports and encourages it and chain-of-custody systems; the area under certification in the country is growing but only slowly.</p> <p>C – The government has no stand as regards promotion of certification and chain-of-custody systems.</p> <p>D – Existing rules, regulations or institutions make it difficult to put certification or chain-of-custody systems in place.</p>
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Forest Product	Relevance	Certification/CoC and Scale	Consumption Market Shares	Remarks
Timber	High	Ministry of Agriculture and Rural Development	The large consumer market share meeting the demand for	Limiting logging of natural forests, encouraging the consumption of timber

		issues procedures, regulations, circulars to guide the implementation of the protection, caring and development of forests	household wooden furniture, fine arts, wood processing industry, construction and furniture exported to the EU and the U.S market.	from planted forests. Implementing the roadmaps for sustainable management of forest and issuing forest certification (FSC) to obtain the market exported wood of Vietnam. Building the wood processing facilities associated with materials areas all over the country
Nuts/Honey: Coffee, Pepper, Cashew nut and Honey	High	Technical procedures for planting coffee, cashew nuts, pepper are available. Techniques for bee raising are available	Coffee has large consumption market share, besides the domestic consumption, it is mainly for the export. Honey is mainly used for the domestic consumption.	Planning coffee planting areas associated with the processing facilities.
Latex and dyes, rubber and resin	High	There are technical procedures for planting, harvesting rubber latex	Market share of rubber consumption is large, not only meeting the domestic demand but also catering for export demand. Market share of other forest products is small, catering both domestic demand and export.	Ministry of Agriculture and Rural Development (MARD) has planning for the rubber plantation areas and issues the circular to guide the plantation of rubber in the forestry land, in conformity with the Decision No. 750/QĐ-TTg dated 03/6/2009 of the Prime Minister on the Rubber Development Planning to 2015 and the vision to 2020. The processing facilities associated

				with the materials production areas
Charcoal	High		The market share is relatively large, mainly from the rural, mid-land, mountainous areas.	To meet the demand for wooden fuels and reduce pressure on forest resources, it is needed to encourage the development of forest farms, forest gardens and scattered planting.
Crafts from forest	Medium			Production of the wooden furniture, bamboo processing, threading and weaving items from bamboo, rattan, leaves (palm, Radix Rumicis) is primarily in the small scale of households
Medical herbs (Cinnamon, cardamom, amomum, Radix Morindae Officinalis, Cortex Eucommiae, Ngoc Linh ginseng).	Medium	There are technical procedures for planting and caring	Large share market, mainly in domestic market	MARD has approved the project on the development of non-timber forest products all over the country with the motto of building processing facilities associated with the material production areas.
Tourism relevant to forest	High	Guidance of General Department of Tourism available	Well developed in areas with the high tourism potential	

1. Analysis:

From data in the above table, Government enforced policies on support and encouragement of forest certification and chain-of-custody systems while the area under certification in the country is growing rapidly.

(Data source: Decisions of Prime Minister, Circulars on guidance, technical standards

stipulated by Ministry of Agriculture and Rural Development).

2. *Policy recommendations:* Policies should be specified from planning process, which focus on connection between interests and obligations of indigenous communities and enterprises.

<p>FGI-3.ii Country's commitment to SMEs as a way to promote competition, income generation and productive rural employment (Category: B)</p>	<p>A – The government actively supports the development of small- to medium-sized forest sector businesses that use forest resources sustainably.</p> <p>B – There is support, but the government could do much better.</p> <p>C – The government neither encourages nor discourages small- to medium-sized forest sector businesses.</p> <p>D – Existing laws and institutions make it difficult for small- to medium-sized forest sector businesses to succeed.</p>
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1. Analysis:

Vietnam Government has issued policies that give small and medium enterprises (SMEs) favourable conditions and equality in investment in agricultural and forest production way to create employment and generate income in rural areas. In practice, SMEs are coping with challenges to obtain equal business environment. They are: (i) difficulties in access to investment credit loans; (ii) lack of capital to fulfil financial obligations to obtain Land use right Certificate; (iii) investment in forestry requires medium term and long term capital; (iv) high cost of infrastructure construction; (v) illegal lumberjack and encroachment and occupation of indigenous communities.

The State has policies on reforming State owned agricultural farms and forest agencies, but they have not been successful.

(Data source: Resolution No.28-NQ/TW of Political Bureau dated 16/6/2003 on the arrangement, reform and development of state-owned agricultural farms and forest agencies; Decree No. 200/2004/NĐ on the arrangement, reform and development of state-owned agricultural farms and forest agencies; Decree No. 61/2010/NĐ-CP about policies to encourage enterprises to invest in agriculture, and rural development; Decision No. 80/2002/QĐ-TTg of Prime Minister on the policy to encourage consumption of agricultural commodities through contracts; Decision No. 147/2007/QĐ-TTg of The Prime Minister on some policies of forest development for the period 2007-2015; data of the Policy Board, forestry management organizations under Vietnam Administration of Forestry (Nationally, there are 148 forest enterprises with 138 local enterprises, 10 enterprises under General Corporation).

<p>FGI-4.i Recognition of</p>	<p>A – The law mostly recognizes traditional and indigenous rights and guarantees security of access to forest dependent communities.</p>
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traditional and indigenous rights to forest resources by law (Category: C)	B – The law often recognizes traditional and indigenous rights and guarantees security of access to forest dependent communities. C – The law recognizes traditional and indigenous rights in less than half of the cases and cannot fully guarantee security of access to forest dependent communities. D – The law does not recognize traditional and indigenous rights, nor does it guarantee access to forest dependent communities.
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1. Analysis:

There is no recognition of traditional and indigenous rights in both Civil Law and Land Law, where the concept of community is ignored, so rational rights of indigenous people are ignored. Land law 2003 and Land law 2013 recognize land rights of indigenous people to forest land and agricultural production land, which is associated to customs and cultural identities. Protection forest land is allocated to indigenous communities if forest is allocated according to Law on Forest Protection and Development. Forestry and agricultural production land and aquaculture production land are only allocated to indigenous people according to customary law.

In practice, in the past, indigenous people were able to access forests for livelihoods. After land was allocated to State owned agricultural farms and forest agencies, forests are not accessible for indigenous people, resulting in the higher poverty rate among ethnic minorities.

Panel Members claim that law recognizes partly traditional rights of indigenous people and is unable to fully ensure security for forest dependent communities to access forest. This dimension is rated as **category C**.

(Data source: Land law 2003, Law on Forest Protection and Development 2004, Civil law 2005, Land law 2013, Reports on arrangement and reform of agricultural farms and forest agencies and relation between the use of land in State owned agricultural farms and forest agencies conducted by CODE Institute, Report on Suggesting Amendment of Draft Law on land (revised) of Landa and Oxfam).

2. Policy recommendations: Vietnam should have an overview of traditional rights of indigenous people for forest access in accordance with international convention that recognizes rights of indigenous people to land. Land law should recognize rights of communities to all land types, including forest land and right of indigenous people to forest access.

FGI-4.ii Sharing benefits or income from public forests with local communities by law and its implementation	A – The law includes clear provisions for sharing payments or other benefits with local communities. These provisions cover sharing of benefits generated from all kinds of forest uses, and they are effectively implemented. B – The law has clear provisions on sharing benefits from some forest uses, but not from all uses, and implementation is weak. C – The law addresses benefit sharing but the rules are unclear
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(Category: C)	<p style="text-align: center;">and unenforceable.</p> <p>D – The law is silent on benefit sharing for local communities.</p>
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Benefit sharing arrangements	Relevance	Provision in Law	Operational Status and Effectiveness	Implementation and monitoring	Remarks
Between the State and communities	Medium	Article 59 Law on Forest Protection and development	No efficiency for community	Not regulated in Land Law, lack of monitoring in practice.	The State provides general policies, not specific ones to support communities in benefit sharing.
Between private investors and communities	In general, low	Article 13 to Article 20 and Article 33; 36 Investment Law	No efficiency for community	Benefit sharing is required in contract but the share between investors and communities are imposed by local authorities in some regions.	People enjoy short term benefits, but economic sustainability is not ensured. Some models are highly effective (in Lam Dong)
Within members of a community	High	Customary law and village regulations	Good and effective operation	Members of the community have the right to participate in the implementation and monitoring of the implementation process.	Members of the traditional community are equally entitled to the material benefits and intangible values. This relation is broken when communities are disparate in rural population groups.

1. Analysis:

In Vietnam, there are certain regulations on benefit sharing between the State and communities, but there are shortcomings of implementation. Firstly, the benefit sharing has not been specified into mechanism for provision of equality in benefit sharing.

Regarding benefit sharing between enterprises and communities, some models such as cooperation between Private Enterprise of Phong Thuy and community in Lam Dong, are effective while majority of other enterprises have not created sustainable benefits to communities such as: Son La rubber model or Thanh Hoa sugarcane model. It is more important that there have not been legal provisions on mechanism to protect sustainable benefit of communities. Especially, the local people are very disagreed with benefit sharing of the state forest enterprises to local communities.

In sharing benefits within communities, the shortcomings are that the communities are mixed and identified under rural population points without customary law so the benefits are not equally shared.

Furthermore, the legal system has not paid attention to local communities' monitoring of benefits sharing.

This is a big problem in Vietnam because there are many different opinions and conceptions of governance and management. The forest is always living space of traditional indigenous communities. The state-owned farms/forest agencies have no cooperation and benefit sharing with indigenous communities but they manage forest is created inequity. This mechanism must be specified in the legal system. From the comments above, this dimension ranked at **category C** is appropriate.

(Data source: Law on Land 2003, Law on forest protection and development 2004, Civil code 2005, law on Land 2013, Reports on arrangement and innovation of farms and forest agencies and relation between state farms/forest agencies and local people in land use management of CODE institute, Report recommending amendment of draft Law on Land (revision) of Landa and Oxfam, Report on land consolidation of Oxfam and the Institute of Policy and Strategy for Agriculture and Rural Development (IPSARD)).

2. Policy recommendations: as above, Vietnam law should have different view on sharing benefits to indigenous communities in the relation among the State, enterprises and within communities.

FGI-5.i Boundaries of the countries forest estate and the classification into various uses and ownership are clearly defined and demarcated.	A – Forest boundaries are mostly all clearly surveyed and demarcated for all categories of forest lands, and ownership is clear and not contested. B – Forest boundaries are often clearly surveyed and demarcated for most categories of forest lands and ownership is often clear and uncontested. C – Forest boundaries are clearly surveyed and demarcated only in some places and ownership is unclear and widely contested. D – Forest boundaries are generally not clearly surveyed and
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(Category: C)	demarcated and ownership is highly contested.
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1. Analysis:

The Government has decision on three types of forest: production, protection and special used forest, but the actual boundaries are not demarcated incompletely. As analysed in LSLA – 1, the Government invested VND 234 billion for developing cadastral map of forest land in 2006 and so far the land has been handed over to the provinces. According to the inventory data of land, forest land owned currently include: (i) 4.46 million hectares allocated to households, individual, (ii) 142 thousand hectares to CPCs, (iii) 2.24 million hectares to economic organizations, including the State forest enterprises, (iv) 4.54 million hectares to state organizations, in which mainly are management boards of protection forest, special used forest which are converted from the former State forest enterprises, (v) 458 thousand hectares to other organizations, (vi) 51 hectares to joint venture enterprises; (vii) 19 thousand hectares were leased to FDI enterprises, and (viii) 281 thousand hectares related to sacred forest, hunted forest. The forest land areas without owners are only 3.24 million hectares, including (i) 525 thousand hectares allocated to communities and (ii) 2.71 million hectares to CPC for protection.

It is more important that land encroachment and disputes among the State forest enterprises and local communities are taking place in wide area.

The boundaries between forest types and forest land in Vietnam have only been demarcated in general, not in particular. Most of the State forest enterprises have no maps for the land under their management. Forest land disputes are popular in large area.

(Data resource: Implementing Directive 38/2005/CT-TTg dated 05/12/2006 of the Prime minister on reviewing and planning of 3 types of forest, Decision No. 61/2005/QD-BNN dated 12/10/2005 on the promulgation of the criteria for decentralization of protection forests issued by Ministry of Agriculture and Rural Development; Decision No. 62/2005/QD-BNN dated 12/10/2005 promulgating criteria for classification of special used forests to guide the localities implementation of the review and planning of 3 forest types to be submitted to the Ministry of Agriculture and Rural Development for appraisal; Project on drawing cadastral map for land of MONRE; Report on rearrangement, innovation of state forest enterprises and relation of land use management between State forest enterprises and local people of CODE Institute; Report recommending amendment of draft Law on Land (revision) of Landa and Oxfam).

2. Policy recommendations: Forest and forest land management should be more concerned, including the specific demarcation.

FGI-5.ii	A – Public input is sought in preparing and amending land use plans and the public responses are explicitly referenced in the report prepared by
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<p>In rural areas, forest land use plans and changes in these plans are based on public input. (Category: C)</p>	<p>the public body responsible for preparing the new public plans. This report is publicly accessible.</p> <p>B – Public input is sought in preparing and amending land use plans and the public responses are used by the public body responsible for finalizing the new public plans, but the process for doing this is unclear or the report is not publicly accessible.</p> <p>C – Public input is sought in preparing and amending land use plans but the public comments are largely ignored in the finalization of the land use plans.</p> <p>D – Public input is not sought in preparing and amending land use plans.</p>
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1. Analysis:

As analysed in some dimension on the land-use planning of LGAF, by taking public input on planning, forest land use plan, most of the localities said that they were not asked for opinion. The land-use planners said that there was no money to organize consultation of local communities. Many localities said that land-use planning and plans were not public and constantly various.

(Data resource: Decree No. 181/2004/ND-CP, report on the implementation of Law on Land 2003 of the localities, Report recommending amendment of draft Law on Land (revision) of Landa and Oxfam).

2. Policy recommendations: Land Law 2013 has specific provisions on consultation with the public for all kinds of land-use planning. The remaining problem is to guide implementation, and monitoring of the implementation.

<p>FGI-6.i Country's approach to controlling forest crimes, including illegal logging and corruption. (Category: B)</p>	<p>A – The government systematically monitors the extent and types of forest crimes and employs a variety of measures, appropriate to the crime, to control it.</p> <p>B – The government partially monitors the extent and types of forest crimes and makes partial and unsystematic efforts to control it.</p> <p>C – The government monitors forest crime only infrequently and makes no significant investments in efforts to control it.</p> <p>D – The government neither monitors forest crimes nor invests resources to control it.</p>
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Forest Crimes	Relevance	Estimate	Provision in the law	Effectiveness of control measures	Remarks
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Illegal logging	High	In 2012 there were 2,435 cases of illegal forest exploitation throughout the country, 33,987 m ³ of different types of land was confiscated	<ul style="list-style-type: none"> - Article 175 Criminal Code - Article 12 Law on Forest Protection and Development. - Circular No. 01/2012/TT-BNNPTNT; no. 42/2012/TT-BNNPTNT stipulating the legal forest products profile and verifying the source of the forest related products - Joint Circular No. 19/2007/TTLT/BN N&PTNT-BTP-BCA-VKSNDTC-TANDTC guiding the application of some articles of the Criminal Code on the crimes in the forest management, forest protection and management of forest products. 	Through verifying the exploitation and transportation of timber, forestry products and wood processing facilities to detect the behaviours on violations of regulations related to forest to handle in accordance with the laws' provisions	Despite attempts of prevention, illegal timber exploitation in happens, because the focal point consuming illegal exploited timber has not yet been found, so the authorities cannot eliminate the root of the problems, also because of negatives.
Illegal encroachment on forest lands	High	In 2012 there were 63 cases of violations regarding the use of forestry land	<ul style="list-style-type: none"> - Article 176 Criminal Code -Article 12 Law on Forest Protection and Development. -Article 140 to Article 144 Land Law (2003) 	Actively inspect the conversion of the purpose of using forest and forest land to detect violations and handle in accordance	Despite measures to manage forestry land, the illegal occupation of forestry land still happens, E.g. deforestation for planting rubber and crops, or benefiting through the sales of land

				with the laws' provisions	
Poaching and trade in banned fauna and flora	High	In 2012, there were 928 cases of violations of regulations of management of wide species throughout the country	Article 51 Law on Forest Protection and Development	Promote active inspection and control to detect violations and handle in accordance with the laws' provisions.	Despite measures of prevention and mitigation, the illegal exploitation and trade of non-trading species still happens for commercial purpose
Corruption and bribery	High		Article 53a of Law on amendment and supplement of some articles of the Law on Anti-Corruption 2012	Transparency in management, protection, development and use of forest	Corruption is a national evil which takes place not only from land management but also forest resource management, and people who corrupt include cadastral staff and forest rangers

1. Analysis:

The State and the Government determine a policy to monitor, detect and thoroughly handle the forest crimes, which is also specified in legislative system. In fact, forest crimes have been happening frequently, including the collaboration between forest rangers and illegal loggers to conduct illegal logging. Main reason for this is the huge profit from forest exploitation. Corruption occurs frequently in direct management levels, e.g. bypassing the inspection in transit, or hiring local people to transport timber, etc.

2. Policy recommendations: priority should be put to the work of establishing mechanism for the people to exercise supervision.

<p>FGI-6.ii</p> <p>Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors</p> <p>(Category: B)</p>	<p>A – Officials inside and outside the forest agency effectively work together to combat forest crime; the government collaborates frequently with civil society organizations and representatives of local communities, and; judges and prosecutors are generally knowledgeable about the effects of forest offences.</p> <p>B – Officials inside and outside the forest agency occasionally work together to combat forest crime; government sometimes collaborates with civil society organizations and representatives of local communities, and; many judges and prosecutors are knowledgeable about the effects of forest offences.</p> <p>C – Officials inside the forest agency occasionally work together to combat forest crime, but there is weak coordination with other agencies; government rarely collaborates with civil society organizations and representatives of local communities, and; few judges and prosecutors are knowledgeable about the effects of forest offences.</p> <p>D – There is no coordination inside the forest agency and across agencies to combat forest crime; government does not collaborate with civil society organizations and representatives of local communities, and; judges and prosecutors are not knowledgeable about the effects of forest offences.</p>
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1. Analysis:

The Government has provided policies to stimulate the collaboration among rangers Communal People’s Committee, local community, Vietnamese Fatherland Front, the Farmer Union, and Veterans Association at grassroots level to repel forest crimes.

The foresters force has been performing internal coordination as well as coordination with external forces such as Police, Army, Justice Bodies, the Supreme People’s Procuracy, the Supreme People’s Court, and local authorities at all levels to prevent and combat forest crime. The Prime Minister has issued Decision No. 39/2009/QĐ-TTg (dated March 9th, 2009) to approve the mechanism for collaboration between rangers and militia forces in forest protection. Joint Circular No. 144/2002/TTLT/BNNPTNT-BCA-BQP (dated December 6th, 2002) of Ministry of Agriculture and Rural Development, Ministry of Public Security – Ministry of National Defence instructs the coordination among the forest rangers, the police and the army in the protection of forests. Joint Circular No. 19/2007/TTLT/BNN Rural-BTP-BCA-SPP-SPC dated 08/3/2007 of Ministry of Agriculture and Rural Development, Ministry of Justice, Ministry of Public Security, the Supreme People’s Procuracy, the Supreme People’s Court provides guidance for the application of some articles of the Criminal Code on crimes in the field of forest management, forest protection and forest products management. The Prime Minister has issued Directive No. 1685/CT-TTg (27/9/2011) Minister on the strengthening the implementation of measures to protect forests, prevent deforestation and fight against the executors. These documents create the basis to facilitate the collaboration among the foresters and external forces in prevention of forest crimes.

Besides, the legal framework does not pay attention to the collaboration with the

community, especially the civil society organizations that are not recognized by the legal framework.

As a matter of fact, the forest rangers have been performing effective cooperation with agencies of public sector to carry out their duty. Cooperation with the community and civil society organizations remain poor effectiveness.

(Data source: The above legal documents, Annual Summary Report of 2012 of Vietnam Administration of Forestry, articles relating to activities of the forest rangers and the status of forest crimes on mass media).

2. Policy recommendations: Establish mechanism for good collaboration between forest

6 Policy analysis and policy recommendations

6.1 A synthesis of strengths and weakness identified by the LGAF, highlighting cross-sectoral implications where relevant

The evaluation results of 80 dimensions of 21 core indicators, 16 dimensions of "Large Scale Land Acquisition" indicators and 12 dimensions of "Forest Governance" in the previous sections can be summarized in the following table:

Table 5: Summary of dimensions

ID	Content	Category			
		A	B	C	D
LGI-1.1	Rural land tenure rights are legally recognized Existing legal framework recognizes rights held by 70% - 90% of the rural population, either through customary or statutory tenure regimes.		X		
LGI-1.2	Urban land tenure rights are legally recognized. Existing legal framework recognizes rights held by 70% - 90% of the urban population, either through customary or statutory tenure regimes.		X		
LGI-1.3	Rural group rights are formally recognized. The tenure of most groups in rural areas is formally recognized and clear regulations exist regarding groups' internal organization and legal representation	X			
LGI-1.4	Urban group rights are recognized in informal areas Group tenure in informal urban areas is formally recognized and clear regulations exist regarding the internal organization and legal representation of groups.			X	
LGI-1.5	When desirable, opportunities for tenure individualization exist and are accessible. When desirable, the law provides opportunities for those holding land under customary, group, or collective tenures to fully or partially individualize land ownership/use. Procedures are not affordable or clear, leading to widespread discretion or failure to apply even for cases where those affected desire to so.			X	
LGI-2.1	Most communal or indigenous land is mapped and rights are registered. More than 70% of the area under communal or indigenous land has boundaries demarcated and surveyed and associated claims registered.	X			
LGI-2.2	Individually held properties in rural areas are formally registered. Between 70% and 90% of individual land in rural areas is formally registered.		X		
LGI-2.3	Individually held land in urban areas is formally registered. Between 70% and 90% of individual land in urban		X		

	areas are formally registered.				
LGI-2.4	Women's rights are formally registered Between 35% and 45% of land registered to physical person is registered in the name of women either individually or jointly.		X		
LGI-2.5	A condominium regime provides for appropriate management of common property. Common property under condominiums is recognized but the law does not have clear provisions to establish arrangements for the management and maintenance of this common property.		X		
LGI-2.6	There is compensation for loss of rights due to land use changes. (including in case of State acquisition of land)				
LGI-3.1	Non-documentary forms of evidence for recognition of property claims are acceptable Non-documentary forms of evidence are used alone to obtain full recognition of claims to property when other forms of evidence are not available.	X			
LGI-3.2	There is formal recognition of long-term, unchallenged possession. Legislation exists to formally recognize long-term, unchallenged possession but applies only to one specific type of land (e.g. either public land or private land)		X		
LGI-3.3	First-time registration on demand is not restricted by inability to pay the formal fees. The costs for first time sporadic registration for a typical urban property does not exceed 2% of the property value.		X		
LGI-3.4	First-time registration does not entail significant informal fees. There are informal fees that need to be paid to effect first registration and the level of informal fees is about the same as the formal fees.			X	
LGI-3.5	Formalization of urban residential housing is feasible and affordable The requirements for formalizing housing in urban areas are clear, straight-forward, and affordable but are not implemented consistently in a transparent manner.		X		
LGI-3.6	There is an efficient and transparent process to formalize possession. There is a clear, practical process for the formal recognition of possession but this process is not implemented effectively, consistently or transparently.		X		
LGI-4.1	Restrictions regarding urban land use, ownership and transferability are justified. There are a series of regulations that are for the most part justified on the basis of overall public interest but that are not enforced.		X		
LGI-4.2	Restrictions regarding rural land use, ownership and transferability are justified.		X		

	There are a series of regulations that are for the most part justified on the basis of overall public interest but that are not enforced.				
LGI-5.1	There is an appropriate separation of policy formulation, implementation, and arbitration roles. In situations that can entail conflicts of interest or abuse (e.g. transfers of land rights) there is no clear separation in the roles of policy formulation, implementation of policy through land management and administration and the arbitration of any disputes that may arise as a result of implementation of policy.				X
LGI-5.2	The responsibilities of the ministries and agencies dealing with land do not overlap (horizontal overlap). The mandated responsibilities of the various authorities dealing with land administration issues are defined with a limited amount of overlap with those of other land sector agencies but there are few problems.		X		
LGI-5.3	Administrative (vertical) overlap is avoided. Division of land-related responsibilities between the different levels of administration and government is clear with minor overlaps.		X		
LGI-5.4	Land information is shared with interested institutions. Information related to rights in land is available to interested institutions and although this information is available at reasonable cost, it is not readily accessible as the information is not maintained in a uniform way.		X		
LGI-6.1	Land policy is developed in a participatory manner. A comprehensive land policy exists or can be inferred by the existing legislation. Land policy decisions that affect sections of the community are based on consultation with those affected but feedback is usually not sought or not used in making land policy decisions.		X		
LGI-6.2	There is meaningful incorporation and monitoring of equity goals in land policy. Land policies incorporate some equity objectives but these are not regularly and meaningfully monitored			X	
LGI-6.3	The implementation of land policy is costed, matched with benefits and adequately resourced. The implementation of land policy is costed, though not necessarily based on a comparison of expected benefits and costs. There is an adequate budget, resources and institutional capacity.		X		
LGI-6.4	There is regular and public reporting indicating progress in policy implementation. Formal land institutions report on land policy implementation in a regular, meaningful, and comprehensive way with reports being publicly accessible.	X			
LGI-7.1	In urban areas, land use plans and changes in these plans are based on public input.				X

	Public input is not sought in preparing and amending land use plans.				
LGI-7.2	In rural areas, land use plans and changes in these plans are based on public input. Public input is sought in preparing and amending land use plans but the public comments are largely ignored in the finalization of the land use plans.			X	
LGI-7.3	The public captures benefits arising from changes in permitted land use. Mechanisms to allow the public to capture significant share of the gains from changing land use are applied transparently but not always used.		X		
LGI-7.4	Actual land use changes to the assigned land use in a timely manner. Between 50% and 70% of the land that has had a change in land use assignment in the past 3 years has changed to the destined use.		X		
LGI-8.1	Land use planning effectively controls urban spatial expansion in the largest city in the country. In the largest city in the country, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban spatial expansion occurs in an ad hoc manner with infrastructure provided some time after urbanization.			X	
LGI-8.2	Land use planning effectively controls urban development in the four largest cities in the country, excluding the largest city. In the four major cities in the country, while a hierarchy of regional/detailed land use plans is specified by law, in practice urban development occurs in an ad hoc manner with infrastructure provided some time after urbanization.			X	
LGI-8.3	Planning processes are to cope with urban growth. In the largest city in the country, the urban planning process/authority is able to cope to some extent with the increasing demand for serviced units/land as evidenced by the fact that most new dwellings are formal.		X		
LGI-8.4	Residential plot sizes are adhered to in urban areas. Existing requirements for residential plot sizes are met between 50% and 70% of plots.			X	
LGI-8.5	Use plans for specific rural land classes (forest, pastures, wetlands, national parks etc.) are in line with actual use. The share of land set aside for specific use that is used for a non-specified purpose in contravention of existing regulations is between 10% and 30%.		X		
LGI-9.1	Applications for building permits for residential dwellings are affordable and effectively processed. Requirements to obtain a building permit are technically justified and affordable but not clearly disseminated.		X		

LGI-9.2	The time required to obtain a building permit for a residential dwelling is short. All applications for building permits receive a decision within 6 months		X		
LGI-10.1	There is a clear process of property valuation. The assessment of land/property for tax purposes is based on market prices, but there are significant differences between recorded values and market prices across different uses and types of users or valuation rolls are not updated regularly or frequently (greater than every 5 years).		X		
LGI-10.2	Valuation rolls are publicly accessible. There is a policy that valuation rolls be publicly accessible and this policy is effective for most of the properties that are considered for taxation.		X		
LGI-11.1	Exemptions from property taxes are justified and transparent. There are limited exemptions to the payment of land/property taxes, and the exemptions that exist are clearly based on equity or efficiency grounds and applied in a transparent and consistent manner.	X			
LGI-11.2	Property holders liable to pay property tax are listed on the tax roll. Between 70% and 80% of property holder liable for land/property tax are listed on the tax roll.		X		
LGI-11.3	Assessed property taxes are collected.				
LGI-11.4	Receipts from property taxes exceed the cost of collection. The amount of property taxes collected exceeds the cost of staff in charge of collection by a factor of more than 5.	X			
LGI-12.1	Public land ownership is justified and managed at the appropriate level of government. Public land ownership is justified in most cases by provision of public goods but responsibility is often at the wrong level of government.			X	
LGI-12.2	There is a complete recording of publicly held land. More than 50% of public land is clearly identified on the ground or on maps.	X			
LGI-12.3	The management responsibility for public land is unambiguously assigned. There is some ambiguity in the assignment of management responsibility of different types of public land but this has little impact on the management of assets.		X		
LGI-12.4	Sufficient resources are available to fulfill land management responsibilities. There are significant constraints in the budget and/or human resource capacity but the system makes effective use of limited available resources in managing public lands.			X	

LGI-12.5	<p>The inventory of public land is accessible to the public. All the information in the public land inventory is only available for a limited set of public property and there is little or no justification why records are not accessible.</p>			X	
LGI-12.6	<p>The key information on land allocations is accessible to the public. The key information for land allocations (the locality and area of the land allocations, the parties involved and the financial terms of the allocation) is only partially recorded but is publicly accessible; or the key information is recorded but only partially publicly accessible.</p>		X		
LGI-13.1	<p>There is minimal transfer of expropriated land to private interests. Between 30% and 50% of land expropriated in the past 3 years is used for private purposes.</p>			X	
LGI-13.2	<p>Expropriated land is transferred to destined use in a timely manner. More than 70% of the land that has been expropriated in the past 3 years has been transferred to its destined use.</p>	X			
LGI-14.1	<p>Compensation is paid for the expropriation of registered property. Where property is expropriated, compensation, in kind or in cash, is paid but the displaced households do not have comparable assets and cannot maintain prior social and economic status.</p>			X	
LGI-14.2	<p>Compensation is paid for the expropriation of all rights regardless of the registration status. Compensation, in kind or in cash, is paid for some unregistered rights (such as possession, occupation etc.), however those with other unregistered rights (which may include grazing, access, gathering forest products etc.) are usually not paid compensation.</p>			X	
LGI-14.3	<p>Expropriated owners are compensated promptly. Between 50% and 70% of expropriated land owners receive compensation within one year.</p>			X	
LGI-14.4	<p>There are independent and accessible avenues for appeal against expropriation. Avenues to lodge a complaint against expropriation exist but are somewhat independent and these may or may not be accessible to those affected.</p>			X	
LGI-14.5	<p>Timely decisions are made regarding complaints about expropriation. A first instance decision has been reached for between 50% and 80% of the complaints about expropriation lodged during the last 3 years.</p>		X		
LGI-15.1	<p>Public land transactions are conducted in an open transparent manner. The share of public land disposed of in the past 3</p>				X

	years through sale or lease through public auction or open tender process is less than 50%.				
LGI-15.2	Payments for public leases are collected. Between 70% and 90% of total the agreed payments are collected from private parties on the lease of public lands.		X		
LGI-15.3	Public land is leased and/or sold at market prices. All types or some types of public land can be divested at market prices in a transparent process, but this only applies to a particular type of investor (e.g. domestic only or foreign only).			X	
LGI-16.1	The mapping or charting of registry records is complete. Between 70% and 90% of records for privately held land registered in the registry are readily identifiable in maps in the registry or cadastre.		X		
LGI-16.2	Economically relevant private encumbrances are recorded. Relevant private encumbrances are not recorded.				X
LGI-16.3	Socially and economically relevant public restrictions or charges are recorded. Relevant public restrictions or charges are recorded consistently and in a reliable fashion and can be verified at a low cost by any interested party.	X			
LGI-16.4	The registry (or organization with information on land rights) is searchable The records in the registry can be searched by both right holder name and parcel.	X			
LGI-16.5	The records in the registry (or organization with information on land rights) are accessible. Copies or extracts of documents recording rights in property can only be obtained by intermediaries ¹⁸ and those who can demonstrate an interest in the property upon payment of the necessary formal fee, if any.		X		
LGI-16.6	There is a timely response to a request for access to records in the registry (or organization with information on land rights). It generally takes more than 1 week after request to produce a copy or extract of documents recording rights in property.			X	
LGI-17.1	Service standards are published and monitored. There are meaningful published service standards, but the registry does not actively monitor its performance against these standards.		X		
LGI-17.2	Registry/cadastre information is up-to-date. Less than 50% of the ownership information in the registry/cadastre is up-to-date.				X
LGI-18.1	The cost of registering a property transfer is low. The cost for registering a property transfer is between 2% and less than 5% of the property value.			X	
LGI-	The registry is financially sustainable through fee				X

18.2	collection. The total fees collected by the registry are less than 50% of the total registry operating costs.				
LGI-18.3	There is sufficient capital investment in the system. There is investment in capital in the system to record rights in land but it is insufficient to ensure that the system is sustainable in the short-term.			X	
LGI-19.1	The schedule of fees is publicly accessible. A clear schedule of fees for different services is not publicly accessible, but receipts are issued for all transactions.		X		
LGI-19.2	Informal payments are discouraged. Mechanisms to detect and deal with illegal staff behavior exist in all registry offices but cases are not systematically or promptly dealt with.		X		
LGI-20.1	Conflict resolution mechanisms are accessible to the public. Institutions for providing a first instance of conflict resolution are accessible at the local level in the majority of communities.	X			
LGI-20.2	Decisions made by informal or community based dispute resolution systems are recognized. There is an informal system or community-based that makes decisions that are not always equitable but have recognition in the formal judicial or administrative dispute resolution system.			X	
LGI-20.3	There is clear assignment of responsibility for conflict resolution. There are parallel avenues for dispute resolution but cases cannot be pursued in parallel through different channels and evidence and rulings may be shared between institutions so as to minimize the scope for forum shopping.		X		
LGI-20.4	There is a process for appealing dispute rulings. A process exists to appeal rulings on land cases but costs are high and the process takes a long time.			X	
LGI-21.1	Land disputes constitute a small proportion of cases in the formal legal system. Land disputes in the formal court system are between 30% and 50% of the total court cases.			X	
LGI-21.2	Conflicts in the formal system are resolved in a timely manner. A decision in a land-related conflict is reached in the first instance court within 1 year for between 70% and 90% of cases.		X		
LGI-21.3	There are few long-standing land conflicts (greater than 5 years). The share of long-standing land conflicts is between 10% and 20% of the total pending land dispute court cases.			X	
LSLA 1	Most forest land is mapped and rights are registered. 40-70% of the area under forest land has boundaries		X		

	demarcated and surveyed and associated claims registered.				
LSLA 2	Land acquisition generates few conflicts²¹ and these are addressed expeditiously and transparently. Conflicts related to use or ownership rights and directly or indirectly related to land acquisition are relatively frequent (more than 5% of rural land area affected) and the inability to address these conflicts expeditiously and in a transparent manner results in long pending disputes.				X
LSLA 3	Land use restrictions on rural land parcels can generally be identified. The land use restrictions applying to any given plot of rural land can be unambiguously determined on site for land occupied by more than 70% of the population.	X			
LSLA 4	Public institutions involved in land acquisition operate in a clear and consistent manner.				
LSLA 5	Incentives for investors are clear, transparent and consistent. There are written but unclear provisions in law or regulations regarding incentives for investors and their applicability have to be negotiated on a case by case basis in a way that is often discretionary.			X	
LSLA 6	Benefit sharing mechanisms for investments in agriculture (food crops, biofuels, forestry, game farm/conservation) are regularly used and transparently applied. Mechanisms to allow the public to obtain benefits from the investment (or investing party) other than compensation (e.g., schools, roads, etc.) are not used or not applied transparently.				X
LSLA 7	There are direct and transparent negotiations between right holders and investors. Transfer of land use or ownership rights for large scale investment requires previous acquisition of these rights by the state which follows a clear, transparent, and time-bound process with decision-making authority clearly assigned.			X	
LSLA 8	Sufficient information is required from investors to assess the desirability of projects on public/community land. Investors are consistently required to provide information on company background or financial/technical analyses but this information is not sufficient to assess viability and benefits from the project.			X	
LSLA 9	For cases of land acquisition on public/community land, investors provide the required information and this information is publicly available. Investors provide some information required from them and - subject to reasonable limits on		X		

	confidentiality - this information is publicly available				
LSLA 10	Contractual provisions regarding acquisition of land from communities or the public are required by law to explicitly mention of the way in which benefits and risks will be shared. Contracts must specify arrangement regarding sharing of benefits or risk (but not both) that are understood and agreed to by all parties.		X		
LSLA 11	The procedure to obtain approval for a project where it is required is reasonably short. In most cases, investment application related documents are reviewed and receive a response within 9 months of date submission.			X	
LSLA 12	Social requirements for large scale investments in agriculture are clearly defined and implemented. Social safeguard requirements for investors are not clearly documented and defined.				X
LSLA 13	Environmental requirements for large scale investments in agriculture are clearly defined and implemented. Environmental safeguard requirements for investors are clearly documented and defined (i.e., with details regarding specific processes and elements in the assessment) but implemented with discretion.			X	
LSLA 14	For transfers of public/community lands, public institutions have procedures in place to identify and select economically, environmentally, and socially beneficial investments and implement these effectively. Procedures to fully cover economic, social, and environmental issues are in place but not implemented effectively.			X	
LSLA 15	Compliance with safeguards related to investment in agriculture is checked Responsible government agencies follow up on the agreements to check for compliance and but do not take reasonable actions in cases of non-compliance.			X	
LSLA 16	There are avenues to lodge complaints if agricultural investors do not comply with requirements. There is a process by which affected parties or the public at large can lodge complaints regarding investor compliance with safeguards but mechanisms to deal with these fairly and expeditiously are not in place.			X	
FGI-1.1	Country signature and ratification of international conventions and treaties in support of forest conservation (CITES, CBD, CCD, Ramsar, UNFCCC) The country has committed to follow most or all of these treaties, but its implementation needs improvement.			X	
FGI-1.2	Implementation of incentives to promote climate change mitigation through forestry		X		

	Some incentive mechanisms are available, including for PES and REDD+. Funding is available and the programs are implemented in a cost effective manner.				
FGI-2.1	Public goods aspects of forests (biodiversity, soil and water conservation, social and cultural values) recognized by law and protected The law recognizes some and offers protection for just a few of the public goods and services.		X		
FGI-2.2	How well forest management plans and budgets address the main drivers of deforestation and degradation Addressing the drivers of deforestation and degradation appears to be given the same level of priority as other activities in forest development plans and budgets.		X		
FGI-3.1	Country's commitment to forest certification and chain-of-custody systems to promote sustainable harvesting of timber and non-timber forest products The government requires and actively supports and encourages certification and chain-of-custody systems; the area under certification in the country is growing rapidly.	X			
FGI-3.2	Country's commitment to SMEs as a way to promote competition, income generation and productive rural employment There is support, but the government could do much better.		X		
FGI-4.1	Recognition of traditional and indigenous rights to forest resources by law The law recognizes traditional and indigenous rights in less than half of the cases and cannot fully guarantee security of access to forest dependent communities.			X	
FGI-4.2	Sharing benefits or income from public forests with local communities by law and its implementation The law addresses benefit sharing but the rules are unclear and unenforceable.			X	
FGI-5.1	Boundaries of the countries forest estate and the classification into various uses and ownership are clearly defined and demarcated. Forest boundaries are clearly surveyed and demarcated only in some places and ownership is unclear and widely contested.			X	
FGI-5.2	In rural areas, forest land use plans and changes in these plans are based on public input. Public input is sought in preparing and amending land use plans but the public comments are largely ignored in the finalization of the land use plans.			X	
FGI-6.1	Country's approach to controlling forest crimes, including illegal logging and corruption. The government partially monitors the extent and types of forest crimes and makes partial and		X		

	unsystematic efforts to control it.				
FGI-6.2	Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors Officials inside and outside the forest agency occasionally work together to combat forest crime; government sometimes collaborates with civil society organizations and representatives of local communities, and; many judges and prosecutors are knowledgeable about the effects of forest offences.		X		

According to the results from the table, following comments are given:

1. There are 02 dimensions that do not need assessment due to no corresponding situations in Vietnam for assessment (LGI-2.vi and LSLA-4) and 01 dimension does not have enough data for assessment (LGI -11.iii).

2. There are 16 dimensions that were not evaluated by the expert investigators (in accordance with the implementation manual of the World Bank).

3. 54 dimensions (50%) were evaluated at categories C and D, thus recommendations on policy and legislation adjustment are needed to improve the evaluation results of land governance; the remaining 54 dimensions (50%) were evaluated at categories A and B.

6.2 The policy and legal regulation adjustment should be studied to improved land governance assessment results

Based on the dimensions which were evaluated at C and D, there should be recommendations on policy and legislation adjustments to further enhance the effectiveness of land governance, specifically:

1. There are only 2 extreme choises in Vietnam: land use right certificate will be granted if land use right is recognized, or no land use right certificate if land use right is not recognized. At this time, there should be a specific regulation on different levels of recognition; there may be many kinds of certificates of land use right or limited right of the land owner.

2. Management of public and private space in the apartment block should be clearly codified.

3. There should be adjustments on the levels of financial obligations in land registration and a mechanism to control unofficial fees based on uniform registration service standards.

4. There should be a clear separation in the roles of policy formulation, policy implementation, and conflict resolution.

5. Assignment and decentralization in management should be reviewed in order to remove all the horizontal and vertical overlap.

6. It should specify and fully implement the mechanism for public inputs on developing and adjusting the planning, land use planning, plan for compensation, support and

resettlement, as well as plan for issues relating to the interests of the public.

7. Upgrade land use planning towards space planning to directly participate in the management of urban expansion.

8. Find appropriate solutions to better manage too small land parcels formed in urban areas.

9. The process of land valuation should be transparent and monitored.

10. Real estate values should be publicized to each real estate unit in the system of tax, fees and related financial obligations.

11. Public land management system should be reviewed to have appropriate decentralization, sufficient capacity and transparency in land conversion.

12. That land is recovered by State for private purposes should be minimized and properly compensated. Investors have to ensure welfare of people whose land is recovered; and a different channel of complaint receipt is developed.

13. The land use restrictions must be justified and information on land use restrictions must be accessible to the public.

14. The system of land and real estate registration should look toward self- finance services with sufficient resources, and should be based on the principle of transparency.

15. A mechanism for resolving dispute and complaint Resolution is completed so that communal meditation is recognized by law; the quality is increased; the time is short; meditation is objective, especially in cases related to land acquisition of the State.

16. Benefit-sharing and risk sharing should be applied in land conversion between the State and communities, private investors and communities, and within members of a community

17. Mechanism for investor selection must be based on transparent, qualified and fair criteria.

18. Land use rights of indigenous people must be guaranteed to be associated with traditional communities.

From above mentioned issues, some contents for reforming main land policies which need to be discussed are recommended in the below table:

Table 6: Recommendations for land policy reform

Issues	Recommendations	Durations (Short term: 1 year ahead, Medium term: 2 – 3 years ahead, Long term: 3 – 5 years ahead)
1. Right recognition: <ul style="list-style-type: none"> • Guarantee the land use right for ethnic people communities 	<ul style="list-style-type: none"> • Conduct researches on international context and rules as well as use evidences in order to 	<ul style="list-style-type: none"> • Medium term together with the modification of Law

<p>(related to REDD+)</p> <ul style="list-style-type: none"> • Recognize space use right in condominium • Land use right of women (written in Land Use Right Certificate) 	<p>regulate legislative framework and documents for recognizing land use right of communities on forestry land with business purpose (including REDD+ of forestry land)</p> <ul style="list-style-type: none"> • Conduct researches and promulgate legislative documents on space use right in condominium • Follow up detailed statistic related to gender issue in land use right and search for solution to enhance land use right of women 	<p>on Forestry Protection and Development</p> <ul style="list-style-type: none"> • Short term together with the modification of Law on Housing • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013
<p>2. Land use and strategic planning</p> <ul style="list-style-type: none"> • Regulations on planning and land use restriction remained fragmented, mostly based on inadequate attention and poor coordination amongst sectors as well as lack of public participation and good propaganda. • Lack of planning guidance cause unofficial development, excessive acquisition of land and land fragmentation • The domination of individual interest in urban development cause high speed of unofficial land development and high cost of services 	<ul style="list-style-type: none"> • Clarify the relations amongst kind of planning methods, relevant plans, implementation responsibilities and information sharing amongst different administration levels. • Renovate current approaches on strategic land use planning in order to ensure inputs and data sharing amongst sectors based on economic values, land requirements, social problems and environmental planning. • Modify the procedures of land use planning in localities by zoning methods together with public participation in order to identify necessary technical requirements for better implementation, balance and feedback between strategic planning objectives and local land use plans. • Publish land use plans in accordance with good governance and establish a regulation of sharing information on land use right and plans amongst Ministries. • Suggest solutions and establish reserve funds for land use conversion which then include into draft of Law on Planning. 	<ul style="list-style-type: none"> • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formulation of the Decree guiding the implementation of Law on Land 2013
<p>3. Land value</p>		

<p>assessment and land tax</p> <ul style="list-style-type: none"> • Low land tax could prevent people benefiting from the increase of land values and constraint necessary services, infrastructure development and effectiveness of land use • Tax obligation might cause low assessment on land values and ineffective economic planning. 	<ul style="list-style-type: none"> • Tax collection is based on performance, efficiency and social equity. • It is necessary to register conversion values and publish regularly land price list. • Land tax is based on assessment value, not market price. • It is necessary to enhance criteria, qualifications and practical experience of responsible administration agencies. 	<ul style="list-style-type: none"> • Medium term together with the implementation of the Central Resolution No. 19 • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Long term together with program of tax reform • Medium term together with the implementation of Law on Land 2013
<p>4. Public land management</p> <ul style="list-style-type: none"> • There are no criteria to identify public land. • Land conversion is considered as land acquisition. The procedures to identify public land are unsystematic, unplanned which cause interest disputes, opportunities for land acquisition, conversion, or excessive transference to private sector. • Re-settlement is carrying out ineffective causing many social problems, • Land privatizations do not include auctions causing revenue loss for 	<ul style="list-style-type: none"> • People Committees should regularly publish level of compensation based on market price. • Clear regulation on land acquisition in accordance with good governance (including announcement, public feedback and appeal procedures) • Strictly monitor procedures of land acquisition, compensation and support in order to guarantee equality and justifiability that allow affected people to maintain their livelihood • Clarify criteria of land acquisition with business purposes. • Carry out pilot programs on adjusting and contributing 	<ul style="list-style-type: none"> • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Short term together with the formation of the Decree

<p>local government.</p>	<p>capital for urban land; develop data and publish results in order to build up a standard regulation on urban development.</p> <p>Meanwhile, it is necessary to learn about sharing models of benefit and risks amongst government agencies and land users in rural areas.</p> <ul style="list-style-type: none"> • Make auction to be the main approach of public land allocation for private interest with detail on price and condition of winning. 	<p>guiding the implementation of Law on Land 2013</p> <ul style="list-style-type: none"> • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013
<p>5. Provision of land information</p> <ul style="list-style-type: none"> • Land information is normally provided without spatial reference and update data of land use certificate. • The unrecognizing of mortgage status and the limitation on land use right reduce the usefulness of the registration system. • The restriction to access land information for non-government sector (including banking) reduces the value of land registration toward economic development. 	<ul style="list-style-type: none"> • Develop strategies to ensure the completion of LURC issuance associated with spatial information based on existing experience (VLAP); to restructure charges associated with the affordability of people; to research plans for free initial registration, awareness support, resolving administrative complaints during early registration if necessary. • Ensure registration of land tariffs and agreements, limitation in land use rights as well as access to information of the non-governmental sectors. • Complete the system of national land information which is synchronized amongst land institutions; and ensure the evaluation of interested parties from private sector and government • Complete geo-referenced cadastral mapping for monitoring land use • Pilot and implement regular result-based M&E system for land management 	<ul style="list-style-type: none"> • Medium term together with the implementation of Law on Land 2013 • Medium term together with the implementation of Law on Land 2013 • Long term together with institutional reforms • Medium term together with the implementation of Law on Land 2013 • Short term together with formation of Decree guiding the implementation of Law on Land 2013
<p>6. The settlement of claims and administrative complaints</p>		

<ul style="list-style-type: none"> • Despite the popular of claims on land, there is no systematic mechanism of monitoring and policy feedback. • Land dispute resolve often last long causing ineffectiveness of land use. • The unclearness in developing and implementing policy on land disputes. 	<ul style="list-style-type: none"> • Monitor systematically land disputes and claims • Establish a mechanism for resolving complaints and service standards for the initial administrative settlements about disputes, complaints, grievances and appeals; monitor the participation of stakeholders, and enhance the capacity of the courts in resolving disputes. • Review institutional structures to assess the scope of unresolved disputes among interest groups. 	<ul style="list-style-type: none"> • Short term together with the formation of the Decree guiding the implementation of Law on Land 2013 • Medium term together with the implementation of Law on Land 2013, Law on Complaints, Law on Administrative Proceedings • Medium term together with the implementation of Law on Land 2013, Law on Complaints, Law on Administrative Proceedings
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6.3 Suggestions for reforms (including timeline and feasibility)

As being implemented in Viet Nam for the first time, the implementation of LGAF has come with certain shortcomings. One of these is the lack of necessary data to inform the evaluation. In the coming time once the framework is carried out on a regular basis, better preparation of necessary data will make the implementation more effective.

Over the past time, the implementation of LGAF has been supported with multiple evaluation reports on the implementation of Land Law 2013 for the period of 2003-2013 of Ministries and localities. Such reports have also served as a rich source of information for the evaluation of different indicators and dimensions. Apart from the data provided by the State, research conducted by in-country and international organizations has helped Viet Nam in its revision of the Land Law 2013. This is, in fact, very useful for the implementation of LGAF.

Regarding the content of the framework, as Viet Nam has plenty of distinctive characteristics in land governance, LGAF's dimensions are expected to adapt to the local context. Those include (i) calculation of land use and land rental fee in case the land of importance is allocated or rented and chargeable by the State, which is not reflected in LGAF. Whereas, LGAF has dedicated an indicator on land use tax though Viet Nam imposes a rather low tax on land use; (ii) administrative disputes in Viet Nam are normally settled through administrative system upon the concerned persons' wishes, however, there are no indicators for this in LGAF; whereas, it focuses on the settlement through court system.

Regarding the timeline and feasibility, it is totally possible to implement LGAF. Delay in several stages observed in the previous implementation was not accounted to the

unfeasibility but because at that time, Viet Nam General Department of Land Administration was concentrating on the development of Land Law 2013. Another subtle issue is the limited budget while workload is too heavy.

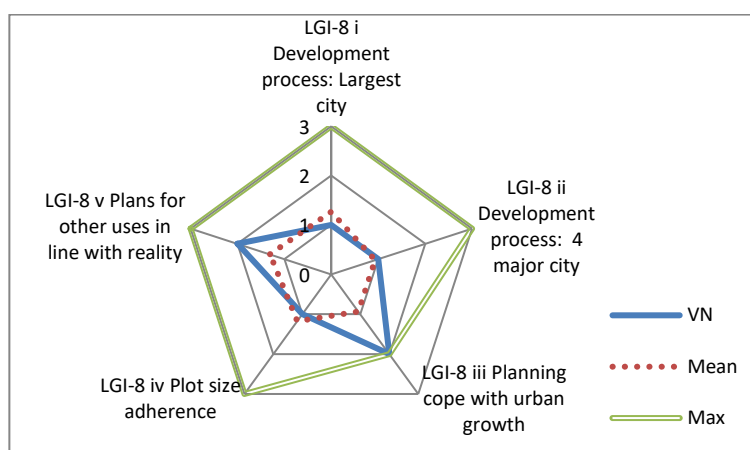
6.4 Comparative analysis with 14 developing countries

By the time Vietnam concluded its LGAF evaluation; fourteen other countries had finished their LGAF evaluations. The fourteen countries include: Brazil, Congo, Gambia, Georgia, Ghana, Madagascar, Malawi, Mauritania, Nigeria, Peru, Philippines, South Africa, Senegal, and Ukraine. This allowed us to conduct quick comparison between Vietnam's LGAF scores with these fourteen countries. Details about comparison method are presented in the Annex 7.

The comparative analysis with other countries showed a different perspective of land governance in Vietnam. Results of this comparative analysis can be summarized as follows:

First, scores on policy were relatively good whereas scores on policy enforcement were relatively lower than averages. In comparison with other countries in the sample, the indicators on policy in Vietnam (having policy and improvement in the policy) were evaluated relatively high. Meanwhile, indicators and dimensions related to the policy enforcement were evaluated relatively lower than other countries.

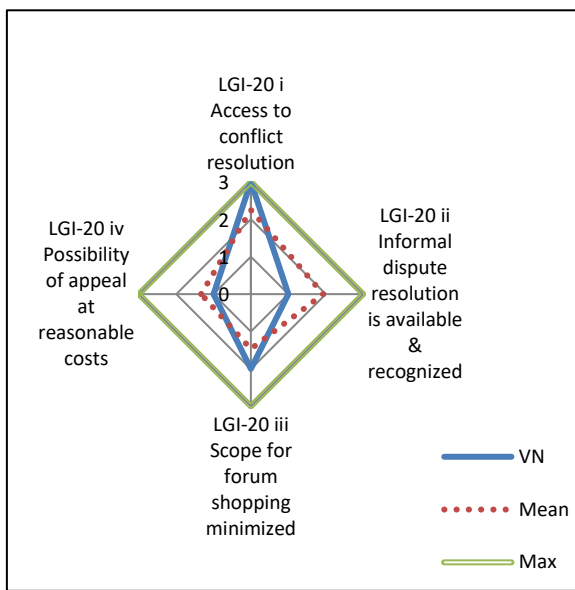
For example, regarding *LGI-8: Efficiency of land use planning*, dimensions on planning (LGI-8 iii and LGI-8 iv) was evaluated above the average. On the contrary, the dimensions on planning enforcement (3 other dimensions) got lower scores than the averages of the compared countries (see the illustration)



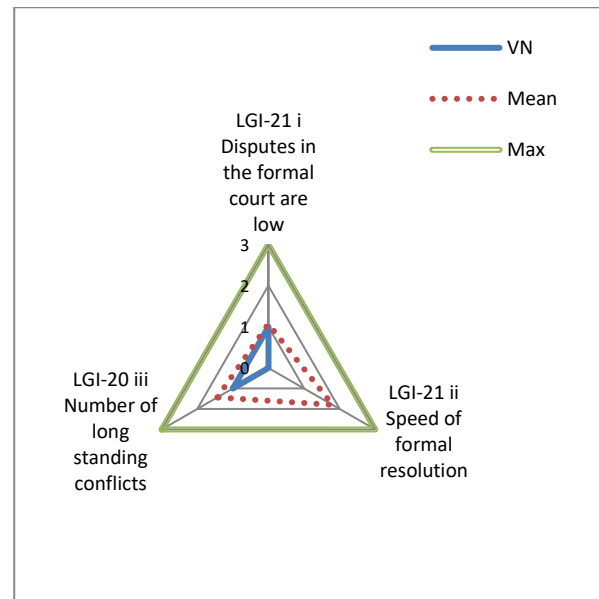
Similarly, regarding the LGI-14 -transparency and fairness of expropriation procedures, the dimensions on fair compensation or time for first instance appeal got higher scores than average; however the promptness of compensation (related to enforcement) got lower score than average.

Second, dimensions on administrative system of land governance were rated well above average, while dimensions concerning the diversity of institutions in the system of land governance (including unofficial institutions and the court) got lower scores. In LGI-20, access to conflict resolution and scope for forum shopping minimized are the two dimensions with relatively higher scores. However, the available and recognized informal dispute resolution and dispute resolution in the formal court (2 institutions different from administrative institutions) got very low scores compared to other countries. Similarly, clear

separation of institutional roles (LGI-5 i) got lowest score (D). See two examples shown below:



LGI-20



LGI-21

Third, the dimensions on supporting economic growth got strong ratings, while dimensions regarding social aspects or supporting disadvantaged groups got lower rankings. For example, in LGI-13 – dimensions on expropriated land for private purposes and speed of use of expropriated land were highly scored (A), the same as LGI-9 on the building permit. In contrast, the dimensions on social equity goal (LGI-6 ii) got average or lower scores.

Fourth, dimensions on the promulgation of policy and advocacy were well evaluated in comparison with other countries. However, dimensions on the receipt and processing feedback of the public got lower scores than average. The dimensions on policies or advocacy (e.g. LGI-7 iii - public capture of change in land use right, etc.) got very high scores. Score on public inputs (LGI-7 i, ii), independent and accessible appeal (LGI-14, iv), or the possibility of appeal at reasonable costs (LGI-20 iv) were ranked below average. In other words, public participation and equality of public participation in land governance in Vietnam were assessed lower than other countries in the sample of comparison.

7 Conclusion

7.1 A summary of methodological lessons and data gaps that should be addressed to allow better assessment of land sector governance over time

LGAF's methodology is totally suitable. It is necessary to adapt some indicators and dimensions to the context of land administration and land use in Viet Nam as aforementioned. In terms of data, some certain types of information was not available for the first-time implementation but can be prepared for in the next implementation.

Future implementation of LGAF is expected to create the cohesion with sub-national level, civil society organizations, news agencies and the community. LGAF's documents should be well-prepared in Vietnamese version to make it sound, easy to understand and easy to spread.

7.2 A synthesis of main substantive findings and suggested reform actions in the short, medium, and longer term

Depending on the capacity, the implementation of LGAF may consider two directions: (i) implementing at national level every two years; or (ii) implementing to provincial level, first in VLAP provinces, then to other provinces. LGAF's evaluation indicators should be considered as official assessment on land governance and also serve as the foundation to submit the proposed revision, supplementation of land law system to the State.

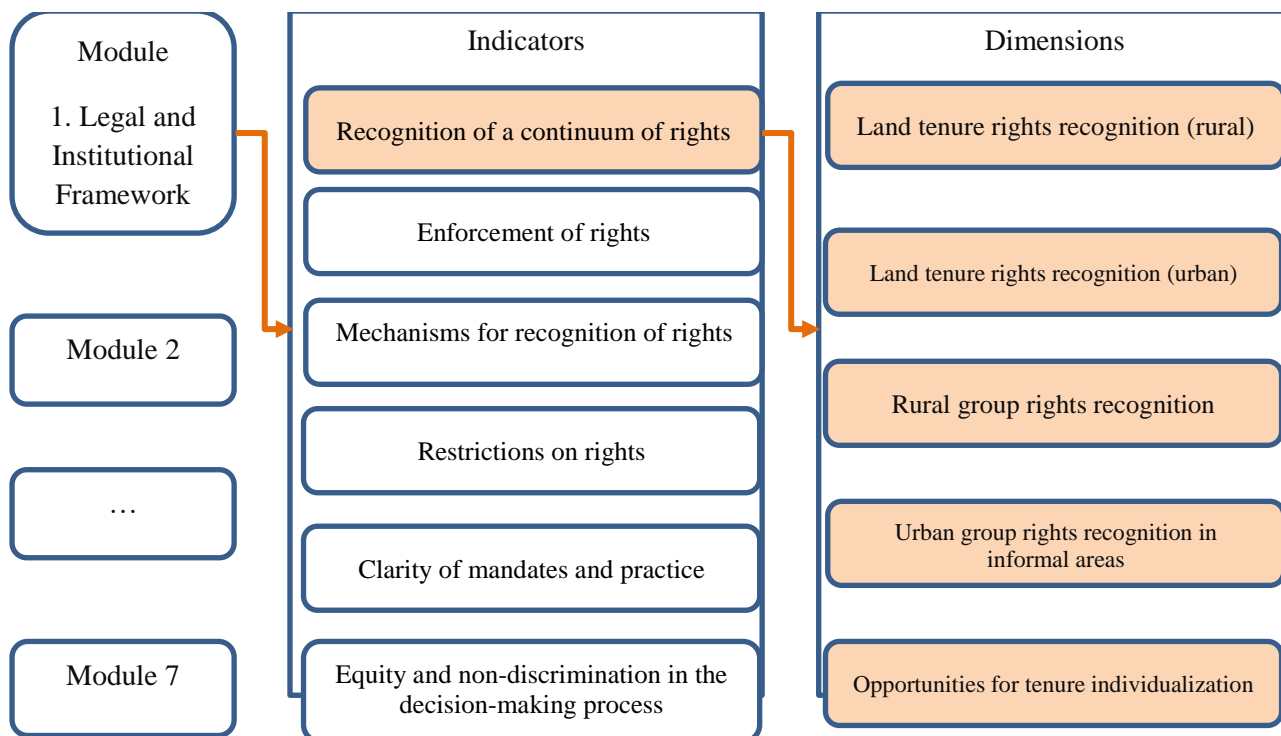
7.3 A discussion of the scope for further work on land governance in the country, of readily available data that could serve as indicators for changes in key land governance issues, and ways in which these could be gathered on a regular basis

In Land Law 2013, there is a provision on developing a monitoring and evaluation (M&E) system on land law enforcement. The system will be developed as a part of the land information system. Indicators and dimensions in LGAF can be adapted into evaluation indicators of this M&E system. Besides, M&E systems will include an information network that receives monitoring feedback from general people. The design of the system should take into thorough consideration mobile technological solutions so as to receive multimedia data sent by the people from their mobile phones. This means of communication is supposed to be highly effective.

8 Annexes

Annex 1: Typical structure of indicators and dimensions

Figure 6: Typical structure of indicators and dimensions

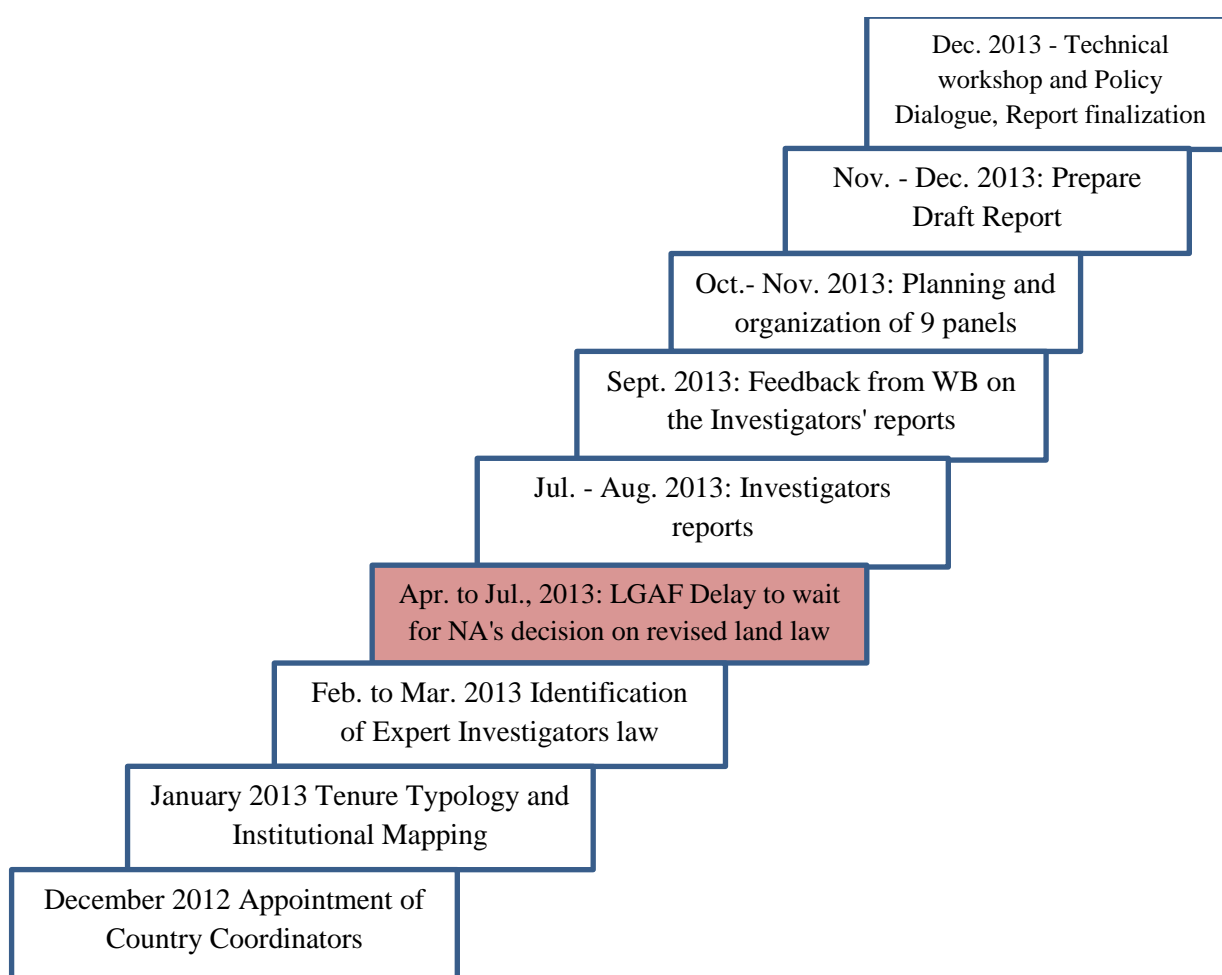


Annex 2: Process for implementation of LGAF in Vietnam

- *General description of process:*

LGAF study in Vietnam (2013) followed the LGAF Implementation Manual with necessary adjustments to fit the specific context. The whole process was led by a National Country Coordinator Team. Five National Experts prepared background analysis and initial assessment, using already existing studies, information and data. Nine panels of experts from various backgrounds were organized to discuss and assess the analyses from Expert Investigators. The results were validated at a technical workshop. Key conclusions and recommendations were then presented to policy makers at a Policy Dialogue. Figure 6 presents the overall LGAF implementation process in Vietnam.

Figure 7: Overall LGAF implementation process in Vietnam



A key adjustment on the process was the delay in expert investigator analyses from April to July, 2013. During this period, the National Assembly discussed and voted on the revised land law, and the result would significantly affect the assessment in some LGAF's indicators.

General Department of Land Administration (GDLA), Ministry of Natural Resources and Environment (MONRE), and Vietnam Land Administration Project actively engaged and supported the study. Introductions by the World Bank likewise helped in ensuring that the Country Coordinator Team from T&C Consulting, were properly acknowledged as the entity responsible for carrying out the study.

Country Coordination Team

Two members formed the Country Coordinator team. This allows one member - Dr. Nguyen Van Thang - focused more on coordination and planning issues, while the other member - Dr. Dang Hung Vo - focused more on technical aspect of the project. This was especially important in the situation of tight schedule.

The most challenging task for the Country Coordinator Team was forming panel members. The pool of experts who solidly understand land issues and policies in Vietnam was limited. LGAF's practice of no-payment to panel members added difficulties to the formation process. Another challenge was to get enough evidence for indicators that relate to the implementation of land policies. Studies of land policy implementation in Vietnam were sparse. These few studies were conducted and owned by different organizations and many of them were not widely shared and/or easily retrievable.

The following describes the major steps taken in the LGAF:

Review of LGAF Definitions and Dimensions

The LGAF contains a set of definitions applied in the analysis. The review found that most of the definitions and concepts are applicable to Vietnam. Nonetheless, there were terms in the Manual that do not fit with the specific circumstances in the country context. For example, "freehold", referring to 'full ownership of land' in English law, would not be appropriate in the state-ownership system of land in Vietnam. Some terms need to be adjusted to the situation, such as "public land". Finally, several terms are relevant to land practices but have not been recognized by law, such as 'governance'. In the assessment, qualifications were made to clearly distinguish how the dimensions were applied.

The review of dimensions suggested that optional modules - forestry and large scale land acquisition (LSLA) - are very pertinent to Vietnam. Thus, all seven dimensions were included in the assessment.

Translation of LGAF tools and solicitation of government support

Necessary tools were translated into Vietnamese, including definitions, LGAF table of dimensions and indicators, instructions to Expert Investigators. The translation was reviewed by the Country Coordinator Team.

On January 30th, 2013, the Coordinator Team presented LGAF concepts and process to GDLA officials and VLAP members. The participants discussed the significance of the study as well as necessary support from WB and government (specifically, GDLA). The meeting result was a strong commitment from GDLA to support LGAF study in Vietnam.

Expert Investigations

Primary background studies on land tenure and institutional mapping of land agencies were undertaken by the Land Tenure and Institutions Expert. Data gathering was guided by the instructions and templates provided in the Manual. A total of six Experts were recruited for the LGAF:

- Land Tenure and Administration Expert (Mr. Vu Sy Kien)
- Land Policy Expert (Ms. Hoang Thi Van Anh)
- Land Registration Expert (Mr. Mai Van Phan)
- Land Valuation and Taxation Expert (Mr. Phan Van Tho)
- Public Land Expert (Professor Dang Hung Vo)
- Large Scale Land Acquisition Expert (Professor Dang Hung Vo)
- Forestry Expert (Mr. Nguyen Hoi Xuan)

The investigations were designed to be as comprehensive as possible; and relied mainly on available data and studies. Seven Expert Investigation Reports were compiled in Vietnamese, which were then translated into English. WB team members gave comments to the reports. Based on the Reports and comments, nine Briefing Notes on the dimensions assigned were compiled by the Country Coordinator Team.

Four of six experts (except Professor Dang Hung Vo and Mr. Phan Van Tho) are currently working as government officials in relevant fields. These experts have best access to government updated statistics, reports, and policies. They are also actively involved in policy discussions, and thus are aware of governance issues in LGAF. A possible disadvantage of inviting government officials to be expert investigators is their tendency of focusing more on issuance than on implementation aspects of the policies. This tendency was noted by country coordinators; and panel members were reminded to balance between policy availability and policy implementation in their discussions. Another challenge when inviting officials to be expert investigators was that time delay was very likely since they are quite busy.

Panel Workshops

A total of nine workshops were organized for this study. Four of these were held in October, and the rest five were held in November, 2013. The composition of the panel members by their organizations is presented in Table 1.

Table 7: Profile of panel members

	No. of experts	Percentages
Central government cadres	19	0.53%

Local government officials	0	0%
NGOs	4	0.11%
Academics	12	0.33%
Private sectors	1	0.2%

Soliciting participation of panel members and matching their busy schedule was a challenging task. The number of experts who have deep knowledge in land issues was limited, further slowing down the formation of the panels.

In the end, the composition of the panel members reflects a good balance between different sectors.

Panel Briefing Notes were circulated in advance to the panel members. Necessary related expenses for the meetings, i.e., travel and accommodation, were covered by the Project. Panel members were also paid a small amount of honorarium.

Aide Memoires were prepared by the Country Coordinator upon completion of each panel, and circulated to the panel members for comments. The final Aide Memoires were then translated into English. These form part of the documentation of the study.

Technical Validation and Policy Dialogue

The Workshop was held on December 31, 2013; and involved key officials from government agencies, NGOs, members from the academe, private sector, professional groups, basic sector groups, and WB representatives. About 40 participants attended the workshop, in light of the broad range of topics covered by the country study.

The Validation Workshop served as an opportunity for wider review of the assessment of dimensions, and confirmed the ratings. It also strengthened the analysis particularly of modules where panel attendance was limited.

LGAF Experts made presentations on the assessment of governance on the following:

- Land Tenure and Administration
- Urban Land Use Planning and Development
- Rural Land Use and Land Policy
- Land Valuation and Taxation
- Public Land Management
- Public Provision of Land Information
- Dispute Resolution

- Large Scale Land Acquisition
- Forestry

A key output of the workshop was policy recommendation. These were presented to senior government officials and key stakeholders for consideration.

The Policy Dialogue will be held in early 2014 with the attendance of key leaders and officials from state agencies and other agencies. In addition to confirming the main findings, the participants commented on the analyses, and expressed interest on major recommendations.

Other Activities

During the course of LGAF implementation, a member of Country Coordinator Team had the opportunity to attend the Annual Land and Poverty Conference in Washington in April 2013. Adjustments on LGAF process in Vietnam were discussed with the WB team. Valuable insights were shared by other Country Coordinators which served as reference to the implementation of LGAF in Vietnam. Experiences from the Philippines were shared by a WB official in September, 2013, further solidifying LGAF implementation in Vietnam.

Specific to the Vietnamese context, future LGAF studies could consider following modifications:

- The designed recruitment of panel members was based on a voluntary basis where the members were not paid for their works. Given the works involved, i.e., reviewing the Briefing Notes, identifying supplement evidences, and attending a day of meeting, this appeared to be too much for a non-paid work. We suggest that future LGAF should assign some budget for panel members' fees, at least in countries like Vietnam.
- Most, but not all, LGAF dimensions were assigned to Expert Investigators for evidence collection and analysis. This made it difficult for Panel members to discuss the un-analyzed dimensions. For example, all dimensions in Panel 4 - Tax and Evaluation - were not analyzed by the expert investigator. We suggest that future LGAF should require all dimensions to be included in expert investigator analyses.
- By design, expert investigators were not invited to the panel discussions. In many cases, the panels provided quite different assessments on LGAF dimensions than the investigators. We suggest that future LGAF should allow investigators to join the panels for clarification and debate of their reports.

Most of LGAF dimensions fit well with the Vietnamese context. There are several dimensions that were inadequate or hard to evaluate in Vietnam.

- Inadequacy of LGI dimensions: Land price evaluation for taxation does not

capture the complexity of land pricing in Vietnam. In the country, tax contributes a very small part of the issue. Generally, paying tax is not a problem. What is problem is land price evaluation for acquisition. Most public-private land disputes emerged from land acquisition, and a big proportion of these disputes related to land pricing. We recommend to include several dimensions on land price evaluation for acquisition.

- Hard to evaluate LGI: “*LSLA4: Public institutions involved in land acquisition operate in a clear and consistent manner*” was hard to evaluate. These institutions do not exist in Vietnam.

Annex 3: Revised LGAF and Definitions

Revised LGAF

The LGAF indicators have been reviewed by Country Coordinators. Two key Thematic Areas need considerations:

Thematic Area 2: Land use planning, Management, and Taxation

In Vietnam, tax is too small, even negligible. Valuation of land is a key problem for calculation of land use fee in land allocation by the State, land rental in land lease by the State and land compensation by the State for people subjected to land recovery.

Thematic Area 3: Management of Public Land

All lands in Vietnam are publicly owned. Thus this thematic area may need to change into “Management of Land for Public Purposes”. Dimension(s) related to public land ownership will need to be rephrased.

Dimensions that related to “land private ownership” in other Thematic Areas also need to be re-stated or clarified. These are:

- LGI-1, v: The law provides opportunities for those holding land under customary, group, or collectively tenure to fully or partly individualize land use
- LGI-17, ii: Most land information in the registry/cadastre is up-to-date

Definitions

“Freehold” is not relevant concept to the Vietnamese context where the regulation states that all lands are public owned.

“Indigenous”: Vietnamese regulations do not have separate policies for these groups. The regulations apply to all groups of people.

“Governance” and “land governance”: These terms are now commonly used in research and public discussions, but not recognized by the legal documents.

There are a number of terms that are suitable to the Vietnamese context but need more clarification, especially in relation to current legal documents of Vietnam. The country coordinators will take that role in next step.

Table 8: Definitions

Terms	Explanation	Comments
<i>Acquisition</i> <i>Chiếm giữ</i>	Assumption or attainment of rights in property.	Be appropriate to the Vietnamese concept and connotations but we often use the term 'recovery' for making it suitable to 'public ownership' mode of land.
<i>Ad valorem</i> <i>Dựa trên giá trị</i>	Latin term meaning 'based on value'	Need clarification depending on the context. At present, taxes are counted based on value.
<i>Adjudication</i> <i>Phân xử/ xét xử</i>	Process of final and authoritative determination of the existing rights and claims of people to land	Be appropriate in terms of concept and connotation (indicating process of adjudication of authorities for rights and obligations of individuals, organizations)
<i>Adverse possession</i> <i>Sở hữu xác lập theo thời hiệu</i>	Possession of land through long term peaceful occupation as a trespasser or squatter. The right to possession after a statutorily prescribed period of limitation can be gained if there is no legally defensible claim	Be appropriate in terms of concept and connotation. However, in Vietnamese law, 'land use' term is used instead of land ownership. On the other hand, there are provisions in Vietnamese that stipulate specific time periods, 30 years to real estates and bona fide, publicity, continuity are required.
<i>Assessed tax</i> <i>Thuế theo giá trị</i>	Taxation based on an assessment of the value of the property	Need clarification because current taxes are counted based on value of the property following the state's price frame.

<i>Assessed value</i>	A value recorded by a public body on the market price of the property.	Be appropriate in terms of concepts and connotations.
<i>Building permit</i> <i>Giấy phép xây dựng</i>	An approval by the local governing body on land use and planning for construction or renovation to a property	Be appropriate in terms of concepts and connotations.
<i>Building standards</i> <i>Tiêu chuẩn xây dựng</i>	Regulations or bylaws that set out standards one must conform to when constructing or renovating buildings or immovable objects. Examples include building heights, setbacks from roads or neighbors etc. Where standards are not met the local authority can impose fines or instruct on construction changes	Be appropriate in terms of concepts and connotations.
<i>Cadastre</i> <i>Hồ sơ địa chính</i>	A cadastre is normally a parcel based and up-to-date land information system containing a record of interests in land (i.e. rights, restrictions and responsibilities)	Be appropriate in terms of concepts and connotations.
<i>Classification</i> <i>Phân loại đất</i>	Classification is a land use and management mechanism to assist decision making. Classification is based on the use of the land, not on the type of ownership or necessarily the rights associated with the land/property	Be appropriate in terms of concepts and connotations.
<i>Collective rights</i> <i>Quyền tập thể</i>	Collective ownership of a natural resource is where the holders of rights to a given natural resource are clearly defined as a collective group, and where they have the right to exclude third parties from the enjoyment of those rights	Be appropriate in terms of concepts and connotations.

<p><i>Common property</i> <i>Tài sản chung</i></p>	<p>Common property is typically land and other resources in which entitled beneficiaries, whether individual or community defined, have specific common rights to common areas. The community controls the use of the common property and can exclude non-members from using it.</p>	<p>Be appropriate in terms of concepts and connotations.</p>
<p><i>Concession</i> <i>Nhượng quyền</i></p>	<p>A concession is a restricted use right granted to a private party for a large parcel of public land that is granted for a specific purpose (for example forestry, bio-fuel, cultural/tourism etc)</p>	<p>Need more clarification on this definition. There are provisions in Vietnamese Law stipulating land allocation, land lease to individuals, organizations.</p>
<p><i>Communal land</i> <i>Đất làng xã</i></p>	<p>Land over which a community has rights or access to. The community may or may not have legally recognized ownership over the land. In some cases for instance the State may be considered the owner.</p>	<p>Be appropriate and exists practically. The Vietnamese Law has provisions on agricultural land used for public purposes by Commune People's Committee or provision on mechanism of allocation of forest land associated with culture, belief to village communities.</p>
<p><i>Condominiums</i> <i>Chung cư</i></p>	<p>A condominium is a collection of individual home units along with the land upon which they sit, also known as strata. Individuals have private rights within the complex/building, but they also have use and access to common facilities, including hallways, stairwells, and exterior areas etc. There are typically common property areas included in the property that require management by the commons</p>	<p>Be appropriate</p>
<p><i>Conveyance</i> <i>Chuyển nhượng</i></p>	<p>The conveyance of land is the actual process of transfer of that land</p>	<p>Be appropriate</p>

<p><i>Customary tenure</i></p> <p><i>Quyền hưởng dụng theo phong tục/ tập quán</i></p>	<p>The holding of land in accordance with customary law. Customary land law regulates rights to enjoy some use of land that arises through customary, unwritten practice, rather than through written or codified law. Customs are a set of agreed, stipulated or generally accepted standards, social norms and practices</p>	<p>Be appropriate. However, dealing with the relationships between legal and customary is still not good in Vietnamese Law.</p>
<p><i>Decentralization</i></p> <p><i>Phân cấp</i></p>	<p>Decentralization is the principle of delegating policy-making and authority responsibility to local levels of public authority</p>	<p>Be appropriate but it's necessary to identify clearly about contents and method of decentralization.</p>
<p><i>Deed</i></p> <p><i>Chứng thư</i></p>	<p>Written or printed instrument that effects a legal action such as a contract for sale</p>	<p>Be appropriate</p>
<p><i>Disposition</i></p> <p><i>Định đoạt</i></p>	<p>Arrangement for relinquishment, disposal, assignment or conveyance of rights in property.</p>	<p>Be appropriate</p>
<p><i>Dispute resolution</i></p> <p><i>Giải quyết tranh chấp</i></p>	<p>There are typically a range of dispute resolution mechanisms available in a country. These could be grouped into two broad classes: formal dispute resolution mechanisms; and informal dispute resolution mechanisms. The formal dispute resolution mechanisms include the formal court system as well as a range of other options that may include administrative dispute resolution and state administered or sanctioned alternative dispute resolution (ADR) mechanisms. The informal systems typically involve community leaders, village elders, village assemblies or committees in resolving disputes. They may or may not have formal recognition by the state or under the law</p>	<p>Be appropriate</p>

<i>Easement</i> <i>Quyền địa dịch</i>	Easements are rights exercisable by owners of one parcel of land over other land	Be appropriate to the Civil Law but “land owner” needs to be replaced by “land user”
<i>Eminent Domain</i> <i>Quyền trưng mua</i>	Process of the exercise of rights by the State as the sovereign owner of all the land when in the act of compulsory acquiring land or property by the State.	Be appropriate
<i>Encroachment</i> <i>Lấn chiếm</i>	Occupation of land, typically unclassified or under-utilized State land	Be appropriate
<i>Encumbrance</i> <i>Phiền toái, trở ngại</i>	A right that adversely affects the land. Many are registerable in formal real estate registration systems; such as restrictive covenants, easements, mortgages and registered leases.	Be appropriate
<i>Eviction</i> <i>Cưỡng chế</i>	Eviction is the removal of someone from their occupation of land or property. The term is very commonly used in connection with the eviction of squatters, but may also be used in the context of unlawful eviction	Be appropriate
<i>Exemption (tax)</i> <i>Miễn (thuế)</i>	Release from the obligation to pay tax. Property tax exemption is typically based on criteria such as the particular use of the property (such as use as a place of primary residence, public use, agricultural production, etc), ownership (with exemptions for particular types of owners such as investors, government etc.), or other factors (such as the status of improvements on the land, location or size of the holding etc.)	Be appropriate
<i>Expropriation</i> <i>Sung công</i>	Expropriation is the act of taking away individuals' land by the state due to public interest but prior to respect of procedures provided for by law and prior to payment of fair compensation	Be appropriate

<p><i>First instance</i> (<i>Basic tribunal</i>) <i>Sơ thẩm (cấp xét xử ban đầu)</i></p>	<p>This is the first judicial instance (court) which serves as the place of a first hearing of a dispute in the judicial system. Decisions served in such courts can be appealed and raised to a higher level of the judicial court system</p>	<p>Be appropriate</p>
<p><i>Forest</i> <i>Rừng</i></p>	<p>There are typically many different forest classifications, designated for different uses, management authority levels and with various effective bi-laws. Management regulations typically outline user rights, production rights, extraction rights, hunting and gathering rights etc. Community forests and communit land care groups use and manage designated areas by an identifiable community, but in many cases they must gain governmental approval of their management plan. In a more general sense, forest classifications can extend to a wide range of natural resource management areas including wetlands, grasslands, desserts, and cleared areas.</p>	<p>Be appropriate</p>
<p><i>Freehold</i> <i>Chủ quyền tuyệt đối</i></p>	<p>Freehold, equivalent to the legal term fee simple absolute, is full ownership of land in English law providing the owner with the largest ‘bundle of rights’ of ownership</p>	<p>Be inappropriate because of ownership of land but the concept is quite similar to permanent land-use regime in Vietnam.</p>
<p><i>Governance</i> <i>Quản trị</i></p>	<p>We define governance as the traditions and institutions by which authority in a country is exercised. This includes (i) the process by which governments are selected, monitored and replaced; (ii) the capacity of the government to effectively formulate and implement sound policies; and (iii) the respect of citizens and the state for the institutions that govern economic and social interactions among them (Kaufmann et al., 20022)</p>	<p>Vietnamese Law does not recognize officially this definition</p>

<p><i>Governance (land)</i> <i>Quản trị (đất)</i></p>	<p>Concerns the process by which decisions are made regarding access to and use of land, the manner in which those decisions are implemented and the way that conflicting interests in land are reconciled. Key elements of the definition include decision making, implementation and conflict resolution, with dual emphasis on process and outcomes.</p>	<p>Similar as above, no official recognition this term in the Land Law but connotation of good governance of land has been being studied to show in the (revised) Land Law.</p>
<p><i>Group</i> <i>Nhóm</i></p>	<p>A group is a collection of households residing in a locality and operating under some common organization or set of rules and norms, with or without formal recognition of the state. In rural areas these groups include indigenous, nomadic and pastoral communities. In the urban context these groups include organized informal settlements, collectively organized migrants who cluster in a particular locality and clusters of traditional communities.</p>	<p>Be appropriate</p>
<p><i>Informal settlements</i> <i>Định cư không chính thức</i></p>	<p>Occupation of an area by a group of individuals (households) that is not legally registered in the name of the occupiers. There is great variety in the form of informal settlements ranging from well established, well-built communities that simply lack formal recognition to very heterogeneous groupings of houses that are poorly planned and lack access to infrastructure such as roads, utilities etc.</p>	<p>Be appropriate to Vietnamese practice</p>

<p><i>Indigenous</i> <i>Bản địa/ bản xứ</i></p>	<p>The term ‘indigenous’ refers to communities that are native to the locality and frequently have specific cultural identities and practices, including practices related to land, that differ from the mainstream society and as a result are often marginalized and vulnerable. The status of “indigenous communities” may be defined by law.</p>	<p>The Vietnamese Legal does not have a specific regulation on this issue and uniformly applies to all subjects but the Government has promulgated specific policies to assist ethnic minorities.</p>
<p><i>Land administration</i> <i>Quản lý hành chính đất đai</i></p>	<p>The processes of determining, recording and disseminating information about tenure, value and use of land when implementing land management policies (UNECE 19964).</p>	<p>Be appropriate</p>
<p><i>Land dispute/ conflict</i> <i>Tranh chấp/ xung đột đất đai</i></p>	<p>A land dispute is a disagreement over land. A land dispute occurs where specific individual or collective interests relating to land are in conflict. Land disputes can operate at any scale from the international to those between individual neighbors.</p>	<p>Be appropriate</p>
<p><i>Land management</i> <i>Quản lý đất đai</i></p>	<p>The activities associated with the management of land.</p>	<p>Be appropriate</p>
<p><i>Land tenure system</i> <i>Chế độ đất đai hướng tới quyền hưởng dụng trên đất</i></p>	<p>Land tenure refers to the legal regime in which rights in land are exclusively assigned to an individual or entity, who is said to "hold" the land.</p> <p>A land tenure system refers to the regulation for the allocation and security of rights in land, transactions of property, the management and adjudication of disputes regarding rights and property boundaries</p>	<p>Be appropriate to the land use regime prescribed in Vietnamese legal documents.</p>

<i>Land use plan</i> <i>Kế hoạch sử dụng đất</i>	A plan that identifies areas for a designated use for the purpose of land management. Used for classification, resource management planning, identification of areas for future development uses, including road widening	Be appropriate
<i>Lease</i> <i>Cho thuê</i>	A lease is a contractual agreement between a landlord and a tenant for the tenancy of land	Be appropriate
<i>Legal framework</i> <i>Khuôn khổ pháp luật</i>	Judicial, statutory and administrative systems such as court decisions, laws, regulations, bylaws, directions and instructions that regulate society and set enforcement processes.	Be appropriate
<i>Mortgage</i> <i>Thế chấp</i>	A transfer in the interest of land for the security of a debt.s	Be appropriate
<i>Municipal land</i> <i>Đất do địa phương sử dụng</i>	Land or property where the municipal government or local authority has custodianship.	Be appropriate
<i>Notary</i> <i>Công chứng</i>	Legal attester of documents.	Be appropriate
<i>Operating costs (of the registry)</i> <i>Chi phí hoạt động (của bộ máy đăng ký)</i>	For the purposes of the LGAF, total operating costs include all non-capital investment costs (i.e. salaries and wages, materials, transportation, etc.) associated with registry operation. Registry operating costs do not include long-term capital investment or associated depreciation expense.	Be appropriate
<i>Parcel (of land)</i> <i>Mảnh đất</i>	A parcel is a defined area of land with a unique record of ownership, use, or other characteristics	Be appropriate

<i>Potential (property) tax</i> <i>Thuế tiềm năng (tài sản)</i>	Tax that could be collected based on existing tax policies.	Need more clarification
<i>Public approval</i> <i>Thông qua công khai</i>	Approval of a decision or instrument such as a land use plan through some participatory process that involves public display and consultation	Need more clarification
<i>Public good</i> <i>Tài sản công</i>	An asset, facility, resource or infrastructure provided for the benefit of the public.	Be appropriate
<i>Public information</i> <i>Thông tin công khai</i>	Public access to information is a feature of public policy by which each society defines what information, particularly about private citizens and corporate entities, should be available to the public.	Be appropriate
<i>Public land</i> <i>Đất công</i>	Public land is the land in the custodianship of the State, municipality, or local authority, as opposed to private land.	Be appropriate to the definition of land used for public purposes in Vietnamese Law.
<i>Publicly accessible</i> <i>Khả năng tiếp cận công khai</i>	Referring to information that can be obtained by the public without any special requirements or certifications placed on the person/body making the enquiry	Be appropriate

<p><i>Registry</i> <i>Đăng ký</i></p>	<p>The term ‘registry’ or ‘register’ is used to denote the organization where the information on registered land rights is held. Information on registered land is typically textual and spatial, with the former typically maintained in a registry and the later in a cadastre office. In some countries there is a combined organization that has both sets of data and in some countries this office is called the cadastral office (in the Balkans, for example). In others there are separate registry and cadastre offices. For the purpose of the LGAF, unless clearly specified otherwise, we use the term ‘registry’ to cover both the registry and the cadastre (if one exists).</p>	<p>Be appropriate and in Vietnam, these two agencies of registry and cadaster is merged in one (office for registering land use rights)</p>
<p><i>Registered</i> <i>Đã đăng ký</i></p>	<p>In applying the LGAF, the term ‘registered’ means that the rights are recorded unambiguously in the land administration system and there are generally few disputes over the recorded information. The term ‘registered’ does not necessarily mean that the final certificate or title has been issued.</p>	<p>Be appropriate</p>
<p><i>Regularization/ formalization</i> <i>Chính thức hóa/ hợp pháp hóa</i></p>	<p>Regularization of tenure is where informal or illegal occupation of land is legalized by statute, giving occupiers the legal right to ownership, occupation or use of the land.</p>	<p>Be consistent with practice</p>
<p><i>Resolution – formal</i> <i>Giải quyết – chính thức</i></p>	<p>Resolving a dispute through an administrative or judicial process where the outcome is legally binding.</p>	<p>Be appropriate</p>
<p><i>Resolution – informal</i> <i>Giải quyết – không chính thức</i></p>	<p>Resolving a dispute through a process where the outcome is not legally binding.</p>	<p>Be appropriate</p>

<i>Restrictions</i> <i>Những hạn chế</i>	These are limitations on one's rights.	Be appropriate
<i>Secondary rights</i> <i>Các quyền phái sinh (quyền phụ thuộc)</i>	Rights that are beyond the primary rights to transfer property through sale, gift, exchange or inheritance or encumber property through mortgage, lien or other charge. Secondary rights are typically associated with use rights that may or may not be eligible for registration.	Be appropriate but Vietnamese law does not divide rights into 2 groups: Basic rights and secondary rights.
<i>Sporadic registration</i> <i>Đăng ký cá biệt</i>	The process of registering rights over land on a case-by-case basis	Be appropriate
<i>State land</i> <i>Đất Nhà nước</i>	Property in the custodianship of the Central/ National Government.	Be appropriate in terms of connotation to land in custodianship of the Central/National Government.
<i>Systematic registration</i> <i>Đăng ký mang tính hệ thống</i>	The registration of rights over contiguous parcels on an area-by-area basis, involving adjudication, surveying, and registration.	Be consistent with concept of mass registration in Vietnamese law
<i>Transaction cost</i> <i>Chi phí giao dịch</i>	Costs associated with an agreement over property rights and the costs of enforcing those rights. For example, purchase of land may require not only payment of the negotiation asking price but also legal land transfer fees to establish who is the rightful owner, survey and valuation costs, arrangement of credit and drafting the legal transfer document. Taxes and duties are not considered part of a transaction cost.	Be appropriate
<i>Transfer tax</i> <i>Thuế chuyển nhượng</i>	Taxes associated with the transfer of properties payable to the State. The most common is in the form of a stamp duty or capital gains tax.	Be appropriate to income tax on transfer of land use rights in Vietnam

<i>Typology of tenure situations</i> <i>Loại trình trạng hưởng dụng</i>	A country-specific typology of land tenure is established during the implementation of the LGAF. It distinguishes Public ownership/use, Private ownership/use and Indigenous and non-indigenous community tenure.	Be appropriate in terms of connotation but incompatible in terms of concepts in Vietnamese Law. In principle, land use rights in Vietnam mainly toward tenure rights.
<i>Tenure upgrading</i> <i>Cải hiện cơ chế hưởng dụng</i>	A mechanism for increasing tenure security by formalizing interests in property in an incremental process. All or some rights may be registered with varying degrees of restrictions placed on the property	Be appropriate in terms of connotation but it isn't regulated specifically in Vietnamese law.
<i>Urban group rights</i> <i>Quyền đối với nhóm đô thị</i>	Refers to identifiable groups in an urban setting. Those which people can be easily classified as members or non-members for the purpose of benefitting from specific rights to an area.	Need clarification on this term in terms of purpose, specific meanings in the in the land tenure regime in urban Vietnam.
<i>Usufruct, use rights</i> <i>Hoa lợi, quyền sử dụng</i>	Usufruct is the legal right to use and derive profit or benefit from property that belongs to another person or entity	Be appropriate to land use regime in Vietnam
<i>Valuation roll</i> <i>Danh sách định giá/ Bảng định giá</i>	A list of taxable properties and associated property values used in assessing property tax within a jurisdiction (typically a local government authority)	Be appropriate but taxes are not levied on assets sticked to land in Vietnam.

Some key terminologies which are land related concepts used in Vietnam's legal system in particular.

Table 9: Terminologies

No.	Terminology	Interpretation
1	<i>Parcel</i>	The area of land demarcated by boundaries determined on the field or described on the cadastre.
2	<i>Land use</i>	The allocation and zoning of land by space used for purposes of

No.	Terminology	Interpretation
	<i>planning</i>	social-economic development, defence, security, environment protection, and adaption to climate change on the basis of land potential and demand for land of sectors, fields in each socio-economic zone and administrative unit in a specific period of time.
3	<i>Land use plan</i>	The division of land use over time to be implemented during land use planning period.
4	<i>Map</i>	A map describing all the parcels with relevant geographic factors, developed by administrative units such as commune, ward, township, confirmed by authorized bodies.
5	<i>Current land use map</i>	A map showing the location of types of land at a certain time, developed by each administrative unit.
6	<i>Land use planning map</i>	A map developed at the beginning of planning period, showing the location of types of land at the end of the respective planning period.
7	<i>State allocation of land use right (State allocation of land)</i>	State issuance of decision on allocating land to grant land use right to those who wish to use land.
8	<i>State lease of land use right (State lease of land)</i>	State issuance of decision on granting land use right to those who wish to use land through lease contract of land use right.
9	<i>State recognition of land use right</i>	State grant of land use right to those who are performing stable use of land of unknown origin. The State allocates or leases land to those by issuing Land use right certificate and certificate of ownership of house and other land associated properties for a certain parcel for the first time.
10	<i>Land use right transfer</i>	The transfer of land use right from one to another through conversion, transfer, inheriting, giving of land use right or making capital contribution with land use right.
11	<i>State acquisition of land</i>	The State decides to recover land use right of land users that the State has previously granted land use right to, or recover land used by land users who violate laws on land.

No.	Terminology	Interpretation
12	<i>Land compensation</i>	The State returns the value of land use right to land users for the area of land acquired.
13	<i>Remaining investment in land</i>	Costs for surface levelling and other relevant direct costs proven to be invested in the land which are not recovered by the time of State acquisition.
14	<i>Supports at State acquisition of land</i>	Supports given by the State to land users whose land use right is recovered for the stabilization of living activities, production and development.
15	<i>Registration of land, house and other land associated properties</i>	Declaration and registration of legal status of a parcel in the cadastre concerning land use right, ownership of house and other land associated properties, and right of land management
16	<i>Certificate of land use right and ownership of land and other land associated properties</i>	Legal certificate for the State confirmation of legal right to use land and to own house and other land associated properties of people who have <i>land use right and ownership of land and other land associated properties</i>
17	<i>Land statistics</i>	State synthesis and assessment of land use status in the cadastre records at the statistics time and changes in land use between the current and the previous statistics.
18	<i>Land inventory</i>	State investigation, synthesis and assessment of the status of land use in the cadastre records at the time of inventory and changes in land use between the current and the previous inventory.
19	<i>Land price</i>	Value of land use right on one unit of land area.
20	<i>Value of land use right</i>	Monetary value of land use right on a certain area of land in a certain period of land use.
21	<i>Land use fee</i>	The amount of money paid by land users to the State when the State allocates land requiring land use fee, allows conversion of land use purpose and recognise land use right.
22	<i>Land rent</i>	The amount of money paid by land users to the State when the State leases land, which can be one-off payment for the entire

No.	Terminology	Interpretation
		period or annual payment.
23	<i>Land information syste</i>	A system synthesizing factors of information technology technical infrastructure, software, data and procedures developed to select, store, update, progress, analyse, synthesize and extract land related information.
24	<i>Land database</i>	The collection of land related data which is sorted and organised for the access, exploitation, management and update of data using electronic devices.
25	<i>Land disputes</i>	Disputes concerning rights and obligations of land users among two or more parties involved in land relations.
26	<i>Administrative complaints on land</i>	Complaints made by the people concerning administrative decisions or behaviours of land management officers or agencies.
27	<i>Land destruction</i>	Activity which deforms the terrain, degrades land, causes land pollution, or diminishes the ability to use land for the described purposes.
28	<i>Land encroachment, occupation</i>	Activity of encroaching land outside the boundaries of the parcel determined in land use right certificate, or occupying land illegally.
29	<i>Public service organizations</i>	Organizations established by authorized State agencies, political organizations, socio-political organizations, which function in performing public services in accordance with laws.
30	<i>Economic organizations</i>	Enterprises, cooperatives and other economic organizations, as regulated by civil laws, except for foreign invested enterprises.
31	<i>Land for underground construction</i>	Land for construction of underground works which are not the underground parts of any aboveground works.
32	<i>Household using land</i>	Those who have marital, blood or foster relations in accordance to laws on marriage and family, live together and share common right of land use at the moment the State allocates land, leases land or recognises land use right; and receive land use right transfer.

No.	Terminology	Interpretation
33	<i>Community using land</i>	Community of people residing in one common village, hamlet or other rural residential units, or community of people who share blood relation within a family line.
34	<i>Household, individual directly engaged in agricultural production</i>	Household or individual that receives land allocated or leased by the State and has agricultural land use right recognized, or receives agricultural land use right transferred, and have stable income from agricultural production on the respective parcel.

Annex 4: Expert Investigation reports

Annex 5: Panel reports (Aide Memories)

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Annex 6: Country Scorecard

Core LGAF Themes

LGI-Dim		Topic	Score			
			A	B	C	D
Recognition of Rights						
1	i	Land tenure rights recognition (rural)				
1	ii	Land tenure rights recognition (urban)				
1	iii	Rural group rights recognition				
1	iv	Urban group rights recognition in informal areas				
1	v	Opportunities for tenure individualization				
Enforcement of Rights						
2	i	Surveying/mapping and registration of claims on communal or indigenous land				
2	ii	Registration of individually held properties in rural areas				
2	iii	Registration of individually held properties in urban areas				
2	iv	Women's rights are recognized in practice by the formal system (urban/rural)				
2	v	Condominium regime that provides for appropriate management of common property				
2	vi	Compensation due to land use changes				
Mechanisms for Recognition						
3	i	Use of non-documentary forms of evidence to recognize rights				
3	ii	Formal recognition of long-term, unchallenged possession				
3	iii	First-time registration on demand is not restricted by inability to pay formal fees				
3	iv	First-time registration does not entail significant informal fees				
3	v	Formalization of residential housing is feasible and affordable				
3	vi	Efficient and transparent process to formally recognize long-term unchallenged possession				
Restrictions on Rights						
4	i	Restrictions regarding urban land use, ownership and transferability				
4	ii	Restrictions regarding rural land use, ownership and transferability				
Clarity of Mandates						
5	i	Separation of institutional roles				
5	ii	Institutional overlap				
5	iii	Administrative overlap				
5	iv	Information sharing				
Equity and Non-Discrimination						
6	i	Clear land policy developed in a participatory manner				
6	ii	Meaningful incorporation of equity goals				
6	iii	Policy for implementation is costed, matched with the benefits and is adequately resourced				
6	iv	Regular and public reports indicating progress in policy implementation				
Transparency of Land Use						
7	i	In urban areas, land use plans and changes to these are based on public input				
7	ii	In rural areas, land use plans and changes to these are based on public input				
7	iii	Public capture of benefits arising from changes in permitted land use				
7	iv	Speed of land use change				
Efficiency of Land Use Planning						
8	i	Process for planned urban development in the largest city				
8	ii	Process for planned urban development in the 4 largest cities (exc. largest)				
8	iii	Ability of urban planning to cope with urban growth				
8	iv	Plot size adherence				

8	v	Use plans for specific land classes (forest, pastures etc) are in line with use							
Speed and Predictability									
9	i	Applications for building permits for residential dwellings are affordable and processed in a non-discretionary manner.							
9	ii	Time required to obtain a building permit for a residential dwelling							
Transparency of Valuation									
10	i	Clear process of property valuation							
10	ii	Public availability of valuation rolls							
Tax Collection Efficiency									
11	i	Exemptions from property taxes are justified							
11	ii	Property holders liable to pay property tax are listed on the tax roll							
11	iii	Assessed property taxes are collected							
11	iv	Property taxes correspondence to costs of collection							
Identification of Public Land									
12	i	Public land ownership is justified and implemented at the appropriate level of government							
12	ii	Complete recording of publicly held land							
12	iii	Assignment of management responsibility for public land							
12	iv	Resources available to comply with responsibilities							
12	v	Inventory of public land is accessible to the public							
12	vi	Key information on land concessions is accessible to the public.							
Incidence of Expropriation									
13	i	Transfer of expropriated land to private interests							
13	ii	Speed of use of expropriated land							
Transparency of Procedures									
14	i	Compensation for expropriation of ownership							
14	ii	Compensation for expropriation of all rights							
14	iii	Promptness of compensation							
14	iv	Independent and accessible avenues for appeal against expropriation							
14	v	Appealing expropriation is time-bounded							
Transparent Processes									
15	i	Openness of public land transactions							
15	ii	Collection of payments for public leases							
15	iii	Modalities of lease or sale of public land							
Completeness of Registry									
16	i	Mapping of registry records							
16	ii	Economically relevant private encumbrances							
16	iii	Economically relevant public restrictions or charges							
16	iv	Searchability of the registry (or organization with information on land rights)							
16	v	Accessibility of records in the registry (or organization with information on land rights)							
16	vi	Timely response to a request for access to records in the registry (or organization with information on land rights)							
Reliability of Records									
17	i	Focus on customer satisfaction in the registry							
17	ii	Registry/ cadastre information is up-to-date							
Cost Effective and Sustainable									
18	i	Cost of registering a property transfer							
18	ii	Financial sustainability of the registry							
18	iii	Capital investment							
Transparency									
19	i	Schedule of fees is available publicly							
19	ii	Informal payments discouraged							
Assignment of Responsibility									
20	i	Accessibility of conflict resolution mechanisms							
20	ii	Informal or community based dispute resolution							
20	iii	Forum shopping							

Forest Land

FG I	DI M	Topic	Score			
			A	B	C	D
1	i	Country signature and ratification of international conventions				
1	ii	Implementation of incentives to promote climate change mitigation through forestry				
2	i	Public good aspects of forests recognized by law and protected				
2	ii	Forest management plans and budgets address the main drivers of deforestation and degradation				
3	i	Commitment to forest certification and chain-of-custody systems to promote sustainable harvesting of timber and non-timber forest products				
3	ii	Country's commitment to SMEs as a way to promote competition, income generation and productive rural employment				
4	i	Recognition of traditional and indigenous rights to forest resources by law				
4	ii	Sharing benefits or income from public forests with local communities by law and its implementation				
5	i	Boundaries of the countries forest estate and the classification into various uses and ownership are clearly defined and demarcated				
5	ii	In rural areas, forest land use plans and changes in these plans are based on public input				
6	i	Country's approach to controlling forest crimes, including illegal logging and corruption				
6	ii	Inter and intra agency efforts and multi-stakeholder collaboration to combat forest crimes, and awareness of judges and prosecutors				

Annex 7: Comparative Analysis

This section undertakes a comparison of LGAF scores between Vietnam and 14 other countries.

By the time Vietnam concluded its LGAF evaluation, fourteen other countries had finished their LGAF evaluations. This allowed us to conduct quick comparison between Vietnam's LGAF scores with these fourteen countries. To facilitate the comparison, we assigned points for ranking with A = 3, B = 2, C = 1, and D = 0. We posted Vietnam's score against the average and maximum scores of these countries for each indicator.

Fourteen countries include: Brazil, Congo, Gambia, Ghana, Madagascar, Malawi, Mauritania, Nigeria, Peru, Philippines, South Africa, Senegal, and Ukraine.

Summary of comparison method

In this report, the comparison was made to provide a means for better understanding the strengths and weaknesses in land management in Vietnam. Another comprehensive and official comparison will be conducted by the World Bank after completion of the LGAF project in 35 countries.

To facilitate the comparison, we assigned points for ranking with A = 3, B = 2, C = 1, and D = 0. We posted Vietnam's score against the average and maximum scores of these countries for each indicator

Comparison by dimensions and indicators

The comparison results are summarized in the table below following the list of 21 indicators (indicator LGI-19 had no sufficient evidence for comparison). For each indicator, we presented the ranking of Vietnam and remarks (dimensions with strengths and weaknesses). This annex shows detailed pictures for each dimension in each indicator - when compared to the average and highest scores of the 15 countries.

Table 7: Comparison LGAF scores among Vietnam and 14 developing countries

Table 10: Comparison LGAF scores between Vietnam and 14 developing countries

	Ranking	Remarks
THEMATIC AREA 1. LEGAL AND INSTITUTIONAL FRAMEWORK		
<i>LGI-1. Recognition of a continuum of rights:</i> The law recognizes a range of rights held by individuals as well as groups (including secondary rights as well as rights held by minorities and women)	4	- The experts ranked Vietnam with maximum score for recognition of land rights for rural group (A). Other dimensions, Vietnam got lower scores than the average of the 14 countries
<i>LGI-2. Enforcement of rights:</i> The rights recognized by law are enforced (including secondary rights as well as rights by minorities and women)	2	All of these five dimensions got scores of better or equal to the averages of the other 14 countries. The registration of communal land even got a maximum ranking (A), higher than the maximum of the compared countries.
<i>LGI-3. Mechanisms for recognition of rights:</i> The formal definition and assignment of rights, and process of recording of rights accords with actual practice or, where it does not, provides affordable avenues for establishing such consistency in a non-discriminatory manner	3	- Most of dimensions in this indicators got better scores than the averages of the compared countries - The most problematic dimension for Vietnam was the informal payment for recognition of right (C).
<i>LGI-4. Restrictions on rights:</i> Land rights are not conditional on adherence to unrealistic standards.	4	Vietnam belong the second group with other 9 countries. Vietnam score was about the average of other fourteen countries
<i>LGI-5. Clarity of mandates and practice:</i> Institutional mandates concerning the regulation and management of the land sector are clearly defined, duplication of responsibilities is avoided and information is shared as needed.	4	- This was a common problem in all 15 countries, Vietnam got a little more positive ranking than the fourteen countries. - However, separation of institutional role was the most problematic for Vietnam (D),

		while the average of the fourteen countries was better than C (1.2)
<i>LGI-6. Equity and non-discrimination in the decision-making process:</i> Policies are formulated through a legitimate decision-making process that draws on inputs from all concerned. The legal framework is non-discriminatory and institutions to enforce property rights are equally accessible to all	1	<ul style="list-style-type: none"> - Vietnam got scores as high as the highest of the compared countries in two dimensions: Reports on progress (A) and matching costs and benefit (B) - The score on incorporation of equity goal was low (C).
THEMATIC AREA 2. LAND USE PLANNING, MANAGEMENT, AND TAXATION		
<i>LGI-7. Transparency of land use restrictions:</i> Changes in land use and management regulations are made in a transparent fashion and provide significant benefits for society in general rather than just for specific groups.	5	<ul style="list-style-type: none"> - Vietnam stayed right at the averages in three dimensions: seeking public inputs for urban (between C and B) and rural planning (C), and speed of land use change.
<i>LGI-8. Efficiency in the land use planning process:</i> Land use plans and regulations are justified, effectively implemented, do not drive large parts of the population into informality, and are able to cope with population growth.	3	<ul style="list-style-type: none"> - The two dimensions on planning seemed to be relatively well evaluated (B). On the contrary, the development process in the largest cities and plot size adherence were not as well implemented as the averages of the compared countries. - Thus, while planning seemed to be reasonable, implementation was reasonable, implementation was not as good.
<i>LGI-9. Speed and predictability of enforcement of restricted land uses:</i> Development permits are granted promptly and predictably.	3	<ul style="list-style-type: none"> - Vietnam got better ranking than the averages in both dimensions. - Two countries got perfect scores on this indicator: Georgia and Philippines. Vietnam came in third, together with South Africa and Senegal (2.5).
<i>LGI-10. Transparency of valuations:</i>	5	<ul style="list-style-type: none"> - Vietnam got better ranking than

Valuations for tax purposes are based on clear principles, applied uniformly, updated regularly, and publicly accessible		the averages in both dimensions. - Vietnam came in 5th, behind South Africa, Georgia, Malawi, and Philippines.
<i>LGI-11. Collection efficiency:</i> Resources from land and property taxes are collected and the yield from land taxes exceeds the cost of collection		Not enough evidence for comparison
THEMATIC AREA 3. MANAGEMENT OF PUBLIC LAND		
<i>LGI-12. Identification of public land and clear management:</i> Public land ownership is justified, inventoried, under clear management responsibilities, and relevant information is publicly accessible	4	- Three dimensions regarding institutional responsibility and resources were well above average of the fourteen countries. - On the other hand, three dimensions on public access to information and justification of public ownership were just equal to or lower than the averages.
<i>LGI-13. Justification and time-efficiency of expropriation processes:</i> The state expropriates land only for overall public interest and this is done efficiently	4	Both dimensions got rank A, well above the average of the fourteen countries.
<i>LGI-14. Transparency and fairness of expropriation procedures:</i> Expropriation procedures are clear and transparent and compensation in kind or at market values is paid fairly and expeditiously	6	Two dimensions got lower scores than the average were <i>Promptness of compensation</i> and <i>Independent and accessible appeal (C)</i>
<i>LGI-15. Transparent process and economic benefit:</i> Transfer of public land to private use follows a clear, transparent, and competitive process and payments are collected and audited.	6	<i>Openness of public land transaction got rank D.</i> This was one of most problematic areas in Vietnam. Modalities of lease/sale of public land also got very low rank (C), below the average of the fourteen countries
THEMATIC AREA 4. PUBLIC PROVISION OF LAND INFORMATION		

<p><i>LGI-16. Completeness:</i> The land registry provides information on different private tenure categories in a way that is geographically complete and searchable by parcel as well as by right holder and can be obtained expeditiously by all interested parties</p>	10	<ul style="list-style-type: none"> - <i>Relevant private encumbrances got rank D.</i> This was one of most problematic areas in Vietnam. Accessibility of registry records was also lower than the average. - Two dimensions got strong evaluation: Relevant public restrictions and Searchability of the registry (A).
<p><i>LGI-17. Reliability:</i> Registry information is updated, sufficient to make meaningful inferences on ownership</p>	8	<ul style="list-style-type: none"> - <i>Updated cadastral/registry was ranked at lowest level (D).</i> This was one of most problematic areas in Vietnam.
<p><i>LGI-18. Cost-effectiveness and sustainability:</i> Land administration services are provided in a cost-effective manner.</p>	14	<ul style="list-style-type: none"> - All three dimensions got lower scores than the averages. Financial sustainability was evaluated at D, while the Cost for registering a property transfer and capital investment in the system was also low at C. <i>This reflected a worrying phenomenon that the system was not financially sustainable.</i>
<p><i>LGI-19. Transparency:</i> Fees are determined and collected in a transparent manner</p>	5	<p>Transparency of fees got lower score than the average</p>
<p>THEMATIC AREA 5. DISPUTE RESOLUTION AND CONFLICT MANAGEMENT</p>		
<p><i>LGI-20. Assignment of responsibility:</i> Responsibility for conflict management at different levels is clearly assigned, in line with actual practice, relevant bodies are competent in applicable legal matters, and decisions can be appealed against.</p>	7	<ul style="list-style-type: none"> - While access to conflict resolution was reasonable, alternative channels for conflict resolution were limited. - Informal dispute and possibility of appeal at reasonable costs were ranked at low level.

<p><i>LGI-21. Low level of pending conflict:</i> The share of land affected by pending conflicts is low and decreasing</p>	4	<p>All three dimensions got low ranking. Speed of formal resolution was ranked at D, while number of disputes in formal and number of long standing conflicts were ranked only at C.</p>
<p><i>LGI-1. Recognition of a continuum of rights:</i> The law recognizes a range of rights held by individuals as well as groups (including secondary rights as well as rights held by minorities and women)</p>	4	<ul style="list-style-type: none"> - The experts ranked Vietnam with maximum score for recognition of land rights for rural group (A). Other dimensions, Vietnam got lower scores than the average of the 14 countries
<p><i>LGI-2. Enforcement of rights:</i> The rights recognized by law are enforced (including secondary rights as well as rights by minorities and women)</p>	2	<p>All of these five dimensions got scores of better or equal to the averages of the other 14 countries. The registration of communal land even got a maximum ranking (A), higher than the maximum of the compared countries.</p>
<p><i>LGI-3. Mechanisms for recognition of rights:</i> The formal definition and assignment of rights, and process of recording of rights accords with actual practice or, where it does not, provides affordable avenues for establishing such consistency in a non-discriminatory manner</p>	3	<ul style="list-style-type: none"> - Most of dimensions in this indicators got better scores than the averages of the compared countries - The most problematic dimension for Vietnam was the informal payment for recognition of right (C).
<p><i>LGI-4. Restrictions on rights:</i> Land rights are not conditional on adherence to unrealistic standards.</p>	4	<p>Vietnam belong the second group with other 9 countries. Vietnam score was about the average of other fourteen countries</p>
<p><i>LGI-5. Clarity of mandates and practice:</i> Institutional mandates concerning the regulation and management of the land sector are clearly defined, duplication of responsibilities is avoided and information is shared as needed.</p>	4	<ul style="list-style-type: none"> - This was a common problem in all 15 countries, Vietnam got a little more positive ranking than the fourteen countries. - However, separation of institutional role was the most problematic for Vietnam (D), while the average of the fourteen

		countries was better than C (1.2)
<i>LGI-6. Equity and non-discrimination in the decision-making process:</i> Policies are formulated through a legitimate decision-making process that draws on inputs from all concerned. The legal framework is non-discriminatory and institutions to enforce property rights are equally accessible to all	1	<ul style="list-style-type: none"> - Vietnam got scores as high as the highest of the compared countries in two dimensions: Reports on progress (A) and matching costs and benefit (B) - The score on incorporation of equity goal was low (C).
THEMATIC AREA 2. LAND USE PLANNING, MANAGEMENT, AND TAXATION		
<i>LGI-7. Transparency of land use restrictions:</i> Changes in land use and management regulations are made in a transparent fashion and provide significant benefits for society in general rather than just for specific groups.	5	<ul style="list-style-type: none"> - Vietnam stayed right at the averages in three dimensions: seeking public inputs for urban (between C and B) and rural planning (C), and speed of land use change.
<i>LGI-8. Efficiency in the land use planning process:</i> Land use plans and regulations are justified, effectively implemented, do not drive large parts of the population into informality, and are able to cope with population growth.	3	<ul style="list-style-type: none"> - The two dimensions on planning seemed to be relatively well evaluated (B). On the contrary, the development process in the largest cities and plot size adherence were not as well implemented as the averages of the compared countries. - Thus, while planning seemed to be reasonable, implementation was reasonable, implementation was not as good.
<i>LGI-9. Speed and predictability of enforcement of restricted land uses:</i> Development permits are granted promptly and predictably.	3	<ul style="list-style-type: none"> - Vietnam got better ranking than the averages in both dimensions. - Two countries got perfect scores on this indicator: Georgia and Philippines. Vietnam came in third, together with South Africa and Senegal (2.5).

<p><i>LGI-10. Transparency of valuations:</i> Valuations for tax purposes are based on clear principles, applied uniformly, updated regularly, and publicly accessible</p>	5	<ul style="list-style-type: none"> - Vietnam got better ranking than the averages in both dimensions. - Vietnam came in 5th, behind South Africa, Georgia, Malawi, and Philippines.
<p><i>LGI-11. Collection efficiency:</i> Resources from land and property taxes are collected and the yield from land taxes exceeds the cost of collection</p>		Not enough evidence for comparison
THEMATIC AREA 3. MANAGEMENT OF PUBLIC LAND		
<p><i>LGI-12. Identification of public land and clear management:</i> Public land ownership is justified, inventoried, under clear management responsibilities, and relevant information is publicly accessible</p>	4	<ul style="list-style-type: none"> - Three dimensions regarding institutional responsibility and resources were well above average of the fourteen countries. - On the other hand, three dimensions on public access to information and justification of public ownership were just equal to or lower than the averages.
<p><i>LGI-13. Justification and time-efficiency of expropriation processes:</i> The state expropriates land only for overall public interest and this is done efficiently</p>	4	Both dimensions got rank A, well above the average of the fourteen countries.
<p><i>LGI-14. Transparency and fairness of expropriation procedures:</i> Expropriation procedures are clear and transparent and compensation in kind or at market values is paid fairly and expeditiously</p>	6	Two dimensions got lower scores than the average were <i>Promptness of compensation</i> and <i>Independent and accessible appeal (C)</i>
<p><i>LGI-15. Transparent process and economic benefit:</i> Transfer of public land to private use follows a clear, transparent, and competitive process and payments are collected and audited.</p>	6	<i>Openness of public land transaction got rank D.</i> This was one of most problematic areas in Vietnam. Modalities of lease/sale of public land also got very low rank (C), below the average of the fourteen countries

THEMATIC AREA 4. PUBLIC PROVISION OF LAND INFORMATION

<p><i>LGI-16. Completeness:</i> The land registry provides information on different private tenure categories in a way that is geographically complete and searchable by parcel as well as by right holder and can be obtained expeditiously by all interested parties</p>	10	<ul style="list-style-type: none"> - <i>Relevant private encumbrances got rank D.</i> This was one of most problematic areas in Vietnam. Accessibility of registry records was also lower than the average. - Two dimensions got strong evaluation: Relevant public restrictions and Searchability of the registry (A).
<p><i>LGI-17. Reliability:</i> Registry information is updated, sufficient to make meaningful inferences on ownership</p>	8	<ul style="list-style-type: none"> - <i>Updated cadastral/registry was ranked at lowest level (D).</i> This was one of most problematic areas in Vietnam.
<p><i>LGI-18. Cost-effectiveness and sustainability:</i> Land administration services are provided in a cost-effective manner.</p>	14	<ul style="list-style-type: none"> - All three dimensions got lower scores than the averages. Financial sustainability was evaluated at D, while the Cost for registering a property transfer and capital investment in the system was also low at C. <i>This reflected a worrying phenomenon that the system was not financially sustainable.</i>
<p><i>LGI-19. Transparency:</i> Fees are determined and collected in a transparent manner</p>	5	<p>Transparency of fees got lower score than the average</p>

THEMATIC AREA 5. DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

<p><i>LGI-20. Assignment of responsibility:</i> Responsibility for conflict management at different levels is clearly assigned, in line with actual practice, relevant bodies are competent in applicable legal matters, and decisions can be appealed against.</p>	7	<ul style="list-style-type: none"> - While access to conflict resolution was reasonable, alternative channels for conflict resolution were limited. - Informal dispute and possibility of appeal at reasonable costs were ranked at low level.
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<p><i>LGI-21. Low level of pending conflict:</i> The share of land affected by pending conflicts is low and decreasing</p>	<p>4</p>	<p>All three dimensions got low ranking. Speed of formal resolution was ranked at D, while number of disputes in formal and number of long standing conflicts were ranked only at C.</p>
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Group of indicators with higher scores

Of the 20 indicators were compared, Vietnam was ranked among three countries with the highest evaluation scores in six indicators. These indicators included:

- LGI-2: Enforcement of rights
- LGI-3: Mechanisms for recognition of rights
- LGI-4: Restrictions on rights
- LGI-6: Equity and non-discrimination in the decision-making process
- LGI-8: Efficiency in the land use planning process:
- LGI-9: Speed and predictability of enforcement of restricted land uses

If you look carefully, these indicators are associated with regulations, policies and improvement in these regulations. In other words, the perfection of the policy is considered to be an aspect of land management which makes Vietnam relatively good compared to 14 developing countries in the comparison samples.

Group of indicators with lower scores:

Vietnam was ranked 7th or lower regarding the following indicators:

- LGI-16: Completeness
- LGI-17: Reliability
- LGI-18: Cost-effectiveness and sustainability
- LGI-20: Assignment of responsibility

These indicators are related to two main issues. Firstly, the land registry provides public with update, sufficient and researchable information. The dimensions in these indicators got lower scores than the average of other countries in the comparison samples. Secondly, there is cost-effectiveness and clear assignment of responsibility for conflict management. Both factors are related to accountability (for resources and tasks) of the concerned agencies.

Group of indicators with average scores:

Vietnam was ranked the 4th to 6th regarding the following indicators:

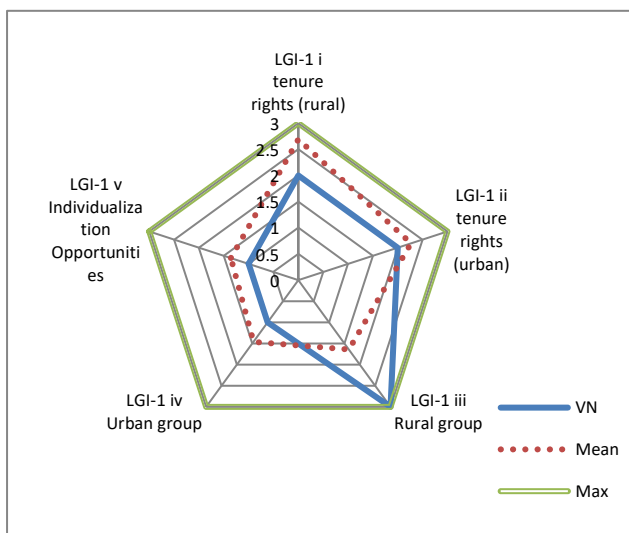
- LGI-1: Recognition of a continuum of rights
- LGI-5: Clarity of mandates and practice
- LGI-7: Transparency of land use restrictions

- LGI-10: Transparency of valuations
- LGI-12: Identification of public land and clear management
- LGI-14: Transparency and fairness of expropriation procedures
- LGI-15: Transparent process and economic benefit:
- LGI-21: Low level of pending conflict:

Many indicators (and dimensions) in this group are related to transparency in land governance. Thus, transparency in land governance in Vietnam, compared with 14 countries in the comparison samples, was about the average.

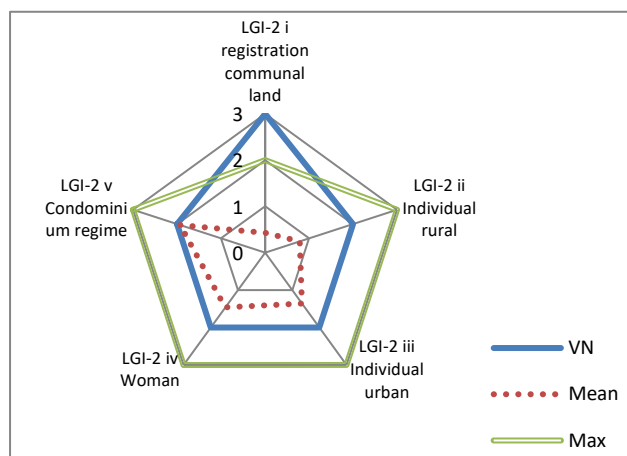
1. LEGAL AND INSTITUTIONAL FRAMEWORK

LGI-1 Continuum of rights



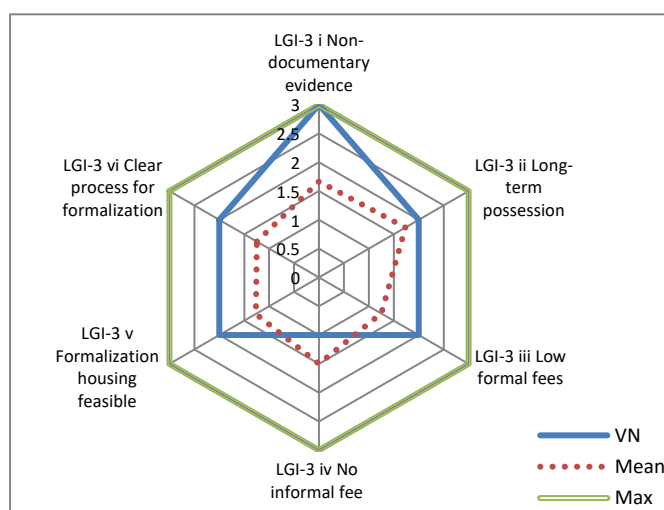
- The experts ranked Vietnam with maximum score for recognition of land rights for rural group (A). The score was well above the average of the fourteen countries (1.64 - between B and C).
- Other dimensions, Vietnam got lower scores than the average of the 14 countries
- Vietnam was ranked 6th together with 4 other countries.

LGI-2: Enforcement of rights



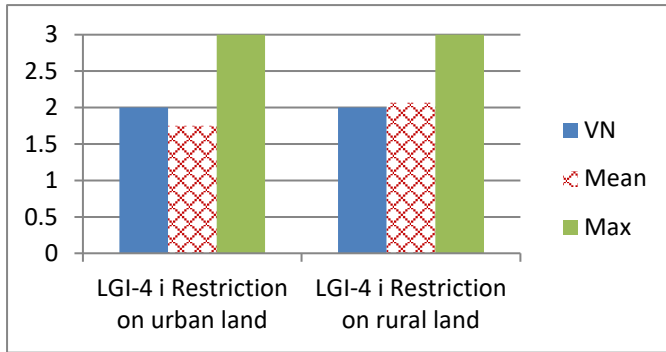
- All of these five dimensions got scores of better or equal to the averages of the other 14 countries. The registration of communal land even got a maximum ranking (A), higher than the maximum of the compared countries.
- Vietnam was ranked 2nd, behind only South Africa. While much has to be done, this comparison shows that Vietnam made good progress in enforcement of rights, compared to other developing countries.

LGI-3: Mechanisms for recognition of rights



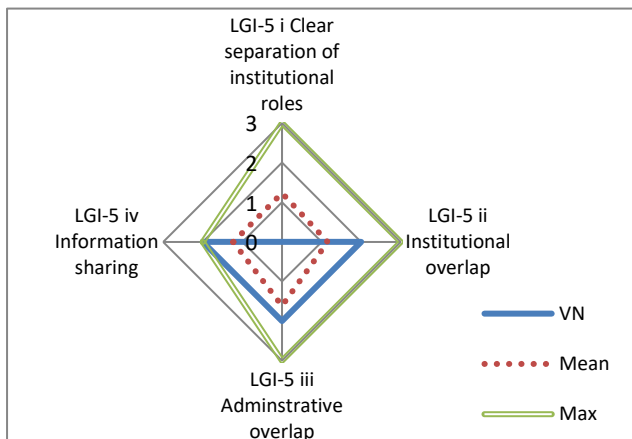
- Most of dimensions in this indicators got better scores than the averages of the compared countries
- The most problematic dimension for Vietnam was the informal payment for recognition of right (C).
- In the ranking, Vietnam came in 3r, behind Georgia and Mauritania.

LGI-4: Restrictions on rights



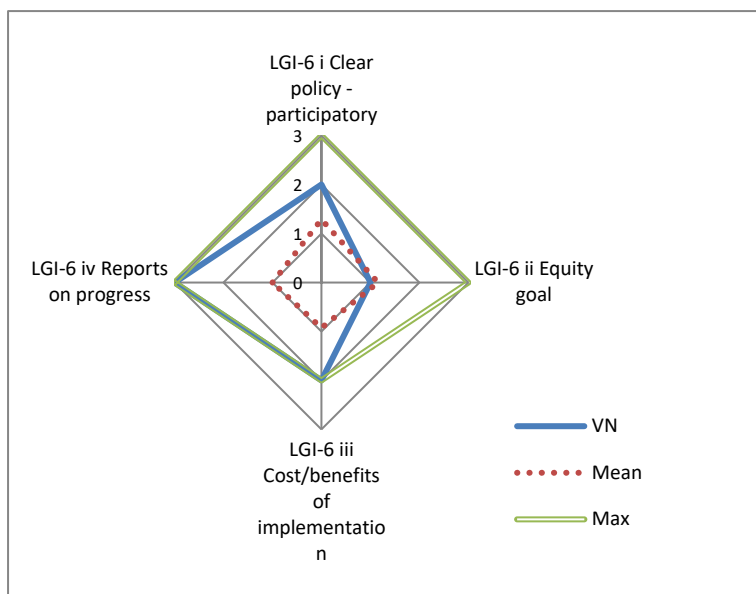
- Vietnam was ranked B in both dimensions on restrictions of land uses, ownership, and transferability in urban and rural areas.
- This score was about the average of other fourteen countries
- Vietnam, scored B, belong the second group with other 9 countries Việt Nam, behind Brazil, Gambia and the Philippines.

LGI-5: Clarity of Institutional Mandates



- While institutional and administrative overlapping, and informational sharing were problematic in all 15 countries, Vietnam got a little more positive ranking than the fourteen countries.
- However, separation of institutional role was the most problematic for Vietnam (D), while the average of the fourteen countries was better than C (1.2)
- Vietnam LGI-5 scores came in 4th, together with Congo and Philippines.

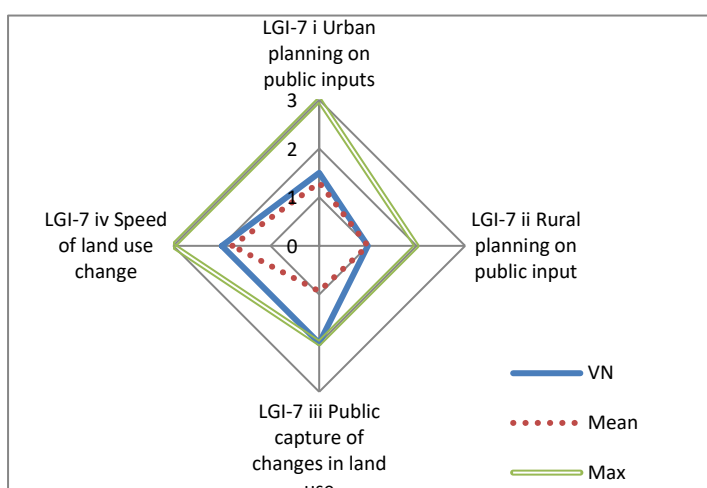
LGI-6: Equity and non-discrimination in decision making process



- Vietnam got scores as high as the highest of the compared countries in two dimensions: Reports on progress (A) and matching costs and benefit (B)
- The score on incorporation of equity goal was low (C).
- Vietnam LGI-6 scores came in 1st, together with Philippines. While implementation may still have problem, but the policies appear to be non-discriminatory, relatively to other developing countries.

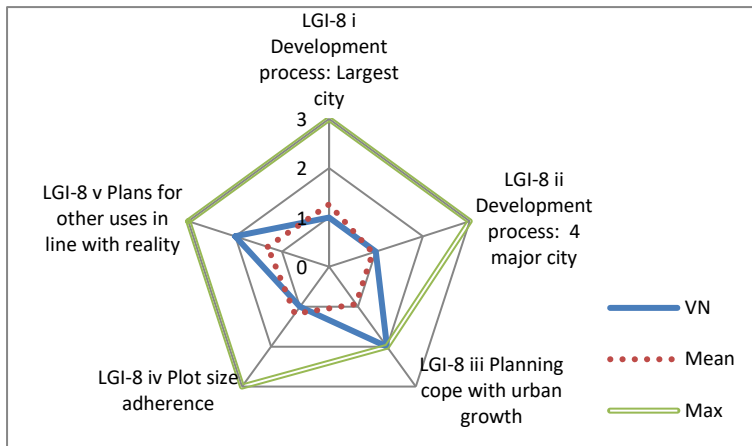
2. LAND USE PLANNING, MANAGEMENT, AND TAXATION

LGI-7: Transparency of land use restriction



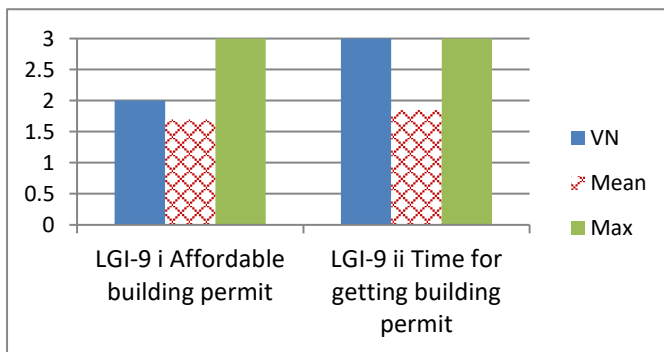
- Vietnam stayed right at the averages in three dimensions: seeking public inputs for urban planning (between C and B) and rural planning (C), and speed of land use change.
- Vietnam's score on public capture of changes in land uses (B) was equivalent to the highest ranking of the other fourteen countries.
- Most countries got low scores on LGI-7 - Transparency of land use restriction (lower than B). Vietnam, with a score of 1.63 (between B and C), came in 5th

LGI-8: Efficiency of land use planning



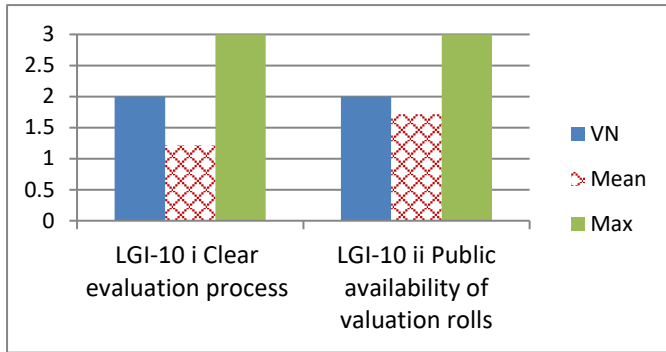
- The two dimensions on planning seemed to be relatively well evaluated (B). On the contrary, the development process in the largest cities and plot size adherence were not as well implemented as the averages of the compared countries.
- Thus, while planning seemed to be reasonable, implementation was reasonable, implementation was not as good.
- South Africa (2.5) and Ukraine (1.75) are in leading group. Vietnam belongs to the second group with Georgia, Malawi, and Mauritania (1.25).

LGI-9: Speed and predictability



- Vietnam got better ranking than the averages in both dimensions.
- Two countries got perfect scores on this indicator: Georgia and Philippines. Vietnam came in third, together with South Africa and Senegal (2.5).

LGI-10: Transparency of valuations



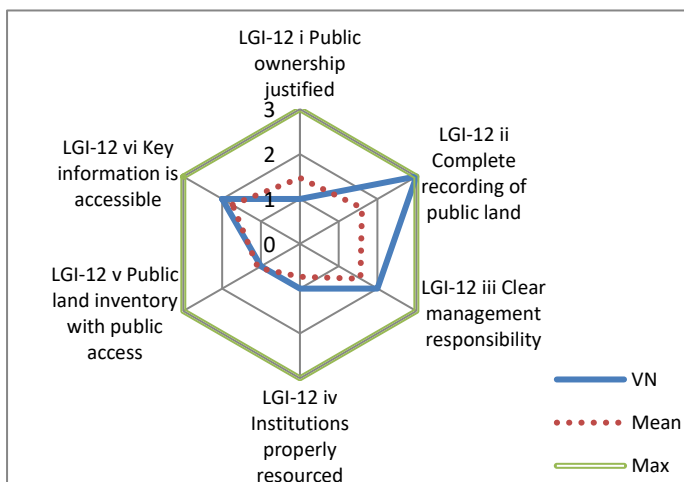
- Vietnam got better ranking than the averages in both dimensions.
- Vietnam came in 5th, behind South Africa, Georgia, Malawi, and Philippines.

LGI-11: Collection efficiency

Only two out of four dimensions were evaluated, so it is not enough for comparison

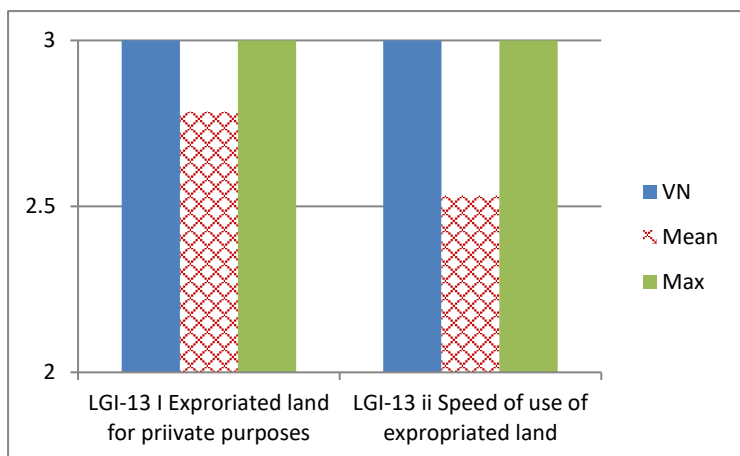
3- MANAGEMENT OF PUBLIC LAND

LGI-12: Identification and clear management of public land



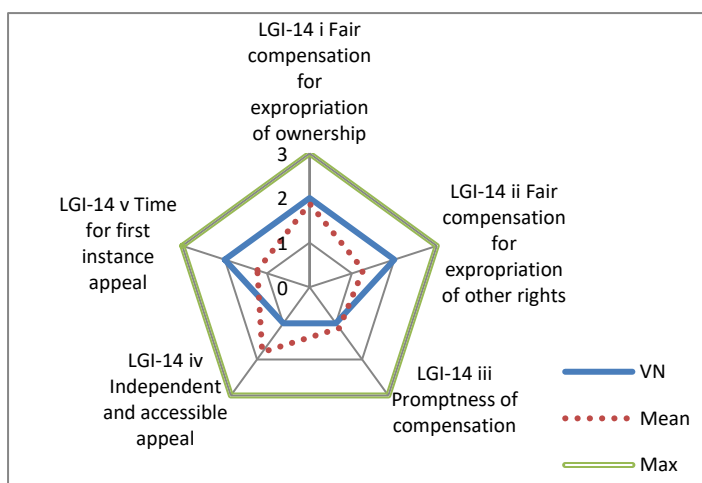
- Three dimensions regarding institutional responsibility and resources were well above average of the fourteen countries.
- On the other hand, three dimensions on public access to information and justification of public ownership were just equal to or lower than the averages
- Vietnam stood at 4th place of the fifteen countries.

LGI-13: Incidence of expropriation



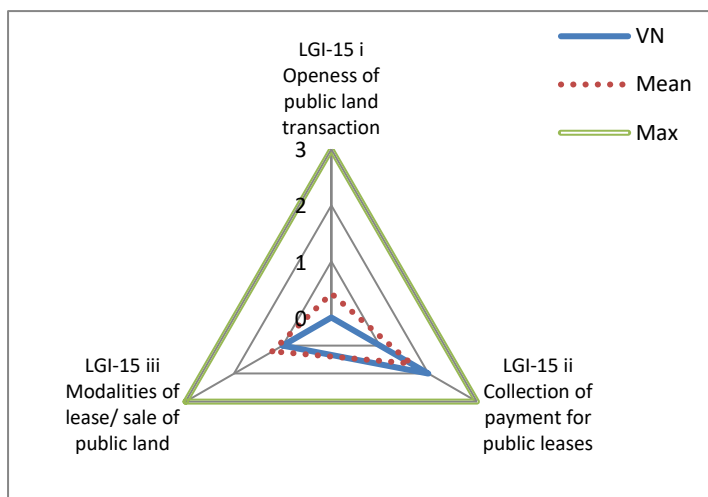
- Both dimensions got rank A, well above the average of the fourteen countries.
- Vietnam came in 4th place of the fifteen countries. The score was between C and B.

LGI-14: Transparency of expropriation procedures



- Two dimensions got lower scores than the average were *Promptness of compensation* and *Independent and accessible appeal*.
- For this indicator, Vietnam came in 6th with a score between C and B(1.60).

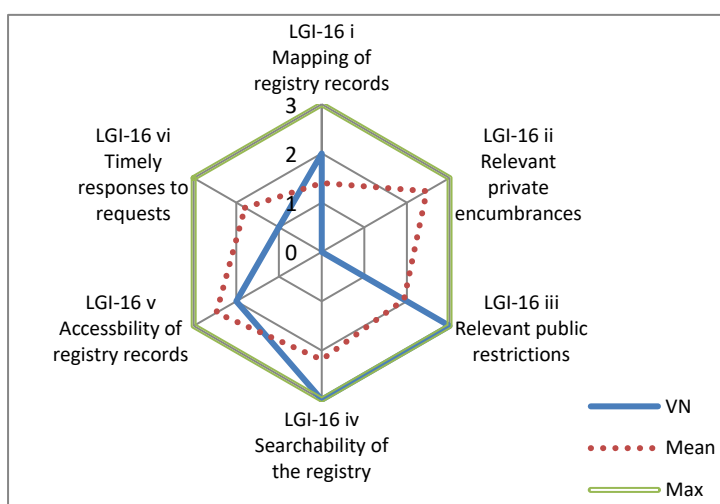
LGI-15: Transparency process for divestiture



- *Openness of public land transaction got rank D.* This was one of most problematic areas in Vietnam. Modalities of lease/sale of public land also got very low rank (C), below the average of the fourteen countries
- Vietnam came in 6th, behind Georgia, Brizil, Gambia, Peru, and Ukraine.

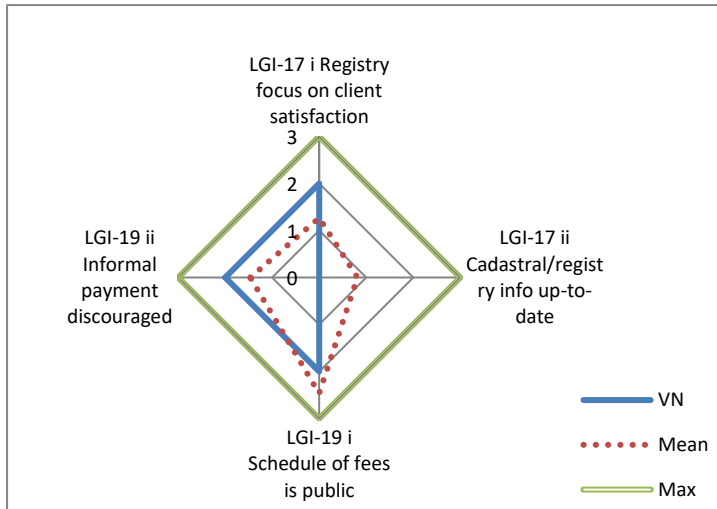
4. PUBLIC PROVISION OF LAND INFORMATION

LGI-16: Completeness of registry information



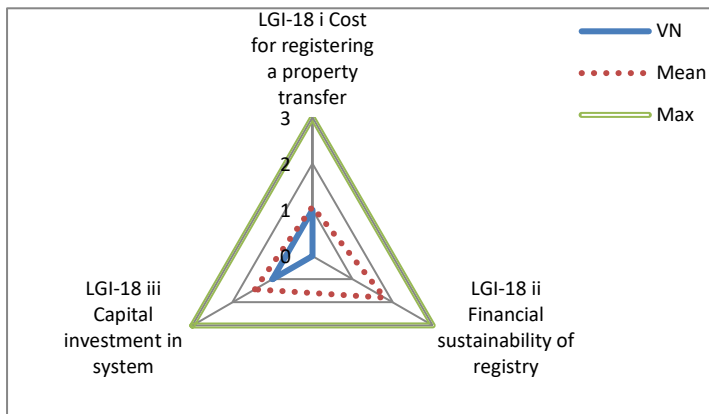
- *Relevant private encumbrances got rank D.* This was one of most problematic areas in Vietnam. Accessibility of registry records was also lower than the average.
- Two dimensions got strong evaluation: Relevant public restrictions and Searchability of the registry (A).
- Vietnam got low ranking, at 10th place, in this indicator.

LGI-17-19: Reliability of registry records and Transparency



- *Updated cadastral/registry was ranked at lowest level (D).* This was one of most problematic areas in Vietnam. Public availability of fees schedule was also lower than the average.
- Vietnam was not ranked high on LGI-17, Reliability of Registry Records with 8th place out of 13 countries in the evaluation. The ranking on LGI-19 was better: Vietnam was in the second group with Philippines and Mauritania.

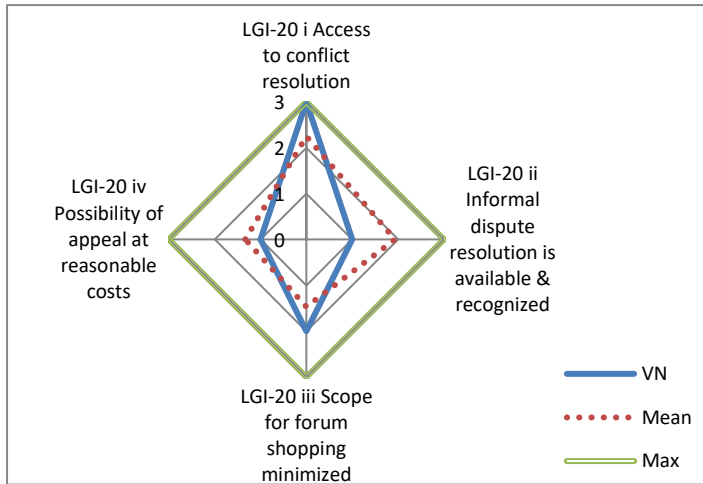
LGI-18: Cost effectiveness, accessibility, and sustainability



- All three dimensions got lower scores than the averages. Financial sustainability was evaluated at D, while the Cost for registering a property transfer and Capital investment in the system were also low at C. *This reflected a worrying phenomenon that the system was not financially sustainable.*
- Vietnam was placed at the lowest group with Mauritania and Ghana on this dimension

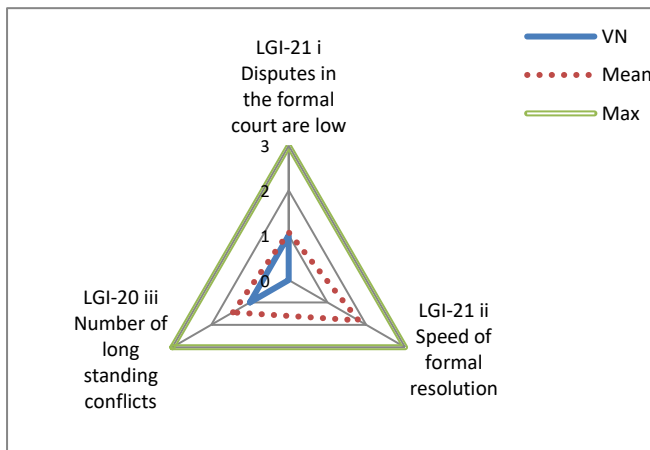
5. DISPUTE RESOLUTION AND CONFLICT MANAGEMENT

LGI-20: Assignment of responsibility



- While access to conflict resolution was reasonable (LGI-20i ranked A and LGI-20iii ranked B), alternative channels for conflict resolution were limited. Informal dispute and possibility of appeal at reasonable costs were ranked only at C level.
- Vietnam stayed in the middle (7th) on the list

LGI-21: Low level of pending conflict



- All three dimensions got low ranking. Speed of formal resolution was ranked at D, while number of disputes in formal and number of long standing conflicts were ranked only at C. This reflected a fact that land conflicts in Vietnam were complex and time-consuming.
- Vietnam stayed 4th on the list, behind Georgia, Ukraine, and Peru

Annex 8: References

References to all documents used by the Country Coordinator, the experts or the panel members
