

## TERMS OF REFERENCE

### **Development of a Roadmap for Environmental and Social Safeguards for Vietnam's National REDD+ Action Programme**

Country: Vietnam  
Programme: REDD+  
Project: Delivering Multiple Benefits from REDD+ In Southeast Asia (MB-REDD)  
Implementers: SNV – The Netherlands Development Organisation and Vietnam Administration of Forestry (VNFOREST)  
Investor: German Federal Ministry of Environment, Nature Conservation and Nuclear Safety (BMU), International Climate Initiative (ICI)  
Abstract: Consulting services to revise a safeguards roadmap for Vietnam's National REDD+ Programme (NRAP)  
Duration: Indicative 60 person-days over the period 1 July to 30 September, 2013

#### **1. Background:**

Reducing emissions from deforestation and forest degradation and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries (REDD+) has emerged as a potential climate change mitigation response from land use change and forestry sectors. The notion of REDD+ 'co-benefits'<sup>1</sup> was raised in the 2007 Bali Action Plan of the United Nations Framework Convention on Climate Change (UNFCCC), along with the potential of REDD+ to complement the aims and objectives of other multilateral agreements, such as the Convention on Biological Diversity (CBD) and United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), among others.

To ensure that multiple benefits are delivered and that potential risks are minimized, a series of aspirational statements about how REDD+ should be implemented were established in 2010 by the international community – the so called 'Cancun safeguards'<sup>2</sup> of the UNFCCC. Countries seeking to implement REDD+ programmes must 'address and respect' these safeguards at the national and subnational levels.

In anticipation of, and in response to, the Cancun safeguards, immediate efforts, as part of bi- and multilateral REDD+ readiness assistance, have focused on the promotion of international safeguard frameworks that could be adapted and applied at the national (or subnational state) level. Three leading multilateral safeguard initiatives for programmatic REDD+ have emerged: the Forest Carbon Partnership Facility (FCPF) Strategic Environmental and Social Assessment (SESA) and subsequent Environmental & Social Management Framework (ESMF); the UN-REDD Social and Environmental Principles and Criteria; and the voluntary REDD+ Social and Environmental Standards. An emerging challenge to developing countries pursuing REDD+ has been the confusion resulting from the proliferation of international safeguard frameworks, and associated guidance, that could be applied to operationalize the commitments under the Cancun Agreement.

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<sup>1</sup> Hereafter referred to as 'multiple benefits'

<sup>2</sup> UNFCCC 2010. Conference of the Parties decision 1-/CP.16: Outcome of the work of the Ad Hoc Working Group on long-term Cooperative Action under the Convention. UNFCCC, Bonn.

Investors in REDD+ readiness assistance are increasingly more demanding in terms of environmental and social performance expected from national REDD+ programmes<sup>3</sup>, which might prompt developing countries to explore levels of environmental and social performance beyond those committed to in the Cancun safeguards<sup>4</sup>. Yet, despite a recent history of high political profile and relatively intensive development partner assistance, national REDD+ safeguard responses must contend with persistent uncertainties with REDD+ development as an international compliance mechanism under the UNFCCC process. Slow progress in international climate change negotiations sends a weak signal to developing countries to invest in robust and comprehensive national safeguard responses.

In the NRAP, Vietnam has proposed to develop a phased approach to national REDD+ safeguard development. To this end, the MB-REDD project has responded with technical assistance on a systematic legal gap analysis of existing relevant policies, laws and regulations against an interpretation of the Cancun safeguards.

The analysis builds on initial international policy research conducted<sup>5</sup> by the SNV-VNFOREST MB-REDD project, which advocated national policy strengthening and coherence as a priority first step in any country approach to REDD+ safeguards. Options identified by these studies for in-country safeguard response processes have been recently discussed in the sub-technical working group on safeguards (STWG-SG) and an approach that expanded upon existing initiatives in-country, with a view to incorporating elements of international safeguard frameworks as necessary and appropriate, was indicated as most appropriate for Vietnam's circumstances at this juncture.

Terms of Reference (ToR) cover an assignment for a team of consultants revise a draft safeguards roadmap based on additional analytical work and feedback from stakeholders on an initial draft. The roadmap will be a technical (not formal legal) output designed to inform, first and foremost, national safeguard policy (re-)formulation processes, and secondly, safeguard elements of major multilateral REDD+ readiness and demonstration investments, namely the Vietnam's FCPF grant and proposed second phase of the UN-REDD country programme.

## **2. Objective:**

Roadmap for presenting options and recommendations for safeguards under Vietnam's National REDD+ Action Programme revised to incorporate additional analytical findings together with feedback from stakeholders.

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<sup>3</sup> For example, the BMU-ICI, which finances the HB-REDD+ project and this assignment, is currently developing programme-wide monitoring and reporting framework for that would include co-benefit impact monitoring from all future REDD+ projects supported by the ICI.

<sup>4</sup> Indeed, both NRAP and the Norway-Vietnam Joint Declaration on REDD+ indicate a desire for Vietnam to go beyond bare minimum 'do no harm compliance' with Cancun to achieve 'do good' performance.

<sup>5</sup> Swan, S.R., M. Bertzky & Lucy Goodman (2012) REDD+ biodiversity safeguards: options for developing national approaches. Forest Carbon Asia & SNV – The Netherlands Development Organisation, Hanoi. | SNV (2012) National Options for REDD+ Environmental Safeguards: Operational Guidance. SNV – The Netherlands Development Organisation, Hanoi | Swan, S.R. & R.G.H. McNally (2011) High-Biodiversity REDD+ Operationalising Safeguards and Delivering Environmental Co-benefits. SNV Netherlands Development Organisation, Hanoi | Swan, S.R., R.G.H. McNally, M. Grieg-Gran, D. Roe, E. Y. Mohammed (2011) Options for Promoting High-Biodiversity REDD+. International Institute for Environment & Development (IIED), London

### **3. Tasks:**

#### **Lead Analyst (25 days)**

1. Developing methods<sup>6</sup>, including a legal matrix with revised interpretation criteria and indicators<sup>7</sup> for all Cancun safeguards<sup>8</sup>, to expand scope of the original gap analysis to encompass the safeguard information system(s), grievance and redress mechanisms, institutional arrangements, in addition to a refined PLR gap analysis. (3 days).
2. Developing methodology for the identification of the PLRs and incorporating it into the roadmap (1 day)
3. Supervising and guiding the identification and analysis of PLRs (including supervising and guiding the identification and analysis of information relevant to safeguard information system, grievance and redress mechanisms and institutional arrangements) against the revised/new set of criteria and indicators (5 days).
4. Incorporating results of the revised legal gap analysis into the roadmap against the revised/new criteria and indicators (4 days)
5. Integrating the findings of the FLEGT Voluntary Partnership Agreement (VPA)<sup>9</sup> and REDD+ safeguard synergy analysis into the draft roadmap document (1 days)
6. Providing clear guidance for the analysis of synergies between REDD+ safeguards and national FSC standards in terms of both content and process (2 days)
7. Supervising and integrating the results of an analysis of synergies between REDD+ safeguards and national Forest Stewardship Council (FSC) standards (1 day)
8. Strengthening roadmap recommendations<sup>10</sup> in the areas of national PLR framework reform, safeguard information system, grievance redress mechanism and institutional arrangements based on the revised analysis (4 days)
9. Responding to stakeholder and MB-REDD team feedback on the draft safeguards roadmap (1 day)
10. Restructuring and preparing revised and finalized roadmap document (3 days)

#### **Legal Analyst (20 days)**

1. Conducting a revised identification of the relevant PLRs based on the additional interpretation criteria and indicators for Cancun safeguards (3 days)

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<sup>6</sup> Employing the latest 'best practice' thinking on country approaches to REDD+ safeguards, including Rey *et al.* (2013a&b).

<sup>7</sup> Paying particular attention to gender-specific elements, as highlighted in the feedback provided by the LEAF project on the first draft of the safeguards roadmap.

<sup>8</sup> Paying particular attention to Cancun safeguard (e) and the definition, and PLR measures to avoid conversion, of natural forests.

<sup>9</sup> Particularly the timber legality definition

<sup>10</sup> Where appropriate, tailoring specific recommendations for major follow-on REDD+ readiness investments (i.e. FCPF readiness grant and anticipated access to the Carbon Fund; UN-REDD Viet Nam Phase II and the Joint Declaration with Norway) that will support Vietnam's country safeguards approach further.

2. Conducting a revised PLR gap analysis against additional interpretation criteria and indicators for Cancun safeguards<sup>11</sup> (15 days)
3. Assisting Lead Analyst in strengthening roadmap recommendations based on the revised legal gap analysis (1 day)
4. Assisting the Lead Analyst respond to stakeholder and MB-REDD team feedback on the draft safeguards roadmap and preparing a revised roadmap document (1 day)

### **Forestry Policy Analyst (10 days)**

1. Assisting the Lead and Legal analysts with the revised PLR gap analysis against improved interpretation criteria and indicators for the Cancun safeguards<sup>11, 12</sup> (3 days)
2. Exploring the synergies between REDD+ safeguards and draft national Forest Stewardship Council (FSC) standards in terms of both content and process (5 days):
  - a. What are the opportunities and limitations for the FSC national standards to contribute to a country approach to REDD+ safeguards in terms of content and process?
  - b. To what extent can the principles and criteria of the draft FSC national standards contribute to the PLR gap analysis undertaken in the context of the development of the country approach to REDD+ safeguards?
  - c. To what extent can the principles and criteria of the draft FSC national standards contribute to demonstrating how REDD+ (Cancun) safeguards are being addressed and respected?
  - d. What are the opportunities and limitations for monitoring of national FSC standard compliance to contribute to demonstrating how REDD+ (Cancun) safeguards are being addressed and respected?
3. Assisting the Lead Analyst respond to stakeholder and MB-REDD team feedback on the draft safeguards roadmap and preparing a revised roadmap document (1 day)
4. Assisting translation of the revised English version of the safeguards roadmap into Vietnamese (1 day)

### **Policy Co-ordinator (5 days)**

1. Liaising with VEA, and associated UNDP consultants to integrate roadmap recommendations into Law on Environmental Protection (LEP) revision process (3 days)
2. Reviewing iterative revisions of the LEP, together with updated results from the revised REDD+ safeguards PLR gap analysis, to refine reform recommendations (2 days)

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<sup>11</sup> Documenting wherever possible available secondary data on the levels of capacity and effectiveness of practices to implement relevant PLRs on the ground.

<sup>12</sup> Paying particular attention to forestry sector PLR framework and the analysis of Vietnam's PLR provisions for avoiding conversion of natural forests (Cancun safeguard e).

## **4. Specifications for Legal Analyst**

### **Qualifications**

- Advance Law degree in international environmental law or equivalent experience (essential)
- Fluency in English (essential) and Vietnamese (essential)

### **Experience**

- Minimum 3 years of practical experience in the area of international environmental law and policy and/or other climate change (essential)
- A proven track record of writing, editing, and producing a range of written materials to a consistently high standard (essential)
- A proven track record of high-level legal analysis across different legal analytical frameworks (essential)
- Experience with REDD+ policy frameworks, issues, and processes (highly desirable)
- Experience with FLEGT frameworks, issues, and processes (highly desirable)
- Experience contributing to law reform processes (highly desirable)

### **Knowledge**

- Understanding of law-making processes and legal systems in Vietnam (essential)
- Understanding of FLEGT and REDD+ frameworks, issues, and processes (highly desirable)
- Working knowledge of one or more of the following areas (essential): international human rights law, international environmental law, and legal reform processes.
- Knowledge of climate change and environmental governance issues in Vietnam and international settings (highly desirable)

### **Skills and competencies**

- Excellent legal analytical skills
- Excellent written and oral communication skills
- Critical thinking, highly creative, and solutions-oriented
- Reliable, dynamic, and self-motivated
- Excellent organisational skills
- Able to balance priorities and coordinate work effectively with colleagues
- Able to work independently as well as in a team environment

## **5. Deliverables (for the whole team):**

To be developed in close collaboration with the SNV Advisors working on the MB-REDD+ project

- Revised Safeguards Roadmap for Vietnam's NRAP incorporating updated analyses, responding to stakeholder comments and providing revised recommendations
- Updated full PLRs gap analysis matrix as a technical annex to the revised roadmap
- Annotated bibliography and soft/hard copies of all documentation consulted during the revision of the safeguard roadmap
- Presentations on revised safeguard roadmap to STWG-SG and other appropriate national fora as necessary

## **6. How to apply**

Interested consultants (for the position of Legal Analyst) should send most updated CVs and Letter of Interest indicating (i) how he/she is qualified to perform the service and (ii) expected NET rate to Mr. Nguyen Vinh Quang ([nguyenvinh@snvworld.org](mailto:nguyenvinh@snvworld.org)). Deadline of submission is 17:00 July 14, 2013.