

LAND USE RIGHT CERTIFICATES FOR FOREST SMALLHOLDERS: KEY FINDINGS FROM IM-VPA BASELINE SURVEY IN 4 PROVINCES

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The allocation of land and forest to local people for management and use has many positive impacts, not only for forest smallholders but also for government and organizations in charge of forest management, protection and development. Therefore, the government has issued many policies to create a legal basis for forest and land allocation, including granting of land use right certificates (LURCs) for forest smallholders. In particular, in the context of the VPA FLEGT approval, the issuance of LURCs has received more and more attention. During the survey of the impact of VPA-FLEGT funded by FAO and conducted by SRD in 4 provinces (Phu Tho, Nghe An, Quang Nam, and Binh Dinh), the research team found some problems related to the issuance of LURCs for forest smallholders.

1. A considerable number of forest smallholders do not have LURCs, yet they have received the allocated land. In two out of four surveyed provinces, there are forest smallholders without LURCs; in Quang Nam province, it is 50.7% out of 877 households, and in Nghe An province, it is 3.6% out of 531 households. There are many reasons for this situation: the lack of household participation in land demarcation and LURC issuance, the local government did not fully implement all the procedure of land allocation as prescribed, technical specification for land allocation and issuance of LURCs is not well detailed, and lack of funding for effective implementation.

2. There are still disputes regarding forest land and land use rights. In Thuc Luyen commune, located in the mountainous Thanh Son district, Phu Tho province, forest smallholders usually have on average 3 forest land plots with an average area of 1.4 ha per lot. Of the 3 land plots, only 1 plot has a LURC, the rest has none. The reason for no LURC is that the land plots are in dispute. In 2010, the People's Committee of Phu Tho province decided to force the forestry companies to hand over forest lands that are used improperly. In Thuc Luyen commune, Tam Thang Forestry Company reviewed and handed over unused land to the People's Committee of Thuc Luyen Commune, however people have been planting forests in the land for a long

time (because the company managed and used the land ineffectively). This issue has led to dispute over forest land between forest planters and administrative agency, resulting in no LURC for the forest land.

3. Possible risks for forest smallholders without LURCs. Regarding the forest smallholders without LURCs, in the context of VPA FLEGT implementation, their forest plots are not considered legal. In addition, without LURC, forest smallholders will have difficulty in accessing financial services or forestry development programs because of no LURC as mortgage or proof of land origin. Their livelihoods which rely on the revenue from planted forest will decrease due to lower selling price of timber, and they will not feel secure in investing in forest plantation without LURC so the productivity and profit are also lower.

4. Final issue is gender in LURCs. As discussed in the article "Gender Issues in Forestry Production", women have little access to forest land, as most of LURCs are recorded in the name of their husbands¹. LURC has three cases of recording name (i) in name of both husband and wife; (ii) in name of the husband; or in name of the wife. The case in name of both husband and wife is less common than the one in name of husband only, as survey data in 4 provinces show that 25% of interviewed households have LURCs in name of both husband and wife, while 64% have LURCs in name of husband only. Women whose name are not recorded in LURCs are given the explanation that the previous legal land documents are usually in the name of husbands, so they hesitate to change the certificates because there is a certain fee, or they are not fully aware of the need to have their names recorded on LURCs. In fact, if the woman's name is not recorded in the certificate, it will be very disadvantageous for them, especially in case of divorce and asset arrangement.

Conclusion. LUR issues, if not solved in timely manner, will greatly affect the international trade participation, especially when FLEGT licenses are issued.

¹ Nguyen Thanh, H., Vu Thi Bich, H. (2019). Gender issue in forestry production: *key findings from IM VPA baseline survey in 4 provinces*

Therefore, it is necessary to speed up the process of issuing LURCs in a legal fashion. The needed solutions are to review and correct the errors in land boundary and area; adjust the land allocation norms in accordance with diverse local conditions; mobilize people's participation in demarcation process; resolve disputes between parties. Especially, it is necessary to follow the rule of recording names of both husband and wife on LURCs. In order to achieve this, there must be coordination between the government and people, between specialized agencies such as Cadastral and Agriculture, and at the same time, technical and financial support from central agencies and external partners.