

# Newsletter

Jaringan Pemantau Independen Kehutanan

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# Enforcement of FLEGT License Must Become a Landmark For Sustainability in Improving Forest Governance



The Indonesian Government has strongly stated its commitment and tangible steps to eradicate illegal logging and trade of illegally harvested timber and timber products. Since hosting the East Asian Conference on Forest Law Enforcement and Governance in Bali on September 2001, Indonesia has been in the forefront in combatting illegal logging and illegal timber trade ever since, including through international cooperation to control international trade.

As part of an international effort to solve this problem, a growing number of consumer countries are committed to take the steps to prevent illegal timber trade in their markets while producer countries are committed to provide mechanisms to ensure legality of their timber products. This is critical in constructing a credible and accountable system to guarantee the legality of harvest, transportation, processing and trade of timber and its derivative products.

Since 2002, Indonesia has begun creating and developing a Timber Legality Verification System (Indonesian TLAS) – called SVLK to ensure that timber and timber products produced in Indonesia are sourced from legal sources that fully comply to Indonesian laws and regulations. Verification through accredited independent audits monitored by civil societies and improved public information transparency are forms of a mechanism to strengthen the system’s credibility and accountability; this in turn will create a system that will be acknowledged and accepted by the European Union Government in the Forest Law Enforcement, Governance, and Trade – Voluntary Partnership Agreement (FLEGT-VPA) between the Indonesian Government and European Union Government on September 2013.

Today, the long and challenging journey of full SVLK implementation has culminated in the EU’s acceptance of full implementation based on this system to begin FLEGT licensing implementation. The EU Parliament has officially stated that Indonesia meets the bilateral agreement to begin FLEGT license implementation. With a “no objection” decision from the EU Parliament and through Joint Implementation Committee (JIC) between Indonesia and the European Union on 15 September 2016, FLEGT Licensing for SVLK products will come into effect on 15 November 2016.

The application of FLEGT license should be seen as a challenge in system strengthening and maintaining and building system credibility and accountability, as a manifestation of sustainable governance improvement in the forestry sector and its trade<sup>1</sup>. Therefore points pertaining system implementation and enforcement must be confirmed continually as the realization of an increasingly credible and

accountable system. This must be the joint and constant awareness between the Indonesian and European Union Governments, and both governments must mutually support the strengthening of the system implementation. Both parties must ensure the seriousness of follow-ups in the event of non-conformance or need for tangible law enforcement efforts on threats to system credibility, including findings of falsification, fraud, or using false business names, which can clearly harm the trust on this system.

Based on the current developments, the Independent Forest Monitoring Network (Jaringan Pemantauan Independen Kehutanan or JPIK) with its 51 civil society organization members and 407 individual members recommends that the Governments of Indonesia and the European Union as well as other relevant stakeholders immediately conduct the following:

1. Tangible monitoring and follow-up, as well as law enforcement, actions to the non-compliances that occur (because this can harm the system’s overall accountability) in all business units in the forestry sector and its trade, to prevent falsification and/or sales of documents, and using false business names, and implement stern legal procedures for these violations. The government must ensure Timber Legality Certificate ownership (S-LK) for all companies that must have S-LK certificates as required in the SVLK.

Cases of large companies claiming to be small-medium enterprises (SMEs), as JPIK stated in its report titled, *Loopholes in Legality* (<https://eia-international.org/wp-content/uploads/Loopholes-in-Legality-FINAL-English.pdf>) which exposed real findings on a number of strong indications of violations. Companies shipping by the thousands for export worth billions of Rupiah take advantage of the Export Declaration (which, in reality, applies only for SMEs). Though listed as forestry industries, these companies do not operate as processing industries. Companies are also suspected of “selling” Export Declarations to other companies that fail to meet requirements and are non-SVLK companies (prohibited to export). The companies are also not registered with relevant authorities<sup>2</sup>.

<sup>1</sup>On 11 May 2016, JPIK and other independent monitoring agencies released a position paper on FLEGT License Issuance available from <http://fwi.or.id/english/publikasi/flegt-license-implementation-must-be-accompanied-by-governance-improvement-sustainability-in-the-forestry-sector-and-its-trade/>

Case of falsification of Timber Legality Certificate (S-LK) documents by one of the companies based in East Java.

Cases of timber utilization (without Timber Utilization Permits or IPK) from oil palm plantation land clearing by companies in Central Kalimantan. These indications of illegalities/non-conformance include: Plantation Business Permit (IUP) issuance before environmental permit is approved (operating without environmental permits), timber utilization prior to IPK issuance, forest clearing outside of IUP (within forest areas), and operating in deep peat (both inside and outside of IUP boundaries).

Cases of utilization of logged timber without S-LK.

2. Review permits of exporters (business that also export), including Cargo Ship Expeditions (EMKL) to ensure the business' eligibility in the forestry sector and its trade as legal framework, to become truly eligible to enter the Timber Legality Assurance System (TLAS).

3. Guide and facilitate certification payment processes and ensure S-LK for SMEs.

4. The Indonesian Government and EU Government must enforce the law on companies proven to be involved in timber trade without required export licenses (V-Legal documents or FLEGT license), or if there are problems with the license. The government must ensure information transparency on ongoing legal measures and law enforcement efforts, and ensure data and information sharing for independent monitoring purposes.

5. Audits (assessments/verifications) by assessors/verifiers must reflect actual conditions on the ground, and findings of system weaknesses that lead to different assessment scores must result in immediate strengthening of assessment/verification standards..

In addition to the points above, SVLK assessment/verification standards require continuous strengthening so that frequently debated issues regarding boundaries in forest ownership/utilization as well as forest management, conflicts, environmental degradation, forest conversion, forest and land fires, corruption, maladministration, or potential deviations can be gradually clarified from the legal point of view, and be resolved with the best possible solutions.

<sup>2</sup>Loopholes in Legality: How a Ministry of Trade Decree Benefits Shadowy Timber Exporters & Undermines Legal Reforms. Full report available from <https://eia-international.org/wp-content/uploads/Loopholes-in-Legality-FINAL-English.pdf>



# Indonesia is The First Country to Issue FLEGT-Licence to European Union

By : Mariana Lubis | Head of Sub Directorate Export and Import Notification, Directorate of Forest Product Processing and Marketing, Ministry of Environment and Forestry



Figure 1. Coordination meeting between LIU (Indonesia) with 28 Competent Authority of European Union on September 30, 2016

Forest Law Enforcement, Governance and Trade – Voluntary Partnership Agreement (FLEGT-VPA) between Indonesia and European Union is a shared commitment to combat illegal logging and its related trading, and to strengthen law enforcement and improve forest governance through rearrangement of timber products trading between two countries. Through this agreement, only timber products that legally verified can be exported by Indonesia to European Union (EU) and received by EU market (28 countries).

FLEGT-VPA is a part of European Union action plan to combat illegal logging practices and its related trading. With this action plan, European Union has a regulation, European Union Timber Regulation (EUTR). Through this regulation, importers (usually called operators) only allowed to put legal timber products in EU market. Therefore, each importer must through due diligence process to prove that its imported products came from legal sources.

Through this action plan, EU also encourages supplier countries (trading partner) to voluntarily partners within FLEGT-VPA scheme. If the agreement is implemented, the supplier countries will get FLEGT licence from European Union. With FLEGT Licence, each product agreed may enter European Union market without having through due diligence process.

The due diligence exception for importers when importing FLEGT-licenced products, makes the work easier since it save cost and resources. Furthermore, it is ensured the products can enter EU since the legality is already guaranteed. With this easiness, it is expected that the importers will prefer FLEGT-licenced products rather than non-licence ones and therefore increasing demand for FLEGT-Licenced products. Increased demand means increased export from the country.

Indonesia has started negotiation with EU since 2007. The Timber Legality Assurance System (SVLK) which is a soft approach policy in combating illegal logging, is considered to be able to meet the EU-TR requirements to obtain FLEGT-Licence. SVLK is developed through multi-stakeholders approach based on legislation. Discussion on SVLK started in 2003 and after went through long discussion, SVLK finally established through Minister of Environment and Forestry

Regulation No. P38/ 2009 (lastly updated through Minister of Environment and Forestry Regulation No. P30/ 2016) on performance assessment of sustainable production forest and timber legality verification on holder of permits, management rights, or private forests.

This regulation is mandatory for all actors who utilize timber products from upstream (forest) to downstream (industry and trader). With this provision, each business actor must obtain certificate, based on set standards. Certificate is a proven of compliance on the legislation. With the certificate, exporters can export using V-Legal document. V-legal document is a document that stated that the exported product is legally produced.

Negotiation in the FLEGT-VPA framework took long time since it started on 2007, the negotiation finally finalized on 2011. However, though the negotiation is final, EU recognition on SVLK marked by the signing of agreement conducted on September 30, 2013. After the signing, then it is continued by ratification from both sides on 2014. Through ratification, FLEGT-VPA between Indonesia and European Union applied de jure on May 2014.

Applied FLEGT-VPA agreement does not mean that Indonesia has obtained FLEGT-Licence. Based on the agreement Article 14 paragraph 5e, Joint Implementation Committee (JIC) is the highest committee in Indonesia – European Union FLEGT-VPA agreement that has the authority to set the start of FLEGT Licence.

Through several evaluations on SVLK implementation in Indonesia, and the readiness of European Union to receive FLEGT Licence, in the fifth JIC meeting conducted in 15 September 2016 in Yogyakarta, it was decided that Indonesia can issue FLEGT Licence on 15 November 2016. With that decision, the V-Legal Document issued for European Union will function as FLEGT-Licence starting on 15 November 2016 (the difference of V-Legal Document and FLEGT-Licence is available in Figure 2).

Similar with V-Legal document, FLEGT-Licence is also issued by Licensing Authority (V-Legal Document Issuer). To date, Indonesia has 22 V-Legal document licensing authorities spread across Java, Sumatera, and Kalimantan.

V-Legal Document issuer is also Timber Legality Verification Agency (LVLK) which its accreditation established by National Accreditation Committee.

FLEGT Licence/ V-Legal Document issued on each export (per shipment). Each issuance is conducted online through <http://silk.dephut.go.id>; forwarded online to INATRADE system in Ministry of Trading and Indonesia National Single Window in Directorate General of Customs. Issuance of FLEGT Licence/ V-Legal Document is monitored by Licensing Information Unit (LIU) as Sub Directorate of Timber Products Export and Import Notification under the Directorate of Forest Product Processing and Marketing. Besides monitoring the issuance of V-Legal Document, LIU is also a unit with roles to communicate with Competent Authority (CA) in 28 countries of European Union members related to the issued FLEGT-Licence.

FLEGT Licence must be submitted to the CA by importers in European Union country where the products will be shipped. Issued FLEGT Licence must comply with the requirements and technical specifications. Guidance on Issuance of V-Legal Document has been regulated through Regulation of Directorate General of Sustainable Production Forest Management No. P.14/PHPL/SET/4/2014 on Standard and Guidance on Implementation of Sustainable Production Forest Management (PHPL) Performance Assessment and Timber Legality Verification (VLK); especially on Annex 7.

In order to celebrate the implementation of FLEGT Licence, LIU have initiated two coordination meetings with European Union CA. The coordination meeting was conducted to discuss preparations and to build common understanding on tasks that will be done. The first coordination meeting conducted on June 6, 2016 through video conference from Jakarta, while the second coordination meeting conducted in Brussel on September 30, 2016 (as shown in Figure 1).

Issuance of FLEGT-Licence on November 15, 2016 will make Indonesia as the first country in the world that has a right to issue FLEGT Licence to European Union.



Figure 3. Mariana Lubis

Besides Indonesia, currently there are other 14 countries in the process of negotiation with European Union to obtain FLEGT-Licence. Those countries mostly members of ASEAN such as Malaysia, Vietnam, Laos, Thailand, and Myanmar that currently still in the preparation process.

Other countries are from Africa region such as Cameroon, Ghana, Liberia, Republic of Congo, Central African Republic, Ivory Coast, Congo, and Gabon; while others are Latin America countries Guyana and Honduras.

Those 14 countries are Indonesia competitors that for all of this time also market their timber products to European Union. If those countries also finally obtain FLEGT-Licence, then Indonesia will not be the only one to have bargain position.

Therefore, into what extent the FLEGT-Licence can provide as much as benefit for timber products in Indonesia will be heavily depends on how Indonesia utilize its pre-eminence. Moreover, quality and credibility of TLAS must be maintained. It means that each actor in implementation of TLAS from the National Accreditation Committee, Verifier Agency and Independent Verification (LP-VI), Licensing Authority (V-Legal Document issuer), and independent investigator/ monitoring must work based on the law, consistently and continuously, and always trying to improve quality and credibility of TLAS.

**DOKUMEN V-LEGAL UNTUK TUJUAN UNI EROPA MENJADI FLEGT-LICENSE**

SEMULA	MENJADI
<b>Efektif berlaku 15 November 2016 dan otomatis akan ditampilkan oleh sistem <a href="http://silk.dephut.go.id">http://silk.dephut.go.id</a> per tanggal 15 November 2016 jam 00.01</b>	

Figure 2. Differences between V-Legal document and FLEGT-Licence

# Readiness of Stakeholders on Welcoming FLEGT Licence Implementation

By: Nike Arya Sari

Towards the implementation of Forest Law Enforcement Governance and Trade FLEGT licence, the Independent Forest Monitoring Network (JPIK) conducted FLEGT Voluntary Partnership Agreement (VPA) national workshop in order to observe the readiness of stakeholders to implement FLEGT licence. Implementation of FLEGT licence which will start in 15 November 2016 is the highest achievement of negotiation between Indonesia and European Union. With that, Indonesia will be the first country in the world to obtain FLEGT licence. "This agreement is not only about trading, the context is more into governance, managing resources in sustainable ways," said Mariana Lubis, Head of Sub Directorate of Import and Export Notification at the opening of workshop in Jakarta, August 2016.

Three resources persons from Ministry of Environment and Forestry, Ministry of Trading, and Ministry of Industry were attending the FLEGT VPA national workshop. Mariana Lubis was representing Director General of Sustainable Production Forest Management stated that Indonesia must maintain and ensure the credibility of the Timber Legality Assurance System (SVLK) and call to European Union to accept FLEGT licence, implement European Union Timber Regulation (EUTR), and together implement the FLEGT VPA. Through implementation of FLEGT VPA action plan, the readiness of Small Scale and Medium Industry (IKM), monitoring, implementation of law enforcement, and how timber circulation system is developed will be observed.

Ministry of Trading hopes that FLEGT licence can improve export products, though there are several challenges for IKM to implement SVLK. One of the issues is cost for certification. Citra Rapati from Ministry of Industry also shared that the verifier requirement especially on permits is one of the difficulties faced by IKM. In order to address that, Ministry of Industry have allocate budget from the National State Budget to assist IKM in obtaining SVLK certificate.

Despite the issues on cost to obtain SVLK certificate, IKM Romansa stated that since there is SVLK, IKM products being considered more and make the export process easier. In general, IKM is ready to implement SVLK.

Indonesia is the most ready VPA partner to implement FLEGT licence. Compliance of permit holders is very critical to maintain the credibility of SVLK. Therefore, in order to ensure credibility of SVLK the roles of independent investigators is critical, especially to eradicate illegal practices by those who utilize the system.

JPIK as one of the independent monitoring network that actively monitor SVLK implementation and submit recommendation to the Government of Indonesia. "The credibility of SVLK still must be improved through law enforcement, ensure SVLK implementation in domestic market, policy reforms on rights of and access for communities around the forest, policy improvement to address deforestation, strengthen independent market monitoring (IMM) implementation, and improve implementation of EUTR," said M. Kosar, National Dynamist of JPIK.

Hopefully, through SVLK scheme can be a solution to combat illegal logging and reduce illegal timber trading. SVLK is one of the ways to improve forest governance and a starting point towards sustainable forest management.



# Perspective of Small and Medium Scale Industry on SVLK Implementation

By : Wibi Hanata Janitra



Appliance of the mandatory Timber Legality Assurance System (SVLK) in 2009 and implemented in 2010 have positively impacted forestry industry, especially for furniture and Small and Medium Scale Industry (IKM) in Indonesia. UD Romansa Jati, one of the IKM have different opinion from several stakeholders who said that the system is putting a heavy burden. UD Romansa Jati considers the SVLK is making their business operation easier.

UD Romansa Jati thought that IKM that has SVLK certificate can be more ease on running their activities since it already comply with the government's mandatory regulation on timber legality. Moreover, in exporting products, IKM with SVLK certificate can export directly since they already obtained legality document needed for export.

SVLK also has impacts on bargaining position from the perspective of national and international buyers. Buyers are more selective on buy products that do not have negative impacts on environment. On the international market, certified timber products are more preferred in Europe and America, where environment issues are critical on those countries.

From the economic perspective, SVLK can be an answer in the middle of trust issues from international buyers on timber products from Indonesia. Especially in Europe where there were many negative events on forest management in Indonesia and became international market sentiment. This is in line with the market demand that asking for certified products.

# National Seminar and Exhibition of SVLK Independent Investigator

By : Ian M. Hilman | Eye on the Forest



Implementation of FLEGT Licence on November 15, 2016 is a historic milestone for forest governance in Indonesia. Timber products from Indonesia will be accepted in Europe continent without due diligence because its legality ensured through the Timber Legality Assurance System (SVLK).

To celebrate the implementation of FLEGT licence, all Independent Investigator organizations in Indonesia held a national seminar and exhibition. The event was conducted at Manggala Wanabakti Building on August 30-31, 2016 and open for public. It is expected that through the event, public can understand that in order to ensure good forest governance, independent investigator must be involved. Moreover, public involvement can urge many stakeholders to support monitoring activities for the sake of responsible and fair forest governance in Indonesia.

During the national seminar, work results on forest monitoring and profile of each independent monitoring agency from Sumatera, Java, Kalimantan, and Papua were showcased. The exhibition consisted of several activities such as photo exhibition, talk show, and coaching clinic on how to make a film for campaign. There were 60 photos exhibited during the event. The images are representative of independent investigators' works such as on forest monitoring, training for investigators' networks, and community development activities towards better forest governance. While the talk show with the theme of strategy on resource mobilization for independent investigators to do monitoring activities. Three resources persons on the talk show were from WWF Indonesia, Greenpeace, and Forest Watch Indonesia (FWI). Those three organizations are considered to have experience on mobilizing resources to support forest monitoring activities in Indonesia.

Role of independent investigators in SVLK is critical, considering its function as monitoring element and its existence have been acknowledged by the government.

Therefore, independent investigator in SVLK system is to ensure all process of SVLK certification is implemented by all forest management units and forest industries based on the regulation in Indonesia

To date, independent investigators organizations that still actively do monitoring activities are: the Independent Forest Monitoring Network (JPIK), Eyes on the Forest (EoF), Alliance of Independent Forest Monitoring in Sumatera (APIKS), PPLH Mangkubumi, Cakrawala Hijau Indonesia Foundation (YCHI), Indonesian Center for Environmental Law (ICL), Village Development Study (LSPP) and AURIGA. Those organizations spread across Indonesia from Sumatera, Java, Kalimantan, Sulawesi, and Papua. Each organization works based on their choices of issues and ways, but still towards one goal to ensure forest governance in Indonesia is based on regulation and responsibility for communities' life and environment preservation.



With emphasize on principle that forests managed by the companies are belong to and owned by the State, then it means the public need to know what happens inside it. Therefore, independent investigators have roles and function as the messenger to inform public on forest management. It is also a part of support towards responsible and fair forest governance in Indonesia.



# National Meeting of the Independent Forest Monitoring Network: Muhamad Kosar Elected as the National Dynamist 2016-2017

The forth national meeting of the Independent Forest Monitoring Network (JPIK) has conducted on August 5-6, 2016. One of the important results from the meeting is the inauguration of the new elected National Dynamist for 2016-2017, Muhammad Kosar. Christian Purba and Zainuri Hasyim the predecessor were resigned.

The national meeting is an annual meeting hosted by the National Dynamist in order to discuss the performance of JPIK and to decide other important and strategic decisions.

The Independent Forest Monitoring Network consists of 462 individual members and 71 organization members expressed their gratitude and highly appreciate Christian Purba and Zainuri Hasyim who have done a good job as National Dynamist for 2014-2016. JPIK is fully support Muhammad Kosar to do his roles and job on leading JPIK.

During the two-days meeting, the JPIK forum also received resignation of Wirendro Sumargo from JPIK Board of Trustees due to personal reason. Furthermore, Zainuri Hasyim elected as Board of Trustees for 2016-2017. JPIK would like to thank Wirendro Sumargo for his service. The JPIK Board of Trustees 2016-2017 are Arbi Valentinus, Mardi Minangsari, Ery Damayanti, Mahir Takaka, and Zainuri Hasyim.



The JPIK Board of Trustees 2016-2017 are Arbi Valentinus, Mardi Minangsari, Ery Damayanti, Mahir Takaka, and Zainuri Hasyim.

With this new persons serve in JPIK, we are expecting for more successful year ahead and improved our work as independent investigator and do our tasks and roles towards better forest governance.



# Monitoring by the Independent Forest Monitoring Network in Six Provinces

By : Dhio Teguh Ferdyan

In order to maintain credibility and implementation of the Timber Legality Assurance System (SVLK) and also to ensure implementation of Ministry of Environment and Forestry Regulation P.30/2016 and Regulation of Directorate General of Sustainable Production Forest Management P.14/2016, the Independent Forest Monitoring Network (JPIK) conducted monitoring activities to ensure the implementation of those regulations. JPIK conducted direct monitoring on SVLK implementation for IUPHHK-HA and IUPHHK-HT permits holders and raw material supply for IUPHHK. Monitoring activities conducted in six provinces: East Kalimantan, North Kalimantan, Central Sulawesi, Central Java, Jambi, and Riau.

The monitoring activities conducted on May to October 2016 on 19 companies that already obtained SVLK certificate. Findings on IUPHHK-HA and IUPHHK-HT permits holders are most of the companies violate legality, ecology, and social aspects on SVLK.

For example on legality aspect, there is a company that still operates and active on production activities even after their permit is suspended by the Ministry of Environment and Forestry. On ecology aspect, JPIK found planting at river border, and clearing of protected areas. On social aspect, there are conflicts between communities and permits holders and it is the most commonly found. Most of the conflicts are related to the permit holder's areas and agreement on boundaries. On IUPHHK permit holders, JPIK found industry that use timber from unknown sources as their raw material, and legality issue on environment permits.

Based on those findings, JPIK considers the importance of preventive efforts from the Government of Indonesia as the policymaker to monitor and ensure compliance of SVLK certificate holders. Moreover, the Government of Indonesia must give sanctions for company that proven to violate and not taking responsibility as SVLK certificate holders as deterrent effect for those companies.

