

REPUBLIC INDONESIA-EUROPEAN COMMUNITY
THE 2nd TECHNICAL WORKING GROUP MEETING ON FLEGT-VOLUNTARY PARTNERSHIP
AGREEMENT
1-2 DECEMBER 2009, MANGGALA WANABHAKTI, JAKARTA, INDONESIA

RECORDS OF DISCUSSION

A. INTRODUCTION

1. Republic Indonesia-European Community 2nd Technical Working Group Meeting on FLEGT-Voluntary Partnership Agreement was held in Manggala Wanabhakti, Jakarta, Indonesia on 1-2 December 2009.
2. The Meeting was opened by Mr. Hadi Daryanto, Director General of Production Forest Management, Ministry of Forestry and by HE Julian Wilson, Ambassador of the European Commission Delegation in Indonesia. Annex A contains the list of members of the Delegation of Indonesia. Annex B contains the list of members of the Delegation of European Union.
3. The text of welcome address and opening remarks by the Director General of Production Forest Management, Ministry of Forestry and the Ambassador of the European Commission Delegation in Indonesia are attached in Annex C.
4. Mr. Hadi Daryanto in his opening statement first of all expressed that Indonesia was on the very final stage of finalizing the Timber Legality Assurance System (TLAS). As a matter of fact, Indonesia needed more time than they have expected before. On the other side, he was of the view that the TLAS would be the very basic element towards the VPA negotiations. He said that, the TLAS or SVLK in Indonesia, is a national commitment. With or without VPA negotiation, SVLK is a kind of stake-holders commitment to provide evidence on sustainable forest management and to promote the trade in legally harvested timber products. In June 2009, the Government of Indonesia (in this case the Ministry of Forestry) had finally issued the Minister of Forestry and the Director General of Production Forest Management regulations numbers *P.38/Menhut-II/2009* and *P.6/VI-Set/2009* respectively, on the Standards and Guidelines on Assessment of Performance in Sustainable Production Forest Management and Timber Legality Verification. The regulations received positive responses from the stakeholders as proved from various disseminations held at national as well as regional levels. The positive response was also shown when the Joint Expert Meeting held in 7-10 September 2009 come to a conclusion on a high degree of compatibility between the P. 38 and P.6 with the EC expectation on a VPA. He also said that the awareness of the need to provide additional instruments to implement the regulations. However, he was pleased to inform that Indonesia is just finalizing the required protocol, technical guidance and manuals including the Independent Forest



Monitoring System as parts of the monitoring and evaluation framework, maintaining dissemination at local (provincial and district) levels, designing and carrying out a capacity building program as well as planning domestic and international promotional activities. Lastly he expressed the ways to help prepare the readiness to implement the P.38 and P.6 regulation, the Director General of Production Forest Management has issued a decree on the establishment of 3 (three) multi-stake holders working groups, namely WG on Dissemination, WG on Capacity Building and WG on Monitoring.

5. HE Julian Wilson in his opening statement first of all expressed his appreciation to the Indonesian delegation on the organization of the meeting. Furthermore HE Julian Wilson informed that the value of Indonesia-EC trade is worth in € 600 million and these numbers would increase if the mechanism of timber certification between both trading partners is there to provide confidence and assurance. He also hoped that the negotiations would identify the necessary add-ons to the SVLK and establish a schedule of commitments with a clear and concrete mechanism for the timber industry. He referred to the VPA as one of the EU's Commitments and in addition gave the example of cooperation with China on timber origin and traceability under an MOU that had been signed in January 2009. In addition, he recalled the importance for Indonesia and EU to be global allies in combating climate change.
6. The meeting which was Co-Chaired by Mr. Bambang Sukmananto and Mr. Hugo Maria Schally was held in a friendly atmosphere, reflecting the excellent relations between Indonesia and the European Union. The leaders of the two delegations noted with satisfaction the continued cooperation between the EU and Indonesia since the Indonesia-EU Joint Expert Meeting held in September 2009 and the progress that had been made by the working groups highlighted the importance of this meeting as basis for VPA negotiations.
7. The meeting adopted the agenda which is attached as Annex D .
8. In addition the two delegations paid a courtesy call on HE Zulkifli Hassan, Minister of Forestry, who reaffirmed the government's commitment to the VPA, and its determination to conclude negotiations by the summer of 2010.

B. EXCHANGE OF VIEWS ON THE EXPERT MEETING CONCLUSIONS

1. Overview of the VPA/SVLK

- i. The EU delegation presented the template for the legal text of the VPA. The FLEGT legality assurance system has 5 components which are; (1) the definition of legally-produced timber, (2) objectively verified compliance with the definition, (3) traceability of products from forest to export, (4) licensing of exports to give assurance to markets and (5) independent monitoring. Furthermore they presented the outline of the structure of the agreement (VPA Objectives, Principles of FLEGT License scheme, License



verification process in the EU, Independent Monitoring, Stakeholder participation and social safeguards, Market incentives, Joint Implementation Committee, General Provisions of Agreement, and Annexes- including details of the Timber Legality Assurance System (TLAS))

- ii. Indonesia delegation presented an outline of the SVLK and informed that Indonesia has issued a number of forestry of regulations in sustainable forest production management and timber verification, they also had participated in a Joint Expert Meeting which concluded that there was a high degree of compatibility of the Indonesian SVLK with EU expectations for the VPA.

2. Exchange of Views

i. Legality Definition

With regard to the legality definition and sustainability forest management standards, the EU delegations asked how to articulate that the legality standard is included in the SFM Standard to meet the legality requirements. They raised the question whether the SVLK covers all types of forest (private and community forest is inside the scheme) and they asked to be reassured that the SVLK covers private and community forest. They also asked whether the SVLK includes provisions for payments of taxes, fees, verification and control of the supply chain.

The Indonesian Delegation replied that the SVLK or TLAS is a step towards the SFM. The private forest have the standard of legality and its already covered by the DG Reg. Number 6 Year 2009 (6 standards include private forest), and this also covers both types of "hutan desa" (community forest).

The EU Delegation wanted to clarify that when SFM certification is satisfied it believes also the legality standard should also be satisfied, and that this needs to be clear. The Indonesian Delegation replied that the protocols would make this clear, and agreed to a EU suggestion that experts be asked to have a closer look at the Annexes of the decree, and how this related to the regulations.

The EU asked about the centralised v operator-based approach for supply chain control – what applies if the volume is less than 60,000m³ per year? The response was that there was no intention to centralise control.

The EU Delegation also asked whether Indonesia imported or transhipped much timber from third countries, and whether there was any processing in Free Trade Zones or Duty Free areas. The Indonesian Delegation replied that there was no official records of transhipment but some timber was imported and processed in Indonesia with controls by customs and border patrols.

For export procedures there are many parties involved, from forest to factory gate and to the ports. The Indonesian delegation gave a short



presentation describing the control procedures. It was agreed that both sides would nominate experts to clarify how the bits in the supply chain are linked.

ii. Licensing Authority

The EU Delegation raised the need for a licensing authority to issue export licences that can be checked by EU competent authorities, and the need to describe this in the VPA Annexes. It was agreed that work on this could be done by the experts, and be the subject of discussion of the TWG in February 2010.

iii. Independent Monitoring

Indonesian Delegation reported on the result of the work of WG Monitoring. The WG proposes the establishment of an independent body which is part of the TLAS and will play the role of not only forwarding complaints or findings on the ground but also to monitor the systems, inter alia:

1. Monitoring at the level of Production/Manufacturing Management Unit (UMP)
2. Monitoring at the level of Independent Assessor/Independent Verification Institution (LP/VI)
3. Monitoring at the level of the National Accreditation Council (KAN)
4. Monitoring at the level of the system.

Indonesian delegation also recalled that they are working to develop procedures and protocols to monitor and report objections, to build capacity of civil society and their networks within the WG Monitoring, develop communication with internal and external media, and give inputs to improve the regulation through policy brief and working papers. The success of the monitoring process will also depend on other civil society networks in such issues, and in general they express how they try as much as possible to combine all the efforts that already been there to avoid overlapping of functions.

iv. Further Work

Both delegations agreed that further work would be undertaken jointly on the elements referred to above. The EU would make experts available who would assist in clarifying and further specifying and developing concepts for considerations of future meetings of TWG. An initial meeting to establish the extent of work to be done would take place in Jakarta in the days following this TWG.

3. Update from EU on

- i. Due Diligence Legislation
- ii. VPA : Processes in Other Countries

- iii. Cooperation with 3rd Countries (i.e. China)
- iv. Public Procurement Policies

The EU delegation recalled the FLEGT action plan (2003). The focus of VPA action is mainly in Africa and Asia. The EU stated that they have ratified the VPA with Ghana, and they also have concluded negotiations with Cameroon and Congo. Negotiations are under way with Liberia and C.A.R . In Asia, EU has negotiations with Malaysia, where there still are a number of outstanding issues. The EU seeks to increase work in the Mekong Region. The EU is planning an ASEM conference on illegal logging in Phnom Penh in March 2010. The EU has signed a MOU with China in January 2009. EU is investigating the possibility of negotiations with Ecuador and Colombia. They recalled that Norway has concluded MOU on REDD with Guyana, with contains explicit reference to negotiating a VPA with the EU.

- v. Introduction of the VPA Legal Text

The Delegates suggested that the VPA Legal Text shall be discussed at the next TWG in January 2010. Indonesian delegates stated that they will come back to give further legal explanation and clarification based on their future internal stake-holders meeting with the Directorate General of Law Affairs and Treaties of the Indonesian Ministry of Foreign Affairs and Legal Bureau of the Ministry of Forestry.

4. Available and Potential Funding Support

- i. Available Funding to Support the Implementation of SVLK

The EU Delegation recalled that the funding of actual support activities would be undertaken in the context of existing bilateral cooperation framework. Since the programming of activities was demand driven, it was important that Indonesia emphasizes the strategic priority it gives to legality assurance. The Commission is undertaking a review of its country strategy paper 2007-2013 in the context of which a stronger focus on the environment is proposed. The FLEGT support project will end in 2011. The EU currently formulating a new economic cooperation facility under which an environment component should be included with the proposed budget of approximately 3-4 million euros. Further consultation with KLN and the representatives of the 3 WG should be organized for this purpose. The remaining budget for the UK-Indonesia MFP which ends in September 2011 is approximately 3 million poundsterling. There is a possibility of a further UK funding for Forest Governance and Trade after the current program finishes.

- ii. Potential Donors from EU

As long as Indonesia accords priority to the implementation of a FLEGT VPA the EU would be ready to consider further support for the program. The EU delegation also recalled the mechanism of funding based on client demand, if there is a demand for the support for SVLK/TLAS is likely



to be also considered by the EU member states. The EU also provide funding through the EFI FLEGT Facility and ITTO TFLET Program.

5. Other Matters

i. Next Meeting : Date and Place

Both delegations agree to recommend that the third TWG should take place in United Kingdom/Brussels in the 25-26th of January 2010. A fourth TWG could be held in the week of the 1st of March 2010 back to back with the Special Session of the UN Environment Program in Bali in the week of 23rd of February 2010. Both delegations recommended to hold a fifth TWG immediately preceeding a third SOM in April or May 2010 in Indonesia.

ii. Possibility of Announcing the VPA Process during the COP-15 Meeting in Copenhagen

Both delegations agreed not to make any announcements regarding the VPA Process during the COP-15 Meeting in Copenhagen. Depending on the progress of the negotiations, both delegations are ready to consider announcing it at a future occasion.

DONE in Jakarta, Indonesia on the 2nd of December 2009, in duplicate, in the English language both texts are equally authentic.

**Co-Chair
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