

The 3rd Joint Expert Meeting

6 - 11 May 2010

Records of Discussion

1. Background

The European Commission (EC) and Indonesia commenced the negotiation of a FLEGT Voluntary Partnership Agreement (VPA) in January 2007. Two Senior Official Meetings were organized in March and July 2007, which were followed by three Technical Working Group (TWG) meetings which took place in April 2008, December 2009 and March 2010.

Two earlier Joint Expert Meetings (JEMs) were organized to discuss and assess the gaps and compatibilities between Indonesia's Sistem Verifikasi Legalitas Kayu (SVLK) and the EU expectations for the FLEGT Timber Legality Assurance System (TLAS). The TWG meeting held in March 2010 concluded that a new JEM should be organized to review outstanding technical issues presented in the objectives below.

2. Objectives

The objective of the 3rd JEM was to provide further clarifications on both EU regulatory mechanisms and Indonesia specific elements of the SVLK and relevant regulations, in particular:

- a) Independent Monitoring / Periodic Evaluation / Periodic Review
- b) Linkage between SFM and Legality Verification Standards
- c) Verification and enforcement responsibilities
- d) Licensing scheme
- e) Control of supply chain
- f) EU regulatory and market mechanisms (e.g. proposed Due Diligence Regulation, EU ecolabel scheme, customs mechanisms, communication within EU member states)

3. Independent Monitoring / Periodic Evaluation / Periodic Review

It was important at the outset of the Joint Expert Meeting to make a number of technical clarifications to avoid confusion for both parties. The points below differentiate between what is understood by Independent Monitoring / Periodic Evaluation / Periodic Review.

It is understood that:

- a) Within SVLK,
 - The Independent Monitoring (IM) is the monitoring of SVLK implementation carried out by Civil Society Organizations (CSOs) as stipulated in the Indonesian regulations. It is foreseen that the license issuance process will also be included in the scope of IM
 - Comprehensive Evaluation of SVLK implementation is arranged by the Government of Indonesia

- b) In the context of the VPA,
 - Periodic Evaluation¹ of SVLK implementation and the import of the FLEGT licensed products into the EU is undertaken by a team appointed/recognized by the Government of Indonesia [NB: source of funding to be clarified with the European Commission]
 - The Terms of Reference for Periodic Evaluation mechanism is clearly stated in a VPA annex
 - The result of the Periodic Evaluation is submitted to a Joint Communication and Review Mechanism (JCRM)²
 - The Periodic Review of VPA implementation is one of the roles of JCRM

4. Linkage between SFM and Legality Verification Standard

It was clarified that there is now a handbill to instruct the following:

During the SFM (PHPL) assessment process, compliance to the legality standard (LK) must also be verified. The PHPL certificate will only be issued if the license holder achieves “good performance”³ and complies with all of the indicators of the LK.

5. Verification and Enforcement Responsibilities

It was clarified that there is now a handbill to instruct the following:

In the event that the license holder has violated the law, the government officer who discovers the infraction will need to report this immediately to the relevant Assessment and Verification Agency (LPVI) and forestry agency at district, provincial, and national levels. This report will be used by the law enforcement agencies and/or LPVI to take further action (which may result in sanctions, certificate suspension or withdrawal).

¹ Periodic Evaluation corresponds to the Independent Monitoring as defined in the FLEGT Briefing Notes

² The JCRM corresponds to the Joint Implementation Committee as defined in the FLEGT Briefing Notes

³ Refers to P.02/VI-BPPHH/2010

6. Licensing scheme

During the discussion the Indonesian experts proposed the points below:

- a) In the context of the VPA, the Licensing Authority is defined as inspection bodies accredited to ISO/IEC: 17020 and recognized by the Ministry of Forestry. These bodies issue V-legal or V-sustain documents to accompany each export consignment.
- b) Since the V-legal or V-sustain document has been designed to include all relevant export information required by major import markets including EU, it should suffice as a FLEGT license
- c) The V-legal or V-sustain issuance process has been clearly illustrated in the diagram attached
- d) The V-legal or a V-sustain document data is uploaded, monitored, and controlled through an on-line database hosted by the Ministry of Forestry
- e) Queries originating from both inside and outside Indonesia can be directly addressed through the on-line database system.

7. Questions from Indonesian experts & Answers

During the discussion it has been clarified that:

- a) Once the VPA is signed by the EC and Republic of Indonesia (RI), it will be ratified by both parties (EU and RI); On the EU side it will be ratified at the EU level only. After the ratification it will be in force in each of EU Member States
- b) The Competent Authority means the existing body(es) – such as customs – designated by EU Member States to verify that each consignment is covered by a valid FLEGT license prior to releasing the shipment for free circulation in the Community
- c) The proposed Due Diligence Regulation (DDR) recognizes FLEGT licensed products as legal and does not require the EU operators/importers to further assess the legality risks associated with FLEGT licensed products
- d) The amended EU regulation No 66 / 2010 on Community's voluntary eco-label scheme intends to promote products with a reduced environmental impact during their entire life cycle and to provide consumers with accurate information on the environmental impact of products. The regulation does not impose any requirements on products originating from VPA countries

The Indonesian experts clearly stipulated that communication activities within EU member states concerning VPA and FLEGT-licensed timber are critical. These include; awareness-raising actions, public education campaigns, information dissemination, and exchange of information & experiences.

8. Conclusions

A common understanding was reached on (i) the need for Periodic Evaluation on SVLK (TLAS) implementation and the import of the FLEGT licensed products into the EU, (ii) linkage between SFM and Legality Verification Standards, and (iii) verification and enforcement responsibilities. From a technical perspective, points (ii) and (iii) have been satisfactorily addressed. Concerning point (i) the JEM propose a Terms of Reference for Periodic Evaluation will be prepared for the purpose of the VPA.

The JEM reviewed and understand the principles of the licensing scheme described in the point 6 above. It is recommended this concept is escalated for further discussions at the TWG level.

In order to move forward with the VPA negotiation the JEM proposes that specific material required for the VPA annexes be prepared on; (a) SVLK standards, (b) FLEGT licensing, (c) TLAS/SVLK description, (d) Terms of Reference for Periodic Evaluation. The SVLK description will demonstrate how the entire supply chain is controlled.

The JEM propose that communication activities within EU member states concerning VPA and FLEGT-licensed timber will be further discussed and clarified in the next video conference and TWG meeting.

Inspection and Licensing Process of V-Legal & V-Sustain

