

Indonesia Civil Society (ICS) Groups¹

Briefing Paper on Legality Verification

ICS Delegates

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One of the key issues that will be agreed to under a Voluntary Partnership Agreement (VPA) in Indonesia will be a working standard outlining requirements for legally produced timber and their timber-based products. Under the umbrella of the Indonesia – UK MOU and through a stakeholder consultation process² the following working draft has been agreed. There is currently a process to finalize the draft with further consultations on the scope and substance of its contents. There will also be field tests to ensure that detailed criteria, indicators and field guidance notes are relevant and implement able. When the final definition is agreed together with a structure to support good governance there will be the need for further information and training to apply this standard.

Progresses up to this stage:

1. A definition of legal timber has been agreed to:
“Timber is legal when the validity of its origin, logging permit, logging system and procedures, administration and transport documentation, processing, and trade or transfer are verified as meeting all applicable legal requirements”.
2. A draft review of legality verification criteria and indicators has been agreed within a small ad hoc team with regard to compliance with relevant laws and regulations, which cover all types of wood products. The small ad hoc team consists of appropriate government representatives, the private sector and members of civil society.
3. A steering committee has been established to support and bridge the work of the small ad hoc team so that it will have a significant role in Indonesia’s national policy to reduce illegal logging. This committee is chaired by the Secretary General of the Department of Forestry and there are five members representing the private sector, indigenous people and members of local communities, NGO’s and experts.

¹ The Indonesian CSGs involved in consultation processes amongst Indonesian Civil Society Groups (CSG) through a series of workshops, meetings and seminars starting 2004 are: Pase-Bandaaceh, YLL-Medan, Hakiki-Riau, AMA-Riau, Jikalahari-Riau, Ulayat-Bengkulu, AMA-Bengkulu, YKR-Jambi (Sumatera); Titian/KAIL-Kalbar, Padi-Kaltim, LPMA-Kalsel (Kalimantan); Jurnal Celebes-Sulsel, Swami-Sultra, Yascita-Sultra, JAUH-Sulawesi (Sulawesi); Silvagama-Jogjakarta, AruPA-Jogjakarta (Java); Manbesaki (Papua); and national CSGs such as LEI, FWI, WALHI, AMAN, ICW, ICEL, IWGFF, CAPP, TAPAL, GreenLaw and Telapak.

² Work was carried out under the auspices of the Indonesian Ministry of Forestry in close partnership with The Nature Conservancy (TNC) with support from the UK Department for International Development (DFID), the US Agency for International Development (USAID) and Home Depot; which then proceed by Lembaga Ekolabel Indonesia (LEI) as assigned from the stakeholder consultation workshop held in June 2005 followed by the latest workshop on September 2005 to take the lead in refining, harmonizing and formulating the governing body for the final Indonesian legal standard through coordination of a mandated small ad hoc team.

4. Preparations have already been made in drafting a verification guide and organising testing in the field. Training for auditors and organisations wishing to undergo a legality verification assessment is already in place.

Key ICS position and point of interests related to this scheme:

1. The legality verification of timber and wood products should also recognise and include the 'Free and Prior Informed Consent' principles in the scheme.³
2. The verification process should be based on a clear traceability of timber and wood products and the firmness matched up of the legal documents with the reality on the ground.
3. A credible organization that is independent and transparent should be appointed by the Government of Indonesia to implement the legality verification; and where audit's must be implemented by qualified personnel from an independent third party.
4. The legality verification will only be valid for a certain period and there must be access for public monitoring. In the event of a violation that is proved the license will be revoked. A civil-society 'Independent Spot Check Monitoring' system should be established, providing credibility for the legality verification.
5. Transparency and stakeholder participation in any changes to legislation are essential for good forest management and to assure the effectiveness of a legality verification scheme. A comprehensible information sharing and adequate communication between all stakeholders of Indonesia and Europe should be ensured. Weaknesses and injustices of the laws in a partner country and in member countries of EU as a reciprocal joint effort should be identified and the proposal for change or to make a new law should be discussed with all stakeholders. These will cover among others:
 - a. Recognition of Government of Indonesia on sustainable community-based forest management and the indigenous right to manage their own natural resources.
 - b. EU member states to procure only legally and sustainably sourced timber and wood products, where the European Standard of legality needs to consider the process of harmonizing legality standards in Indonesia and put the legality issue as an entry point towards Sustainable Forest Management and that a legislation must be ratified to prohibit the import of illegally sourced timber and wood products with heavy penalties on EU member states that still receive illegally source timber and wood products and continue to make profits out of it.

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³ Key areas of FPIC in the legality verification scheme are information disseminations and public consultations to the potentially affected local communities to acknowledge, accommodate and protect their concern and rights on forest land and its utilization.