

EU ACTION PLAN ON FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE (FLEGT)

Agreed Principles from Indonesian Civil Society for a Voluntary Partnership Agreement

Introduction

Since the Forest Law Enforcement and Governance - Asia (FLEG) was initiated in September 2001, the European Union (EU) has been involved in a process that aims to combat illegal logging and related trade. This process, entitled Forest Law Enforcement Governance and Trade (FLEGT), seeks to support an EU Action Plan that will support international and non-governmental organizations (NGOs) and the private sector in a range of activities to fight forest crime.

As a major consuming region, Europe must share responsibility for its demand for cheap timber and wood products. Europe must ensure that all timber and wood products are in fact legal and efforts made in producing countries are matched by the governments in Europe. Legislation to prohibit the import of illegally sourced timber and wood products must be ratified and heavy penalties imposed on those who continue to make profits.

At present the EU is seeking out partner countries to work with as part of a voluntary process to address ways to ensure its markets receive legal timber and wood products. It is the opinion of civil society that voluntary measures do not work. We believe that the only effective way to combat both illegal logging and the associated illegal transport and trade of illegal timber and wood products is to legislate. We demand the prohibition of illegal timber and wood products into the European Union.

Indonesia is a country whose forests are in crisis. The alarming loss of this natural resource is having effects on those who rely on the forest for their livelihoods, it supports corruption and it takes away much needed revenue from both the local and central government. Both the EU and the Government of Indonesia (GOI) have indicated interest in becoming

partners to combat illegal logging and ensure only legal timber and wood products enter the European market. The first such stage in the FLEGT process will be to enter into a Voluntary Partnership Agreement (VPA). To date no mandate or agreement has been made by the European Commission as to what these VPA's will include.

Over the past six months Indonesian civil society has been engaged in a dialogue with both the European delegation in Jakarta and the European Commission in Brussels to ensure that certain principles are included in any agreement between Indonesia and the European Union. These principles are set out below:

Principles

1. Stakeholders should be involved in every step of the process for a Voluntary Partnership Agreement (VPA). It is important to ensure that any new legislation and effort in law enforcement should be done inclusively, transparently, and democratically. The VPA should also recognize the 'Free and Prior Informed Consent' principles through a consultative process with the stakeholders.
2. The negotiation process between the government of Indonesia (GOI) and the European Union (EU) must be transparent - with clear information and adequate communication between all stakeholders. This should also include data and information related to the issuing of any license of legality. Any agency with responsibility in issuing a license of legality must ensure this information is made public to both Indonesia and the European Union. Further, this must also include information about the forest management unit that has passed the verification scheme and been granted a license to export.

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¹ The agreement is the outcome of a consultation process amongst Indonesian Civil Society Groups (CSG) through a series of workshops, meetings and seminars between 2004 and 23-24 February 2005. The Indonesian CSGs involved are: Pase-Bandaaceh, YLL-Medan, Hakiki-Riau, AMA-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 (Jawa); Manbesaki (Papua); and national CSGs such as LEI, FWI, WALHI, AMAN, ICW, ICEL, IWGFF, CAPPA, GreenLaw and Telapak.

² Potential stakeholders are representatives of the FLEGT stakeholders who commit themselves in a Voluntary Partnership Agreement and are willing to contribute in a practical way to achieve a result. Potential stakeholders are selected through consultations and discussions based on representation of any institution, group and entity, Indigenous People Organization's (IPO) including those who are victims of forest crime including the whole community as the main entity.

3. The VPA must be binding for both parties and implemented with clear activities and targets for each project or program (i.e. timebound). The VPA should also include deadlines and stages of progress that are made transparent to all stakeholders in how sustainable forest management is improving in Indonesia. As well as a shared commitment from both Indonesia and the European Union, it is also necessary to coordinate efforts and share resources, and for all stakeholders to be involved in these activities.
 4. Transparency and participation in any changes to legislation are a pre-requisite for good forest management. Weaknesses and injustices of the laws in a partner country should be identified and the proposal for change should be discussed with all stakeholders. The VPA should include activities to review the participatory aspects of legislation in a partner country, to identify the shortcomings and injustices of the system, and to consider the basic principles of responsible forest management. The review should be concluded with proposals for change in response to any shortcomings and injustices.
 5. The definition of legality is very important. It is necessary to ensure that there is a basic criterion to review the legality of timber and timber products. The criteria should contain the fundamental principles of responsible forest management as stated in the legislation of a partner country and supported by effective law enforcement.
 6. A partner country should guarantee the legality of all timber and wood products for export in accordance to a licensing scheme of legality, which adheres to the national definition of legality. This definition should be defined with full stakeholder participation and a thorough and transparent review prior to implementation. A partner country customs authority will be the final checkpoint within any verification. The EU as a consumer region should be able to receive a guarantee of legality for all imported timber and timber products in accordance with the verification scheme. This scheme will include verification by an independent party and by the laws that govern any customs authority.
 7. A license of legality must cover all products that may contain illegal raw material. Limiting coverage to certain timber products, such as round logs and sawn timber, will only assist in the continuation of the laundering of illegal timber in transit countries. Labelling schemes have proved that tracking processed timber down to its source is feasible. In this light, the licensing scheme should cover all timber products.
 8. The mandate of negotiation should ensure that the procedure within the partner country is transparent and includes civil society participation. Any criteria established for the verification and monitoring of timber and wood products must be part of, or reflected in, this negotiation.
 - A:** Ensuring legality of timber and timber products requires a credible organization to certify its legality. The Government of Indonesia shall represent the public interest in leading the establishment of such an organization. Any such organization should be inclusive, respected and acknowledged by all stakeholders. It is therefore necessary to ensure that any such organization is established with full transparency and is accountable to the public.
 - B:** The licensing agency would serve as the decision-maker for the suitability of a license for legality. The license will be given to the forest management unit in accordance with the verification process agreed to as above. To ensure objective assessment of any complaints, an independent third party outside the licensing agency should be appointed to handle complaints.
 9. It is important for any partner country that has weak governance and corruption in its judiciary and forest sector to ensure that there is a role for civil society. That role should include verification and monitoring responsibilities. A civil-society 'Independent Spot Check Monitoring' system should be established, providing enhanced credibility for the official legality verification. Actions should also be included under the VPA which enhance the capacity of civil society groups to carry out such monitoring.
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