The Anthology of RI-EU FLEGT VPA Documents on JEM, TWG, SOM, and post VPA Ratification (JIC & JWG)

RI-EU FLEGT VPA NEGOTIATION
Foreword

This book is dedicated for everyone who have incredible contributions in the FLEGT-VPA negotiation process that started on 2009. This book is compiling the record of discussion and aide of memoar that produced in the years of periode before VPA signing (2009-2013) and after the ratification process in booth parties has been done (2014) and continued with Joint Implementation Committee as the executing bodies that represented RI-EU commitment.

The negotiation process took several technical meetings, coordination in different levels such as demonstrate from both parties involved in Joint Expert Meeting, Technical Working Group, Senior Official Meeting, Joint Implementation Committee, Senior Official Meeting and other related meetings such as video conference, preparation meeting and joint press release.

This book will divide in 3 chapters showed the historical step, processes and milestone in FLEGT VPA implementation.
Chapter #1: Document compiles: Recorde of Discussion on:

- JEM (2009-2011)
- TWG (2009-2011)
- SOM (2007 - 2011)
- Video Conference (2011)
Joint Expert Meeting

EU-INDONESIA FLEGT VPA EXPERTS MEETING
Jakarta, 15 January 2010,
Minutes of the 2nd meeting

1. **BACKGROUND:** The first meeting of Joint EU-Indonesia Expert Team took place in September 2009 with an objective to assess the gaps and compatibilities between Indonesia’s new timber legality verification system (SVLK) and the EU expectations for the FLEGT Timber Legality Assurance System (TLAS). In order to follow up the findings of the joint EU-Indonesia expert team, the Ministry of Forestry has convened four multi-stakeholder Working Groups to further develop SVLK. Working Groups have drafted guidelines to support the verification of the SVLK standards and are currently field testing them in East Kalimantan.

2. **OBJECTIVES:** The objectives of the 2nd experts meeting is (i) to provide further clarifications on specific elements of the SVLK / TLAS and relevant regulations, and (ii) to recommend how to further develop the system, with particular reference to FLEGT licensing and Independent Monitoring. These minutes summarise the findings of the 2nd expert meeting – a full technical report is annexed.

3. **LINKAGE BETWEEN SFM AND LEGALITY VERIFICATION STANDARDS:** These two standards providing criteria and indicators for forest concessions are rather different in terms of their requirements. Due to the differences in their articulation, it is recommended that within the verification guidelines of the SFM standard, it is clearly stipulated that the Independent Assessment and Verification agencies (LP&VI) have to check that the license holders comply with all the Principles, Criteria, Indicators and Verifiers of the legality verification standard.

4. **CONTROL OF THE SUPPLY CHAIN:** it is recommended that implementation guidelines are prepared to help forest companies set up information systems
(databases) to manage quantitative and other data on forest inventory, harvesting, transportation, storing and processing of timber. These systems can be simple spreadsheets or more sophisticated commercial products.

5. **VERIFICATION RESPONSIBILITIES**: Compliance to SVLK requirements is periodically assessed by LP&VIs. NGOs or civil society organizations can submit objections to the assessment results to LP&VIs for settlement. It is recommended that the government agencies are provided with formal channels to affect the assessment results and consequently issuance, suspension or withdrawal of conformity certificates.

6. **FLEGT LICENSING**: LP&VIs appointed by the government of Indonesia and accredited to ISO 17020 can take on the FLEGT licensing function. It is recommended that the competence requirements for licensing authorities are properly documented and guidance is provided to outline the licensing procedures. Since the VPA is an accord between the government of Indonesia and the EU, MoF or another relevant Indonesian ministry shall have the authority to intervene in the FLEGT licensing activities and where necessary require changes to the current practices or initiation of corrective actions.

7. **INDEPENDENT MONITORING**: The NGOs registered in Indonesia and following mutually agreed monitoring protocols will likely supervise the implementation of SVLK. It is also seen as necessary to have a formal oversight structure to ensure the competence of monitoring staff, and quality of monitoring activities and related reports. The oversight structure should be formally recognised by the government of Indonesia, needs to have access to necessary information sources and to report to the Joint Implementation Committee (JIC)\(^1\) on the monitoring findings.

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

\(^1\) A committee established for each VPA made up of representatives of the FLEGT partner country, the European Commission and EU Member States, which will meet periodically to review VPA implementation
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 Evaluation\(^2\) 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)\(^3\)
   - 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"\(^4\) 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).

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\(^2\) Periodic Evaluation corresponds to the Independent Monitoring as defined in the FLEGT Briefing Notes

\(^3\) The JCRM corresponds to the Joint Implementation Committee as defined in the FLEGT Briefing Notes

\(^4\) 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

Documentation Verification

Field verification (Physical checks)

confirmation / cross check

V-legal or V-Sustain Document issued (can be served as FLEGT license)

Technical Working Group

JEM4 11-20 August 2010, (still missing)
The 1st TWG Still Missing
A. INTRODUCTION

1. Republic Indonesia-European Community 2nd Technical Working Group Meeting on FLEGT-Voluntary Partnership Agreement was held in Manggala Wanabakti, Jakarta, Indonesia on 1-2 December 2009.


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 came 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 part 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-stakeholder working groups, namely WG on Dissemination, WG on Capacity Building and WG on Monitoring.

5. HE Julia Wilson in his opening statement first of all expressed his appreciation to the Indonesian delegation on the organization of the meeting. Furthermore, HE Julia 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 SPM 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)

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 pounds sterling. There is a possibility of a further EU 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 (REPUBLIC OF INDONESIA)

BAMBANG SUKMANANTO
Director of Forest Product Processing and Marketing
Directorate General of Production Forest Management
Ministry of Forestry of the Republic Of Indonesia

Co-Chair (EUROPEAN UNION)

HUGO MARIA SCHALLY
Head of Unit
Multilateral Environmental Affairs and Trade
Directorate General for Environment European Commission
A. INTRODUCTION

1. The 3rd Technical Working Group Meeting on FLEGT-Voluntary Partnership Agreement between the Republic of Indonesia and the European Union was held in Manggala Wanabhati, Jakarta, Indonesia on 1-2 March 2010.

2. The Meeting was opened by Dr. Agus Sarsito, Head of the Centre of International Cooperation, Ministry of Forestry of the Republic of Indonesia and by Dr. Hugo Maria Schally, Head of Unit, Multilateral Environmental Affairs and Trade, Directorate General for Environment of the European Commission. 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 meeting adopted the agenda which is attached as Annex C.

B. EXCHANGE OF VIEWS AND CONCLUSIONS

1. Independent Monitoring
   Both delegations agreed that a more systematic evaluation function of the Indonesian TLAS (SVLK) to complement the NGO independent monitoring function developed by the Indonesian Monitoring Working Group will be further discussed in the next Joint Expert Meeting.

2. Licensing Scheme
   Indonesia will discuss further the establishment of a licensing scheme. Further work needs to be done to develop a proposal for licensing SVLK timber. This licensing scheme would be recognized as the licensing system under the FLEGT VPA.

3. Verification and Enforcement Responsibilities
   Indonesia will clarify the procedures applicable to stakeholders/independent monitors and government authorities in case an operator is found to be violating or infringing the law.

4. Control of Supply Chain
   Indonesia clarified that SVLK requires segregation of verified legal and un-verified timber as indicated in the color differentiation of the certificate and will consider the matter in the context of the development of the licensing scheme.

5. Linkage Between SFM and Legality Verification Standards
   Both delegations agreed that the SFM audit also covers the legality standard and the operational guidelines need to be clearer in that respect.
6. Action Points on the SVLK Guidelines
Both delegations agreed to review the issues mentioned above in a Joint Expert Group at the end of April 2010.

7. Action Points on VPA Legal Texts
Indonesian delegation needed more time to further study the VPA legal text which will be discussed on the video conference after the Joint Expert Group Meeting tentatively on the 1st week of May 2010. Both delegations agreed that the SVLK will be the basis of the VPA. The Annexes of the future VPA will provide a full description of the SVLK including the licensing scheme and the independent monitoring function. There was broad agreement on the need to address the concerns raised by Indonesia on the draft text inter alia with regard to the Joint Implementation Committee. HS Coding, the Independent Monitoring, Independent Market Monitoring and the Market Incentive.

8. Next Meeting and Venue
Both delegations agreed to aim for the 4th Technical Working Group (TWG) meeting in Brussels in the 1st or 2nd week of June 2010. The 4th TWG meeting will consider the feasibility of a 3rd Senior Officials Meeting (SOM) in July 2010.

DONE in Jakarta, Indonesia on the 2nd of March 2010, in duplicate, both texts are equally authentic.

Co-Chair
(REPUBLIC OF INDONESIA)

Dr. Agus Sarsito
Head of the Centre of International Cooperation
Ministry of Forestry of the Republic Of Indonesia

Co-Chair
(EUROPEAN UNION)

Dr. Hugo Maria Schally
Head of Unit
Multilateral Environmental Affairs and Trade
Directorate General for Environment
European Commission
Annex A.

LIST OF DELEGATION GOVERNMENT OF INDONESIA

1. Mr. Bambang Sukmananto, Ministry of Forestry
2. Mr. Agus Sarsito, Ministry of Forestry
3. Mr. Helmi Basalamah, Ministry of Forestry
4. Mr. Lamsudin Sitindaon, Ministry of Trade
5. Mr. Sulaiman, Ministry of Foreign Affairs
6. Mr. Syarif Alatas, Ministry of Foreign Affairs
7. Mr. Haryono, Ministry of Trade
8. Mr. Jansen Tangketasik, Ministry of Forestry
9. Mr. Djoko Supomo, Ministry of Forestry
10. Mr. Harry Budi Prasetyo, Ministry of Forestry
11. Mr. Maidiward, Ministry of Forestry
12. Mr. Teten Masduki, Transparansi International Indonesia
13. Mr. Yudi Iskandarsyah, TNC
14. Mr. Nyoto Suhardjono, Apkindo
15. Mr. Haris Wicaksono, Sucofindo Indonesia
16. Mr. Arbi Valentinus, OCSP
Annex B.

LIST OF THE EUROPEAN UNION DELEGATION

1. Mr. Hugo Maria Schally, DG Environment, EC and Head of the EU VPA Delegation
2. Mr. Filip Van Helden, DG Environment, EC
3. Mr. Thibaut Portevin, EU Delegation Jakarta
4. Mr. Hugh Speechly, DFID
5. Mr. Andy Roby, DFID
6. Mr. Dejan Lewis, Tropical Forest Trust
7. Mr. Alex Hinrichs, Consultant
8. Mr. Vincent Van Den Berg, European Forestry Institute
9. Ms. Felise Nguyen, European Forestry Institute
Annex C

3rd VPA Technical Working Group
Jakarta, March 1-2nd 2010
Tentative Agenda

Closed Session
1. Remarks by Head of Delegation, Ministry of Forestry, Jakarta
2. Remarks by Head of Delegation, EU
3. Progress on EU Measures to Support the Trade in Legal Timber (EU Lead)
   a. Due Diligence Regulation
   b. VPAs
   c. Procurement Policies
   d. Cooperation with 3rd countries (e.g. China, US)
4. Exchange of Views on the 2nd EU Expert Group Meeting Report:
   a. Independent Monitoring
   b. Licensing Authority
   c. Verification Responsibilities
   d. Control of Supply Chain
   e. Linkage between SFM and Legality Verification Standards
5. Update from Indonesia on SVLK (Indonesia Lead)
   a. SFM
   b. Verification of Forest
   c. Verification of Industry
   d. Complaints Mechanism
   e. Auditors
   f. Independent Monitoring
   g. The Implementation Strategy of SVLK, Capacity building.
6. Update from the EC on the available and potential donor support (EU Lead)
   a. EC-Indonesia FLEGT Support Project
   b. MIF
   c. Other Member States
   d. Future EC support
7. Indonesia General Comment on the VPA Text
8. Other Matters & Next Meeting
9. Review on the Record of Discussion
10. Signing on the Record of Discussion.
11. Closing
12. Joint Press Release
3rd FLEGT-VPA Technical Working Group Meeting

between

Indonesia – European Union

Jakarta, 1-2 March 2010

JOINT PRESS RELEASE

The third Technical Working Group for the negotiation of a Voluntary Partnership Agreement (VPA) on Forest Law Enforcement, Governance and Trade (FLEGT) between Indonesia and the European Union was held in Jakarta on 1 and 2 March, 2010.

The VPA is a joint effort to address the problem of illegal logging and related trade, improve forest governance and facilitate and promote the trade in legal timber products between Indonesia and the EU. A key part of the agreement is the development of a timber legality assurance system that guarantees that timber products exported to the EU have been produced in accordance with the laws and regulations of Indonesia.

Since the Joint Statement made by the Indonesian Minister of Forestry and the European Commissioners responsible for Development and the Environment to enter into formal negotiations for a FLEGT-VPA in January 2007 Indonesia and the EU have convened two Senior Officials and two Technical Working Groups respectively.

The Indonesian delegation, consisting of government officials, civil society and the timber industry was led by the Head of the Centre of International Cooperation, Dr. Agus Sasirto. The EU negotiating team included officials from the European Commission in Brussels and the UK led by Dr. Hugo Maria Schally, Head of Multilateral Environmental Affairs and Trade Unit of the Directorate General for Environment, European Commission.

The two delegations focused their discussion on the state of play with the implementation of the Indonesian TLS/STKL and the EU expectations for a FLEGT VPA.

During the Meeting Dr. Sukimananto stated that when the Sistem Verifikasi Legalitas Kayu (SVLK) is fully implemented all timber products exported from Indonesia will be certified as legal under this system. He also stated that it is important for Indonesia to obtain recognition of this system from the EU through the FLEGT VPA, as this will provide a market incentive for Indonesian timber and timber products.

Dr. Schally welcomed the rapid development of the SVLK and briefed the Meeting on the state of its FLEGT process with a fast growing number of FLEGT partner countries. The EU is also in the process of developing a new regulation (“Due Diligence Regulation”) expected to be adopted as EU legislation in late 2010, which will require EU traders to take measures to minimize the risk of illegal timber being traded in the EU. He further stated that the draft regulation foresees that timber imported from countries that have concluded a VPA will be considered as ‘legal’. This would give a significant advantage to timber products from VPA partner countries.

The meeting was successful in clarifying important issues and both sides agreed on a number of concrete steps for further work in finalising the SVLK and its linkage to a future FLEGT VPA. Indonesia and the EU agreed to intensify their cooperation in developing the legal text of a VPA. Both sides re-emphasised their commitment to an early successful conclusion of negotiations.
A. INTRODUCTION


2. The Meeting was opened by Mr. Timo Makela, Director for International Affairs at Directorate General for Environment at the European Commission (DG ENV). The meeting was co-chaired by Dr. Agus Sarsito, Head of the Centre of International Cooperation, Ministry of Forestry of the Republic of Indonesia and by Dr. Hugo Maria Schally, Head of Unit, Multilateral Environmental Affairs and Trade, DG ENV. Annex A contains the list of participants.

3. The meeting adopted the agenda which is attached as Annex B.

B. EXCHANGE OF VIEWS

• The EU provided an update on the latest developments with regard to the Due Diligence Regulation and announced that with political agreement reached the Regulation was expected to be applicable as of early 2013. Any FLEGT licensed timber coming from a VPA partner country with an implemented licensing scheme will be considered legal.

• In light of this development both delegations reconfirmed their commitment to conclude VPA negotiations by the end of this year.

• Indonesia provided an update on its recent letter of intent with Norway in the context of REDD+. The sides noted that there were a number of FLEGT related deliverables in the transformation phase indicated in the Letter of Intent.

C. REVIEW OF THE CONCLUSIONS OF THE LAST JOINT EXPERTS MEETING

• Indonesia provided an overview with regard to work on:

  a) The linkage between the SFM and legality verification standards: It had been clarified through a handbook that all sustainably produced timber would also have to comply with the legality provisions. These clarifications will be reflected in the annexes to be developed by the upcoming Joint Expert Meetings (JEM).
b) **Verification and enforcement responsibilities**: These responsibilities had been clarified through a handbill. These clarifications will be reflected in the annexes to be developed by the upcoming JEM.

c) **Independent Monitoring/Periodic Evaluation (PE) arrangements**: Following a detailed explanation and presentation by Indonesia (Annex C) there was a good discussion on the various monitoring modalities involved in SVLK/VPA monitoring. The Indonesian side explained that the SVLK currently foresees a process of independent monitoring (IM) by civil society and also a process of comprehensive evaluation (CE). The EU highlighted that it would require an evidence-based audit of the functioning of the whole VPA (including the LAS) as per Briefing Note 7. Both sides agreed that 1) these monitoring exercises were not sequential but would run in parallel; and 2) that the IM, CE and PE processes would reinforce one another through information exchange.

In addition to the TOR contained in Annex H the TWG requested the JEM to work on a annex for periodic evaluation that would incorporate: 1) the interlinkages of the IM, CE and PE and the information exchange between them; 2) the effectiveness of EU customs procedures and 3) the possible need to also monitor market developments in the EU.

d) **Control of the supply chain**: Indonesia gave the presentation included as Annex D. Both sides agreed to work on the relevant annex through the JEM.

e) **Licensing mechanisms**: Indonesia gave the presentation included as Annex E. Both sides agreed to work on the relevant annex through the JEM.

### D. DISCUSSION OF LEGAL TEXT AND ANNEXES

Indonesia provided preliminary comments on the legal text submitted by the EU from the pre-amble until article 20 and also article 27; 30 and 32 and indicated its general agreement with the structure of the legal text. It pointed to a number of issues that it would want to discuss in more detail. These comments were inserted in the legal text which is annexed as Annex F, dated 21 June 2010.

The EU provided an overview of the 10 annexes that are generally discussed with VPA Countries in Annex G. The EU indicated that it would provide draft annexes 3, 4, 7 and 10 for the perusal of Indonesia. Indonesia agreed to undertake work in developing annexes 4 (Licensing procedures and format), 5 (SVLK description) and 6 (periodic evaluation/independent monitoring) through two more Joint Expert Meetings. Reflections on the annexes and their link to articles in the legal text are presented in Annex H.

### E. FUTURE MEETINGS

Both sides agreed to hold two more JEMs as per the attached schedule and TOR (Annex I) and agreed to hold a Video Conference on the 8th of October to discuss progress and further steps. Both sides also agreed to work towards a 5th Technical Working Group in Indonesia in October or November 2010.

The possibility of holding a third Senior Officials Meeting would be considered in light of progress made by the JEMs.
F. CAPACITY BUILDING AND FINANCE

Indonesia gave a short update on the various activities undertaken to implement the SVLK. Both sides exchanged views on the future availability of finance for VPA implementation. The EU emphasised the long lead times involved in securing long term funding suggesting that work would have to start soon for funding to be made available in 2013. It was suggested that i) discussions were needed with the Ministry of Trade to seek support from the new € 15 million EU-Indonesia Technical Cooperation Facility and ii) Indonesia consider discussing EU funding support from current Country Strategy Paper by mid-2011 at the very latest. In response, Indonesia referred to the need to settle the issue of eligible costs in the FLEGT Support Project first. DFID informed the meeting that a follow on program to its current Forest Governance and Trade Program is under preparation.

DONE in Brussels, Belgium on the 22nd of June 2010, in duplicate, both texts are equally authentic.

Co-Chair
(REPUBLIC OF INDONESIA)

AGUS SARITO
Head of the Centre of International Cooperation
Ministry of Forestry of the Republic
Of Indonesia

Co-Chair
(EUROPEAN UNION)

HUGO MARIUS SCHALLY
Head of Unit
Multilateral Environmental Affairs and Trade
Directorate General for Environment
European Commission
A. INTRODUCTION

1. The 5th Technical Working Group meeting of the FLEGT-VPA was held between the Government of Indonesia and the European Union in Jakarta on the 25th and 26th November 2010.

2. The TWG was preceded by a meeting with Dr Hadi Daryanto, Secretary General of the Ministry of Forestry. The SG reaffirmed Indonesia’s desire to sign the VPA as soon as possible. He requested that all efforts be made to complete the work necessary.

3. The TWG itself was opened by Dr Agus Sarsito, Head of the Centre of International Cooperation in the Ministry of Forestry, with Dr Firman, Director of Forest Product Processing and Marketing, and co-chaired by Dr Hugo Maria Schally, Head of Unit, Multilateral Environmental Affairs and Trade, DG Environment, European Commission. Annex A contains the list of participants.

B. EXCHANGE OF VIEWS

1. The EU Delegation informed about the adoption of the new Timber Regulation which has been published in the Official Journal of the EU on 20-10-2010. The EU also updated the meeting on the progress with other Voluntary Partnership Agreements (VPA’s) around the world. The EU side confirmed it’s willingness to sign a VPA with Indonesia as soon as possible but noted that there was still a considerable amount of work to do on the legal text and annexes.

2. The Indonesian Delegation confirmed Indonesia’s willingness to sign the VPA as soon as possible. Indonesia recognizes the date of application of the new EU Timber Regulation (March 2013) and wants to make sure the Indonesian Timber Legality Assurance System (Sistem Verifikasi Legalitas Kayu or SVLK) would be fully implemented so that the Indonesian forest sector would be ready to meet these requirements, especially for smaller businesses.

C. UPDATE on SVLK IMPLEMENTATION
1. The preparation for the full implementation of SVLK is ongoing with training of auditors, trainers and facilitators. Field-testing has been done in a representative range of industries. 10 companies have been accredited for auditing Sustainable Forest Management (SFM) - known as PHPL, and 5 companies have been accredited for auditing legality (known as LVLK) with another 4 companies in the process of accreditation. 17 natural forest/concession units (FMU's) have been certified for SFM, and 13 plantations units, and 32 factories hold timber legality certificates. In 2011 more companies will be assessed and 300 auditors will accredited. Audit company accreditation lasts for 4 years. Legality verification is granted for 3 years but with an annual assessment and snap assessments if there are concerns about performance.

2. Discussions are underway with the Ministries of Trade, Industry and Finance concerning implementation because the Forestry Ministry is only responsible for primary and secondary production; and the other ministries have responsibility for other parts of the SVLK such as furniture, customs and export licensing.

3. The SFM standard requires that all timber is legally produced. Factories can source timber from one or a combination of SFM, Verified Legal, or in compliance with either P55 (State Forest Land) or P51 (Private Forest Land).

4. Indonesia’s Ministry of Forestry is in discussion with the Ministry of Finance to see if a certificate of legality can be made a requirement for the banking system to approve Letters of Credit. Product scope needs to reflect the expected coverage of products by the SVLK in March 2013, but will be on the agenda of the next TWG and agreed by Indonesia and presented in Annex 1 before April 2011.

5. EU and Indonesia share the objective of complete coverage of the legality verification from all forest sources but recognize that this will take time. The EU clarified that complete coverage was necessary as regards products destined for the EU market before the VPA could actually become fully operational. The EU is interested in where industry is concentrated in Indonesia, and how to prioritise the roll out of SVLK. Indonesia has data on which ports export what products and to where which can be used for such planning.

C. REVIEW OF CONCLUSIONS OF THE LAST JOINT EXPERT MEETING

The Aide Memoire was reviewed and the work of the JEM process much appreciated. The issues raised in the Aide Memoire were discussed under the following Agenda items.

D. DISCUSSION OF ANNEXES

1. Community import procedures (Annex 3); the UK (DFID) presented the UK experience as an example of how one EU Member State will validate FLEGT licenses and release shipments for free circulation. Other Member States may vary these arrangements but the principles will be the same.
2. The meeting agreed about the need for a single entry point for queries from the EU that will be known as the License Information Unit (LIU) in the text. The nomination of an Indonesian LIU will need further consultation with the ministries of Industry, Trade and Finance although in principle it will be DG BUK in MoFor. The text of Annex 3 was agreed, subject to cleaning the language, and pending clarification on the nomination of the LIU.

3. Annex 4 on FLEGT Licensing. The EU license format was compared with the Indonesian V-Legal format, which is designed to also meet the information requirements of other markets than just the EU. Indonesia will reformulate the V-Legal form to follow the EU format, while adding on to it other information as contained in the V-Legal format. For Article 3, the TWG agreed to take out the colours of the license forms. Indonesia will finalize this design, including notes explaining what is required for EU purposes and what is for Indonesia. Other than the original, copies are needed for the licensee, EU customs, the Licensing authority, MoFor, and for the Indonesian customs. Article 4 was redrafted following this discussion and the text agreed.

4. Annex 6: Redrafting Annex 6 reflected that two levels of evaluation (Independent Monitoring and Comprehensive Evaluation) would be Indonesian and part of the SVLK whereas the Periodic Evaluation (PE) and Independent Market Monitoring (IMM) would be joint Indonesian/EU evaluation functions. The PE will review the TLAS from Forest to point of export, while the IMM will monitor whether the EU is effectively implementing its obligations regarding the speedy customs clearance and whether the VPA is meeting market expectations in the EU. Both the PE and IMM will report to the committee that will act as the Joint Implementation Committee (JIC). The EU will submit to Indonesia 2 separate Annexes for the PE and the IMM, under Article X in the VPA legal text, which will be reviewed at the next TWG. The PE will use the results of the Independent Monitoring (IM) and Comprehensive Evaluation (CE) and report on the VPA up to the point of export. It was agreed that PE may need to be more frequent in the first few years of operation, to follow implementation of the SVLK. This subject will be discussed further by Video Conference (VC) on Wednesday 22nd December.

5. The EU will also share thoughts on the frequency of the PE and develop the link with Annex 8 (a description of an evaluation before the VPA becomes operational). There is also a link with the licensing system as described in Annex 5 and this will be discussed in JEM 6. The PE will also be used to assess the implementation of the SVLK in readiness for the VPA and EU Timber Regulation. Detailed timing and implementation of the SVLK will have to be worked out by Indonesia and shared with the EU before April 2011.

6. Annex 5: JEM5 discussed supply chain controls but work is still ongoing. Indonesia has removed details such as the sampling intensity, and replaced it with references to the relevant laws. These laws will be revised as part of ongoing improvements. The VPA will be credible if the Licensing Authority (LA) is seen to provide sufficient confidence that what is being delivered to EU is verified legal. The need for more than one LA is understood because of the size and complexity of Indonesia. In practice there needs to be reconciliation of volume in/volume out data, and that the auditor has a system to do this. Key elements include the frequency of checks, and what to look for, and what happens if the system is found to be dysfunctional. It will also have to be specified how the controls work. Indonesia believes those concerns have been met in the guidelines already developed, but the question about the LA institution needs more development. Indonesia also confirmed that the point of contact (LIU) will be in Jakarta and that that point will be available to
answer enquiries from the EU. These matters will be dealt with in JEM6, where a structured understanding of the system will available, and can be discussed in concrete terms at the TWG6.

7. Annex 7: This annex determines the criteria used to determine when the licensing under the VPA will become fully operational, through a decision at the body that will act as a Joint Implementation Committee, and referring to a PE report, which needs cross-references in Annexes 5 and 7.

8. The TWG agreed that after JEM6, TWG6 would aim to finalize a number of annexes and then look at work still to be done. JEM7 can work on remaining technical issues. The TWG further agreed on a Roadmap for further work between December 2010 and March 2011. Both sides further agreed to aim at concluding negotiations at a SOM in April 2011.

9. The TWG also agreed that the issues addressed in Articles 15 and 16 of the draft legal text and in Annexes 8 and 9 can be left for discussion in the body acting as a JIC.

10. Annex 10: This annex describes what information should be in the public domain so that the public and civil society can access information and engage more in forest policy related to the SVLK. Commercially confidential information should be withheld. The EU needs to show that basic information is available to the public for independent monitoring and complaints under the Aarhus Convention. EU offered support from an EFI expert, Melissa Othman, and Indonesia may wish to organize a multi-stakeholder forum to discuss and agree Annex 10 and the scope and mechanisms for transparency. Indonesia has a regulation on public disclosure, but the laws don’t always meet public expectations as some disclosures are prohibited by law. Articles 21 and 23 in the VPA legal text cover transparency. Indonesia will propose a list of what information should be published, not vice versa. Civil society wants to be sure crucial information for monitoring is accessible.

E. Conclusion

With a view to concluding the negotiations as soon as possible the TWG:

- Agreed to the roadmap contained in Annex B to this Record of Discussion;
- Listed next steps in relation to the legal text and the VPA annexes in Annex C to this Record of Discussion.

Done on the 26th November 2010 in Jakarta, in duplicate, both texts being equally authentic.

Co-Chair (Republic of Indonesia)                     Co-Chair (European Union)
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<tr>
<th>Dr Agus Sarsito</th>
<th>Dr Hugo Maria Schally</th>
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<td>Head of the Centre of</td>
<td>Head of Unit, Multilateral</td>
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A. INTRODUCTION

1. The 6th Technical Working Group meeting of the FLEGT-VPA was held between the Government of Indonesia and the European Union in Jakarta on the 16th and 17th February 2011.

2. The TWG itself was opened by Dr Agus Sarasno, Head of the Centre of International Cooperation in the Ministry of Forestry, with Dr Bambang Sukimananto, Co-ordinating Secretary of the Directorate General of Forest Utilization, and Dr Sulaiman Syafri from the Ministry of Foreign Affairs, and co-chaired by Dr Hugo Maria Schally, Head of Unit Multilateral Environmental Affairs and Trade, DG Environment, European Commission. Annex A contains the list of participants.

B. REPORT ON THE MEETING

1. A summary was given on Joint Expert Meeting 7 (JEM7) that took place in the preceding week in Solo, Central Java and focused on Annex 5.

2. The meeting discussed the VPA Legal Text resulting in a new draft dated 16th February 2011. The following points remain to be discussed:
   a. In recital/preamble: “as the basis for” might be revisited after reading through the text and annexes to ensure SVLK is a full TLAS as defined by the FLEGT.
   b. In recital/preamble on Climate Change: no agreement on reference to REDD+/FLEGT linkage – to revisit.
   c. Check Annex 3 for link to Article 4, para 4.
   d. Article 11: still needs redrafting.
   e. Article 13: still being discussed by Indonesian side.
   f. Article 14: revert to old wording – Union will “ensure” v “encourage”.
   g. Article 15: interim JIC text removed, but provisions for post VPA signing, pre-ratification need to be agreed at the next SOM.
   h. First part of Art 9: (TLAS Evaluation) moved to Annex V second part moved to become Article 15 bis (check when we go through Annex V).
   i. Art 15, makes reference to Article 15 bis, will need renumbering.

3. Review of the Annexes (Co-Chairs)
   
   Annex 1a and 1b: HS codes revised, Indonesia to check Chapter 48 with paper industry, and double check Timber Regulation to make sure Indoc-TLAS covers all EU TR products.
   Annex 2: OK but needs an introduction.
Annex 3: Indonesia to insert language on LIU

Annex 4: EU proposal to review license format, and check product descriptions; HS or commercial description?

Article formatting to be removed and replaced with same formatting as Annex 5.

Problem with unknown destinations, and loads split whilst on the water and ending up in different destinations. Indonesia uses mainly Letters of Credit, at least for EU, so destination is always specified. If Indonesia wants additional information, it’s advisable to label those boxes “for purposes of Indonesian licensing authority only” so that EU customs don’t confuse information with FLEGT requirements. If Indonesian authorities insist then update format as above. EU to consult again with EU customs. For HS codes, Indonesia may use 10 digits but EU will only use 6, EU to double-check Box 9 contents.

Annex 5: TWG heard a clear presentation of Indo-TLAS from the outcome of JEM7 in Solo.

Some of the slides will be added to Annex 5. New edits agreed:

- Consistency of language needed e.g. are we going to use Indo-TLAS or SYLK throughout.
- Explain that the Verification body has a contract with the auditee.
- Explain the relationship between Periodic Evaluation and ‘Independent Monitoring’.
- Revise Section 7 on Monitoring in line with the VPA Legal Text, with No 1 in Article 9, Remove IMM, but refer to PE, CE and IM.
- Need a glossary (applies to whole VPA).
- Explain how are voluntary certificates treated? Informal acceptance, not a formal policy yet but maybe should be.

Consequences of failed audit – outstanding questions to be clarified:

- What happens if an infraction occurs and a certificate is suspended, what happens to the timber? Will timber be seized? If yes, and courts decide what to do, what are the procedures?
- Suppose there is a major correction action due to a forest fault, does a buyer stop immediately? Government will be informed and action followed as per description in Annex 5.
- If the timber is no longer tradeable what is the process to ensure this?
- Does cessation of trade depend on the type of infraction discovered in the audit?
- Is it possible to just have an administrative penalty? Can the fault be corrected and “solved” within a limited time frame?
- If a company is breaking the law, according to an auditors visit, it must stop operations.
- The consequences of suspending a certificate need to be spelled out – does a concessionaire then stop selling to mills? In practice, and during the transition period before full Indo-TLAS operation, buyers will have to segregate the timber into non-verified legal. This needs to be made explicit in the law and needs further reflection. Follow-up action needed to get more detail and also consult with industry.

- Need to describe the information auditors hold.
- Annex 5 needs to be more aspirational – where will we be in 2 years time?
- Agreed process to complete Annex 5: EU to do redraft based on above inputs, after consultation with EU side, then send to Indonesia, who will respond and discuss by VC on the 11th or 14th March. Generally still need to make Annex more readable and get commitment from other stakeholders too.
Annex 5a: Periodic Evaluation revisions. Indonesia’s proposal to change qualification requirement after discussion and rewording, 5a was completed. Reformatted to be done to remove articles and follow Annex 5 formatting.

Annex 5b: IMM. EU provided edited draft to Indonesia for review and reaction. It was agreed to take out qualification requirement in Art 6 for dealing with complaints, and Art 7 for reporting. Reformatted to be done to remove articles and follow Annex 5 formatting.

Annex 7: Criteria for assessing operational TLAS. Introduced by Indonesia, edited version presented by EU. Text was reviewed, edited and finalized.

Annex 10: Information disclosure – updated text revised after JEM8 was presented. Added intro on Freedom of Information Act. Text summarized from the long list to a limited scope of the essential 9 elements that monitor function of SVLK, whilst also reflecting information needs for the wider SVLK monitoring objective. All information needs give sources; 1, 2 and 3 gives sources for monitoring SVLK directly, whilst 4 gives wider sources. Some information is commercially confidential and not available. Generic terms are used to aid understanding and reading through, not technical titles. The substance of list is all still there.

4. Next steps (Co-Chairs)
   a) Follow up work on Annexes 1, 3, 4, 10 by VC on 3rd March to be confirmed by EU.
   b) VC on Annex 5 on either 11th or 14th March to be confirmed by EU/Indo.
   c) Possible dates for SCM either up until 18th April, or from first week of May onwards (avoiding Easter holidays in Europe and second week of May).
   d) Exchange of information on the ratification processes in Indonesia and EU.

5. AOB (Co-Chairs)
   Implementation strategy for SVLK (MoFor) and update on plans for development cooperation (EU and UK).

6. Closing Remarks (Co-Chairs)

Done on the 17th February 2011 in Jakarta, in duplicate, both texts being equally authentic.

Co-Chair (Republic of Indonesia)

Co-Chair (European Union)

Dr Agus Sarito
Head of the Centre of International Cooperation
Secretariat General
Ministry of Forestry

Dr Hugo Maria Schally
Head of Unit, Multilateral Environmental Affairs and Trade
Directorate General for Environment
European Commission

Annex A: List of Participants
Annex B: Update Roadmap
Annex C: Status of VPA Annexes
REPUBLIC OF INDONESIA – EUROPEAN UNION
THE 7TH TECHNICAL WORKING GROUP MEETING ON FLEGT-VOLUNTARY
PARTNERSHIP AGREEMENT (FLEGT-VPA)
DG ENVIRONMENT, BEAULIEU, BRUSSELS, 14th April 2011

RECORD OF DISCUSSION

A. INTRODUCTION

1. The 7th Technical Working Group meeting of the FLEGT-VPA was held between the Government of the Republic of Indonesia and the European Union in Brussels from the 12th to 14th April 2011.

2. The TWG was opened by Dr Hugo Maria Schally, Head of Unit, Multilateral Environmental Affairs and Trade, DG Environment, European Commission and co-chaired by Dr Agus Sarsito, Head of the Centre of International Cooperation in the Ministry of Forestry. Annex A contains the list of participants.

B. REPORT ON THE MEETING

1. There was an exchange of information and clarification on the process of signing and ratification of the VPA in both Indonesia and the EU, and a discussion on the proposal for a "solemn ceremony" in Jakarta during the visit of EU Trade Commissioner De Gucht in early May 2011 to mark the successful conclusion of negotiations for the VPA. It was proposed that the Minister of Forestry and Trade Commissioner make a joint statement on the conclusion of FLEGT VPA negotiation, which would follow-up from the joint statement of January 2007 that launched the VPA negotiations.

2. The meeting discussed preparations for the implementation of the VPA until entry into force. The meeting agreed to propose a set of preparatory measures to the VPA SOM including the establishment of a "Joint Preparatory Committee", which could have its first meeting in September 2011.

3. The Legal Text and Annexes of the VPA were reviewed, revised and agreed. See annexes B and C. Both sides will discuss modalities for legal scrubbing.

Done in duplicate in the English language on the 14th April 2011 in Brussels.

Co-Chair (European Union)
Dr Hugo Maria Schally
Head of Unit, Multilateral Environmental Affairs and Trade
Directorate General for Environment
European Commission

Co-Chair (Republic of Indonesia)
Dr Agus Sarsito
Head of the Centre of International Cooperation
Secretariat General
Ministry of Forestry
Annex A: List of Participants
Annex B: VPA Legal Text
Annex C: VPA Annexes
A. INTRODUCTION

1. Republic of Indonesia-European Community 1st Negotiation on FLEGT Voluntary Partnership Agreement was held in Jakarta, Indonesia on 29-30 March 2007.

2. The Indonesian delegation was led by Dr. Hadi S. Pasaribu, the Director General of Production Forest Management of the Ministry of Forestry. The European Community delegation was led by HE Jean Bretèchè, Ambassador of 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 Community.

3. The meeting was held in a friendly atmosphere, reflecting the excellent relation between Indonesia and the European Community. The leaders of the two delegations noted with satisfaction the conduct of the bilateral meeting. They said that this meeting will contribute to the strengthening of cooperation in combating illegal logging for the mutual benefit of the two Parties. The two delegations shared the view that the cooperation in combating illegal logging shall be carried out with appropriate management measures in accordance with the prevailing laws and regulations in Indonesia as well as EU.

4. The texts of the welcome address and opening remarks by the Director General of the Production Forest Management of the Ministry of Forestry of the Republic of Indonesia and the Ambassador of the European Commission Delegation in Indonesia are attached in Annex C.

5. Dr. Hadi S. Pasaribu in his opening statement first of all expressed his satisfaction of the Joint Statement between the Government of the Republic of Indonesia and the European Commission on the FLEGT VPA signed in Brussels on 8th January 2007 and that this meeting is the follow up of the Joint Statement. He highlighted the efforts that have been taken by Indonesia to combat illegal logging. For more than one year Indonesia has been undertaking multi-stakeholders consultations at central and local levels to harmonize Indonesia’s preparedness to enter into negotiation of the VPA. Indonesia welcomes international efforts for combating illegal logging and associated trade, including the FLEGT Voluntary Partnership Agreement. However such efforts should respect Indonesian legality regulations, and should be internationally recognized, including by the EU, be non discriminatory, use independent monitoring which would be negotiated and agreed upon, have a reciprocal obligations by EU, meaning that there would be a commitment not to import illegal products, harmonize standards of the different VPA countries as well as to avoid different standards that may lead to different costs for industries. The Head of Indonesian delegation emphasized the use of multi stake-holders approach to develop the standard of timber legality. Furthermore, he affirmed that VPA is a joint commitment between both
Parties, in this case between Indonesia and the European Community, as the foundation for joint actions to fight illegal logging and associated trade from the timber producer and consumer counties perspective. In the closing of his statement, he expressed the hope that the future development of a Voluntary Partnership Agreement should not discourage domestic efforts to combating illegal logging and associated trade.

6. HE Jean Bretèché in his opening statement first of all expressed his appreciation to the Indonesian delegation on the organization of the meeting. Furthermore HE Jean Bretèché said that the opening of the substantive negotiations is an important step and referred to the EU FLEGT Action Plan aimed to give access to legal timber products. EU considered that Indonesian forests are among the most bio diverse in the world and they play a major environmental, economic and social role in the country. Indonesia is also a very important trading partner for the EU and its efforts over the last few years to effectively control the legality of its timber operations have been considerable. It is therefore only fitting that Indonesia was among the first countries to decide to start negotiating a FLEGT Voluntary Partnership Agreement with the EU. Other countries follow the negotiation with interest. The main idea of VPA is that it should be a partnership. In addition, the EU delegation recalled that the target to conclude VPA should be by the end of this year or early 2008. The Head of Delegation affirmed that the VPA would increase the credibility of Indonesian timber products as well as the image of Indonesia. Another important aspect which was mentioned was the participatory process which should include multi stake holders, NGOs and private sectors. Furthermore he elaborated on the importance of determining which legislation should be taken into account as a legality definition. In closing, the Head of Delegation stated that United Kingdom and other EU Member States worked closely with EU in this FLEGT program.

7. The meeting adopted the agenda which appeared as Annex D.

B. EXCHANGE OF VIEWS ON INDONESIAN FORESTRY

8. The Indonesian delegation presented the current developments in Indonesian Forestry. Indonesian side among other things elaborated the achievement of sustainable forest management in Indonesia through mandatory verification program and voluntary certification. The Government of the Republic of Indonesia has set five priority policies in the forestry sectors: combating illegal logging and its associated trade; revitalization of the forestry sector, particularly the forestry industry; rehabilitation and conservation of forestry resources; empowerment of economy of local community which focus on the poverty alleviation and the gazetting of forest areas. Furthermore Indonesian delegation also elaborated that a harmonized standard of legality of timber has been developed as well as a mechanism for verification. The harmonization of the standard was done through multi-stakeholders involvement over some years. The legality standard is a step toward sustainable forest management.

9. The Indonesian delegation elaborated the prevailing laws and regulations concerning the legality definition which were part of the VPA processes. In addition, Indonesian delegation expressed their expectations for Voluntary Partnership Agreement, which are: the VPA would be in accordance with Indonesian legality regulations, and should be internationally recognized, including by EU; use independent third party monitoring; promote capacity building; not be used as an approach to prohibit utilization of production forest but more to facilitate the promotion of legitimate timber trade; increase market access for Indonesian timber products in EU; help in securing government revenue from forest products; provide technical assistance to conduct effective monitoring for legal timber; strengthen capacity of civil society in monitoring illegal logging; give incentives for Indonesia, by increasing timber trade volume to EU, decreasing tariff and non-tariff barriers and last but not least FLEGT-VPA should not create costs that could burden Indonesian companies.

10. Both delegations then discussed the implementation of the verification system, including the coordination between Indonesian central government and local government. Another issue discussed was the relationship between the mandatory verification system and the voluntary eco-labeling system. The delegations also discussed the licenses for forest conversion issued by local government which are no longer in force, as well as the issue of land allocation for bio fuel program.

C. EXCHANGE OF VIEWS ON THE EXPECTATION FOR VPA FOR EU AND RELEVANT EU LEGISLATION
11. The European Community delegation explained the historical background of the FLEGT VPA. The WSSD Johannesburg Declaration highlighted the issue of illegal logging. Currently the international system does not distinguish between legal and illegal timber products. Therefore the EU decided to establish voluntary partnership agreements (VPAs) as the platform to contribute in combating illegal logging and which would allow the identification of legal timber products. The overall objectives of the VPA are to support sustainable forest management, support and enhance capacity of government in law enforcement which are precondition for the legal timber product, support more rational use of natural resources for economic development. He elaborated that in the VPA there should be concrete implementing rules, once we have reached an agreement, the FLEGT licence would allow for harmonized processing of shipments by EU customs. The EU respects the specificity of national conditions of every country while also striving to ensure comparable standards in VPAs. The agreement will help enhancing the confidence of European consumers to use timber products from VPA partners. Furthermore he emphasized that the participation of stakeholders in the process is an important point to ensure the credibility of the system. The VPA agreement is an important contribution to the sustainable use of forest resources as well as contribution to the economy of that country.

12. The European Community delegation explained that a FLEGT Regulation had been passed by the EU which provides a legal framework to regulate the entry of timber products from FLEGT partner countries so that only FLEGT licensed (legal) timber products from such countries would enter the EU. Detailed implementing rules for the FLEGT Regulation were currently being drafted.

D. EXCHANGE OF VIEWS ON THE OUTLINE OF THE FOREST LAW ENFORCEMENT, GOVERNANCE AND TRADE VOLUNTARY PARTNERSHIP AGREEMENT (FLEGT VPA)

13. The meeting than discussed the outline of the Forest Law Enforcement, Governance and Trade – Voluntary Partnership Agreement (FLEGT VPA) based on a document provided by the European Community and priorities proposed by the Indonesian delegation.

   a. Objectives of FLEGT VPA

      Both delegations agreed that the objectives of the FLEGT VPA should cover legal compliance as an important step towards SFM, good forest governance and trade in legally produced timber.

   b. Definitions of Terms of FLEGT VPA

      Both delegations agreed that the VPA should be based on Indonesian laws and regulations.

   c. Scope of FLEGT VPA

      The Indonesian delegation proposed that the products to be covered by the VPA shall be consulted further to the stakeholders and agreed with the EC delegation to referred to the HS code.

      The Indonesia delegation made proposals relating to import duty and price premium to be included in the Scope. After discussion, both delegations agreed that the scope should include measures to improve market access and provide positive incentive for VPA partners as well as assistance to help meet the cost related to the VPA.
14. Indonesian delegation proposed priorities of issues to be discussed which are: the standard of legality; reciprocal obligations which cover Indonesian capacity building and legislation; registration; incentive measures and protocol mechanism.

a. Standard of legality

An explanation was provided by the Indonesian delegation on developments related to harmonization of the legality standard and on-line tracking system in which it was explained that the national legal system for verification of the standard of legality is under the domain of the Government and should be accountable, efficient and aimed to promote justice in forest resource use. The European Community delegation stated that they appreciated the considerable work that have been undertaken by the Indonesian stake holders and the progress made and proposed collaboration to understand how the system works as well as offering its assistance in particular through the FLEGT support project.

b. Capacity Building Measures

Both delegations recognized the need for assistance to develop capacities of Indonesia to meet FLEGT licensing scheme requirements as well as assistance in marketing of FLEGT licensed products and help meet the additional costs that are incurred to the FLEGT licensing scheme. Furthermore both delegations agreed that positive recognition to FLEGT licensed scheme is an important issue and should be promoted in the EU.

The Indonesian delegation highlighted the importance of capacity building for the private sector including market issue, local government and central government and law enforcement. The EC delegation also noted the important of capacity building for law enforcement.

c. Legislation

Indonesian delegation stated it concern that it could face unfair competition if illegal timber products from non VPA countries enter the EU market. Therefore, the EU should put in place legislation to ban the import of illegal timber from all countries.

In response, the EC delegation stated that further measures are being considered by the EU to address this problem but at this stage it was not possible to be more specific. However general reference to measures to deal with this problem could be possible in the VPA.

d. Incentive measures

Following the previous discussion on the related issues under Scope of the VPA, there was exchange of views on market access for FLEGT VPA timber products. The two delegations agreed the further discussion could be based on the result of a market/impact study about to be undertaken by the Ministry of Forestry and FLEGT support project. The EC delegation mentioned similar study was being undertaken in Malaysia and could be further enrich the deliberation.

e. Protocol mechanism
In response to request for clarification from the Indonesian delegation on the legal status of the VPA, the EC delegation explained that it understood to be a legally binding bilateral agreement with obligation for both sides.

E. NEXT STEPS AND KEY ELEMENTS OF NEGOTIATION ROADMAP

15. On the agenda of substantive issues and technical working groups, the meeting agreed to establish two working groups, the first working group would focus on standard of legality and the second one on capacity building as well as incentive measures. In addition, the meeting also agreed that a third group on legislation and laundering could meet back to back with the next meeting in which the discussion will be based on papers to be submitted by Indonesian delegation before the meeting. The contact persons for the working groups would be Mr. Thibaut Portevin for the EC delegation as for the Indonesian delegation Mr. Agus Sarsito (for the standard of legality working group) and Mr. Taufiq Alimi (for the capacity building working group). The working groups are to report to the delegations before the next meeting. The EC delegations suggested that further works on the market access could take place based on the market impact study which would launched shortly. FLEGT project would provide technical inputs to the technical working groups.

16. EC delegation recognized the transparent way in which the meeting has been conducted. It asked for clarification on the status of the Records of Discussion with respect to public access. Indonesian delegation, in response, stated that the Records of Discussion would be “limited distribution” but that a press release should be prepared for the public consumption. EC delegation said that the press release should be comprehensive to cover the main points.

F. MECHANISM AND VENUE OF THE NEXT MEETING

17. Both delegations agreed to recommend that the second negotiation should take place in Brussels in the second week of July 2007. The exact date will be determined in due course.

Done in duplicate at Jakarta, Indonesia on 30 March 2007

HEAD OF
HEAD OF
INDONESIAN DELEGATION
EUROPEAN COMMUNITY
DELEGATION

HADI S. PASARIBU
Director General
of Production Forest Management of

JEAN BRETÊCHÉ
Ambassador
18. The 2nd SOM on Negotiation of a FLEGT Voluntary Partnership Agreement between European Commission - Government of Indonesia was held in Brussels, Belgium on 11 – 13 July 2007.

19. The Indonesian delegation was led by Mr. Eddy Pratomo, the Director General for Legal Affairs and International Treaties, Department of Foreign Affairs. The European Commission delegation was led by Ms Soledad Blanco, Director, International Affairs and LIFE, DG Environment, European Commission. Annex A contains the list of members of the Delegation of Indonesia. Annex B contains the list of members of the Delegation of European Commission.

20. The meeting was held in a friendly atmosphere, reflecting the excellent relations between Indonesia and the European Commission. The Heads of the two delegations noted with satisfaction the continued cooperation between the EU and Indonesia since the first meeting and the progress that had been made. The texts of the welcome address and opening remarks by Ms Blanco and Mr Pratomo are attached in Annex C and D respectively.

21. The meeting adopted the agenda which is attached as Annex E.

22. The meeting was conducted in two modalities: technical meeting and plenary session.

B. PRESENTATIONS
23. The EU delegation made presentations on measures it is taking aimed at combating trade in illegal timber and timber laundering (Annex F) and also on progress with negotiations on FLEGT VPAs with other countries.

24. The Indonesian delegation made presentations on the current status of its Timber Legality Assurance System – TLAS - (Annex G) and on capacity building needs and incentives (Annex H).

25. Clarifications were provided on a number of points in relation to the presentations in order to provide both parties with a good basis for further deliberations.

C. TECHNICAL MEETING

26. The technical meeting explored in detail and clarified understanding of the points under Agenda Item 8, in particular: the TLAS, scope of the VPA, law enforcement and governance, consultation, identification of cooperation activities as well as independent assessment of the TLAS in Indonesia.

27. The main points arising from the technical meeting were reported to the plenary session for further discussion by the Heads of Delegation.

D. PLENARY SESSION

28. Identification of cooperation activities The Indonesian delegation stated that considerable work had been carried out to identify capacity building needs but that further consultations were necessary to prepare a consolidated list of such needs. In broad terms it was clear that cooperation activities should strengthen the capacity to develop the TLAS, the capacity of law enforcers and the judiciary, the capacity of forest operators including small and medium businesses, as well as for marketing. The EU delegation stated that it was important to distinguish short term needs to provide inputs for the VPA negotiation process and medium to long term needs for the development and implementation of the TLAS and other components in the context of the VPA.

29. Independent Assessment of the TLAS in Indonesia The EU delegation explained that prior to finalization of the VPA an independent review of the TLAS should be carried out. This would help ensure that the system met both parties expectations and that legality assurance systems of different FLEGT VPA countries were broadly equivalent. The Indonesian delegation, while agreeing in principle, stated that such an exercise should take the form of a joint review, supported by experts when necessary.

30. Review of Elements to be Discussed for the VPA

   a. Scope

The Indonesian delegation stated that it was considering a wide scope of product coverage for the FLEGT VPA. However the decision on scope would await further clarification of some elements of the VPA. The final design of the TLAS could also influence the decision on product coverage within the VPA. As there is a ban on the export of logs and sawn timber these products would not be included in the scope.
b. Timber Legality Assurance System

The Indonesian delegation outlined the Standard of Legality including the legality definition, principles, criteria and indicators. A multi-stakeholder consultation process has furthered the understanding of timber legality with reference to the existing laws and regulations, and resulted in the Harmonised Standard of Legality which covers both the utilization of timber and traceability. The Indonesian delegation also explained the main elements of the planned institutional set-up to implement the TLAS. This will include the following functions: a governing body, an accreditation body, verification bodies, a licensing body and monitoring bodies. The Indonesian delegation raised concerns on the reference to international ISO standards in the EU Briefing Note on Independent Monitoring. Indonesia considered that this could limit the potential participation of Indonesian bodies in the system. The EU delegation stated that these references were to ensure credible independence and capability of systems and also pointed to the term “or equivalent” in the briefing notes. Indonesia is preparing Criteria and Indicators for institutions involved in independent monitoring.

c. Forest Law Enforcement and Governance

The Indonesian delegation explained that capacity-building needs under this heading would be included in the identification of cooperation activities.

d. Circumvention/ Legislation

The Indonesian delegation considered it essential for the EU to adopt legislation to address circumvention via non-VPA countries in order not to face unfair competition and went on to state that it considered that this was a reciprocal obligation for the EU. The Indonesian delegation requested clarification from the EU concerning its intentions in this regard. The EU recognized that the coverage of FLEGT VPA was incomplete and that further measures should be examined. It explained the current process to identify such measures. An internet-based public consultation was held in the first quarter of 2007 which requested views on four main options. A synthesis of the results of the consultation would be posted on the EU website by the end of July 2007. An impact assessment study started in July 2007 and will be completed in November 2007. The study will include a stakeholder consultation in Indonesia. Based on these inputs the European Commission will take a decision in early 2008 on further potential measures, including possible legislation. Should a legislative proposal be tabled it would need to be adopted by the European Parliament and Council of Ministers – a process which could take 18 months.

e. Incentives

The Indonesian delegation expressed the view that incentives were crucial for the success of the VPA. Such incentives included reduced tariffs on Indonesian FLEGT licensed timber products, recognition of such products in EU Member States public procurement policies, fair prices reflecting the costs of production and scarcity. The EU delegation referred to the ongoing market study, which will provide useful information on which to base further discussions. This study is due to be completed in October 2007. The EU delegation offered to provide information on its tariff policy for timber products but stated that such discussions should be pursued in other fora such as the forthcoming EU-ASEAN Free Trade Agreement. The EU delegation also offered to provide information on public procurement policies for timber and stated that it was actively calling on EU Member States to recognize FLEGT-licensed timber in such policies. The EU delegation also considered that trade promotion of FLEGT licensed timber could help facilitate market access.
E. OTHER MATTERS
31. No other matters were raised.

G. NEGOTIATION ROADMAP

32. In order to ensure progress in the negotiations both delegations agreed to:

   a. Hold regular meetings at senior level in Jakarta to review progress of work and exchange information.

   b. Hold the first regular meeting at the end of August 2007, which will focus on the TLAS and development cooperation activities.

   c. Exchange information. In this regard the Indonesian delegation will provide a list of cooperation needs and documentation describing the TLAS by the end of August 2007.

   d. Discuss issues related to additional measures, public procurement policies, market access (including but not limited to explanations of EU tariffs) at a subsequent meeting

   e. Exchange proposals for text on administrative matters, procedures and final provisions as contained in an outline discussed at the first SOM by mid-October 2007.

   f. Hold a telephone conference between heads of delegations of the SOM in mid-October 2007 to confirm the timing of the next SOM, based on an assessment of progress made.

H. VENUE OF THE NEXT MEETING

33. Both delegations agreed that the third SOM should be held in Indonesia with dates tentatively set as 21 to 23 November 2007 subject to point 15.f above

Done in duplicate at Brussels on 13th July 2007

HEAD OF
EUROPEAN COMMISSION
DELEGATION

HEAD OF
INDONESIAN DELEGATION

EDDY PRATOMO
SOLEDAD BLANCO
Director
International Affairs and LIFE
Directorate General for Environment
European Commission

Director General
Legal Affairs and International Treaties
Department of Foreign Affairs
the Republic of Indonesia

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A. INTRODUCTION
1. The 3rd Senior Officials Meeting (SOM) of the FLEGT-VPA was held between the Government of the Republic of Indonesia and the European Union in Brussels on the 15th April 2011 according to the agenda contained in Annex A.

2. The SOM was opened by Mr Timo Makela, Director for International Affairs and LIFE of DG Environment of the European Commission and co-chaired by Mr Iman Santoso, Director General for Forest Utilization of the Ministry of Forestry. Annex B contains the list of participants.

B. REPORT OF THE SENIOR OFFICIALS MEETING
1. The SOM took note of the result of the 7th TWG (Annex C: record of discussion TWG 7). Both sides expressed their deep satisfaction with the achieved result.

2. The Legal Text and Annexes of the VPA were reviewed and finalised. See annexes D and E. Both sides agreed that these were the texts that would be subject to the respective procedures for signature and ratification.

3. The SOM discussed and agreed on measures to be taken in preparation of the implementation of the VPA. These measures are contained in Annex F.

4. The SOM endorsed the proposal for a “solemn ceremony” in Jakarta during the visit of EU Trade Commissioner De Gucht in early May 2011 to mark the successful conclusion of negotiations for the VPA during which the Minister of Forestry and Trade Commissioner would make a joint statement on the conclusion of FLEGT VPA negotiation.

5. In closing the meeting both sides expressed their commitment and determination to continue their close collaboration with a view to the conclusion of the Agreement and to taking measures in preparation of the implementation of the VPA.
Done in duplicate in the English language on the 15th April 2011 in Brussels.

Co-Chair
(European Union)

Timo Makela
Director for International Affairs and LIFE
Directorate General for Environment
European Commission

Co-Chair
(Republic of Indonesia)

Iman Santoso
Director General for
Forest Utilization
Ministry of Forestry

Annex A: Agenda
Annex B: List of Participants
Annex C: record of discussion TWG 7
Annex D: VPA Legal Text
Annex E: VPA Annexes
Annex F: Measures to be taken in preparation of the implementation of the VPA
Chapter #2: Post VPA Ratification Document compiles: Recorde of Discussion on:

- JEM (2013- )
- JIC (  )
- JWG (2013 - )
JOINT EXPERT MEETING
Record of Discussion
IDN-EU FLEG-T-VPA JOINT EXPERT MEETING
SOLO, 17 NOVEMBER 2014

Introduction
The Indonesia-EU FLEGT-VPA Joint Expert Meeting was held in Solo, 17 November 2014. The Meeting was co-chaired by Dr. Agus Sarsito (IDN) and Mr. Colin Crooks (EU).

Agenda of the Meeting
The Meeting discussed the following Agenda:

1. Agreement on final version of the Joint SVLK Assessment stage II report
   The Joint SVLK Assessment stage II report was accepted. A concise summary report for public will be developed, prepared by MFP and EFI.

2. Identification of open issues, leading to the development of a revised IDN-EU Action Plan on VPA implementation
   Both parties discussed the draft IDN-EU Action Plan on VPA Implementations, including the timeline. Some issues have been discussed i.e. granting permit, IM, and others. Further discussions were still needed, including on the issue of reformulating the “Joint Assessment” so that it will provide positive impact upon the perception of the Indonesian SVLK towards complying the VPA.
   Both parties agreed for a mutual benefit by getting FLEGT VPA go alive.

3. Update on VPA annex review
   Both parties were of the view that there was no fundamental changes, so there is no need for re-ratification. Annex revisions would be continued with a plan to package this as much as possible using the original frame (such as 5 legality standards) and focus on most important changes only. These revised annexes will need to be adopted by the JIC.

   Annex I: Scope of Products. Using 6 digit HS codes that can describe specific products (to avoid the use of “Ex.” where possible). If “Ex.” need to be used, include detailed description of products covered/excluded and put complete IDN HS Code in square bracket.
Annex II: Legality Definition. A paragraph will be added to clarify that SVLK is not only a legal scheme but also it is a sustainable scheme. After one period of getting SVLK, a company managing state-owned forest tract should obtain a sustainable management of certificate.

Annex V: Timber Legality Assurance System. This annex will be revised based on the new revised regulations.

4. **Update on JIC work**
   EU proposals for Rules of Procedures and Rules for Arbitration of the JIC will be further discussed by Indonesian stakeholders including Ministry of Foreign Affair.

   A Concept Note for the development of a Joint - JIC secretariat was discussed. The Indonesia – EU focal points will lead the secretariat but work range will be broaden. Indonesia focal point will be supported by Indonesia Secretariat, and it will be facilitated by MFP3. Head of JIC secretariat will also be supported by part time experts (communication, impact monitoring, and others).

5. **Update on VPA monitoring instruments**
   Indonesia presented a TOR of impact monitoring developed by Technical Working Group. Some issues have been raised and will be consulted by TWG further to clarify. The result of the consultation will be delivered to EU to be acknowledged.

   EU updated the progress of IMM. ITTO consultant has conducted some meetings and visit in Indonesia. IMM report will publish this year, available in December 2014.

   Periodic Evaluation based on the Article 5, Annex VI FLEGT-VPA. The arrangement should be agreed before FLEGT License is effective.

6. **Date of next JIC meeting**
   JEM before the JIC meeting. Pre JIC a day before the JIC meeting. Both parties agreed to conduct a next JIC meeting on Thursday, 29 January 2015.

7. **Other matters**
   Related to the new Indonesian administration, both parties agreed on VPA Document that the name of the Ministry of Forestry officially known as the Ministry of Environment and Forestry.
JOINT IMPLEMENTATION COMMITTEE

25 September 2014

Record of Discussion

1st Meeting of the Joint Implementation Committee
Indonesia-EU VPA
24 September 2014
Jakarta

A. Introduction

1. The Republic of Indonesia and the European Union (EU) have signed and ratified a Voluntary Partnership Agreement, guided by the EU FLEGT Action Plan. FLEGT stand for Forest Law Enforcement, Governance and Trade. The VA came into force on 1 May 2014. The Agreement stipulates that Indonesia and the EU shall establish a joint mechanism, know as the Joint Implementation Committee, to consider issues relating to the implementation and review of the Agreement.

2. The first Joint Implementation Committee (JIC) was held in Jakarta on 24 September 2014. The meeting was co-chaired by Dr. Putera Parthama, Indonesia's Senior Adviser for International Trade and Partnership for the Minister and Ambassador Olof Skoog, head of the EU Delegation for Indonesia, Brunei Darussalam and ASEAN.

3. The Indonesian delegation consisted of representatives of the Government of Indonesia, civil society and private sector. The EU delegation consisted of the EU Delegation in Jakarta and representatives of EU member states.

OPENING

4. Indonesia said the JIC is a way to managed collaboration and enhanced understanding between Indonesia and the EU. Indonesia stressed that both sides have a good and long relationship in many aspects, including collaborative work on the forestry sector to achieve sustainable forest management. Indonesia is focusing on the development and implementation of its timber legality assurance system, which is called Sistem Legalitas Kayu or SVLK. SVLK is based upon three principles: good governance, representativeness and transparency. SVLK is gaining greater recognition and credibility as a timber legality assurance system.
5. Indonesia said SVLK has been embedded in the VPA and that Indonesia is the first country in the world to have such a system develop through a long and demanding process. Indonesia said ratification demonstrates the political commitment of the both sides in the broader effort to maintain and utilize Indonesia's tropical rain forests. This effort requires continued engagement with Indonesia's private sector, civil society and government agencies to ensure the effectiveness of SVLK.

6. The EU said that the first meeting of the JIC was an important milestone on the road to full implementation of the VPA. The EU appreciated the close cooperation and collaboration between the partners over the past decade.

7. The EU said the first meeting on the JIC is one step forward in ensuring full implementation of the VPA and the start of FLEGT licensing. The EU said Indonesia has significantly improved SVLK to become compliant with VPA and commended Indonesia for being the pioneer of VPAs in Asia.

8. The EU acknowledge the challenges of the implementation phase of the VPA and the need to share information widely with stakeholders. The EU highlighted the importance of civil society engagement in the process, including its participation in the JIC. The EU said active participation by civil society will enhance the system's credibility and stakeholder trust.

C. Discussions and decisions

JIC rules of procedures

9. Participants agreed to a provisional Rules of Procedure as a working text.

JIC Secretariat

10. Participants agreed to establish a secretariat for the JIC.

Stage 2 of the joint assessment of SVLK

11. Moving from the stage one to stage two in a joint assessment of Indonesia's timber legality assurance system, SVLK, participant agreed to the expert team's methodology and overall work plan for stage two. Participant agreed to hold a stakeholder meeting to discuss and improve the report of the expert team on 17 October 2014 in Jakarta. The participant officially launched stage two of the Joint Assessment.
Joint communication started for the JIC

12. Participants agreed that a joint communication strategy between Indonesia and the EU shall be treated as a living document. They agreed to the concept of using a "friendly email" as part of the strategy. The friendly email addressee's list will include stakeholders on both the Indonesian and the EU sides. Participants asked the UK supported Multi stakeholder Forest Program (MFP3) and the EU Delegation to follow up on developing the friendly email list and to report to the next Joint Expert Meeting on progress.

VPA annex review

13. Indonesia said that it has revised SVLK standards through an inclusive multi stakeholder process. The revisions included the scope of products, timber legality definition and some elements of the timber legality assurance system. Participants took note of initial exchanges on a technical level between Indonesia and the EU FLEGT Facility and agreed to hold a Joint Expert Meeting to review the proposed edits to annexes. The final version of revised annexes will be submitted to the JIC for further exploration.

VPA monitoring

14. Alex Hinrichs of the EU FLEGT Facility gave a presentation on the four monitoring mechanisms that are defined in the VPA: independent monitoring, impact monitoring, periodic evaluation and independent market monitoring. He emphasized the difference between these mechanism and their links. MFP3 gave a presentation on the scope, methodology, principles and processes associated with impact monitoring.

15. Mardi Minangsari, a representative of the Civil Society Presidium, said SVLK provides a space for civil society to take part in monitoring efforts. She reported that Jaringan Pemantau Independen Kehutanan (JPIK), a network of independent forest monitors supported by more than 400 individual members from 60 organisations, has carried out 35 monitoring activities and filed 12 complaints. As a result, one auditor was suspended. The representative said that civil society is starting to use the independent monitoring system despite challenges such as limited resources, lack of human resources capacity and limited access to information.

16. The meeting welcomed the progress made on all VPA monitoring mechanisms and agreed to review progress at the next JIC. The JIC agreed to ITTO’s task to conduct Independent Market Monitoring. Indonesia assigned Ms. Mariana Lubis as focal point for Independent Market Monitoring.

Civil Society statement

17. Mardi Minangsari delivered file key messages:
(a) Call on the EU not to sign a VPA with any partner country that will not include the whole territory of the partner country.

(b) Call on the EU to ensure that its member states adopt the EU Timber Regulation (EUTR) and implement it consistently; The EU must also ensure the readiness of its member states Competent Authority and enforcement including sanctions on operators and their suppliers, and the law enforcement process should also be transparent.

(c) Indonesia should ensure that all imports are legal.

(d) Call on the JIC to establish a mechanism for filling any complaints and challenges to its own decision.

(e) Indonesia and the EU should ensure implementation of Annex IX on public disclosure information.

Next JIC meeting

18. The next JIC meeting will be determined by a Joint Expert Meeting.
Record of Discussion
2nd IND-EU FLEGT-VPA Joint Implementation Committee
Jakarta, 12 February 2015

Introduction
On Behalf of Mr. Bambang Hendroyono, Director General of Forest Management from Ministry of Environment and Forestry (MoEF), Dr Putera Prathama (Senior Advisor of the Ministry of Environment and Forestry on Cooperation and International Trade) opened the Meeting. The meeting was then co-chaired by Dr Putera Prathama representing the Government of Indonesia and Mr Colin Crooks from the European Union Delegation.

Agenda 1. Annex Revisions
Annexes I, II, V and the Appendix to Annex V of the VPA have been thoroughly revised based on inputs from stakeholders and is in line with new regulations. No fundamental changes were made to the VPA. The meeting endorsed the recommendation to adopt the amendments to the VPA annexes. The meeting agreed on the Annex revisions and will submit them for approval following the respective procedures.

Agenda 2. The Rules of Procedure (RoP) and Rules of Arbitration (RoA)
The meeting agreed the Rules of Procedures (RoP). The Rules of Arbitration (RoA) remains in discussion. Both sides agreed that this legal issue still needs further consideration but they also do not wish this issue to hinder the process.

Agenda 3. Update Progress on Second IDN-EU Action Plan on advancement of FLEGT-VPA Implementation including the operational of the Joint Working Group (JWG)
The Second Action Plan that was agreed by the last Joint Expert Meeting (JEM) was presented. This will be followed up through JWG Mechanism. The DG has signed a decree establishing the JWG as agreed at the Joint Expert Meeting (JEM) on 29th January 2015. The JIC noted that the work of the JWG should be supported by the JIC Secretariat, EFI and MFP. The meeting noted with appreciation the progress made on the Action Plan.

Agenda 4. Update Progress on Communication
The meeting re-affirmed the importance of open communication and mechanism is now in place to ensure the flow of information to stakeholders. A number of documents as
listed in the minutes of meeting, are approved ready for publication after JIC including a Press Release of the JIC, and that other documents are in the pipeline. The meeting noted with appreciation the progress on communication.

**Agenda 5. Update Progress of FLEGT-VPA Monitoring and Evaluation**
Progress of the design of the monitoring system and the periodic evaluation were reported. The meeting took note and appreciated the progress in relation to the Impact Monitoring, Periodic Evaluation and Independent Market Monitoring.

**Agenda 6. AOB**
The timeline was discussed together with the Action Plan, and JEMs were set for the 26th March and the 14th May. The next (3rd) JIC meeting was agreed to try to accelerate the Action Plan so that it would be possible to hold 3rd JIC earlier. An electronic FLEGT licencing system is under development in the EU to simplify the process.

**Closing**
The Co-Chairs delivered their closing remarks. The meeting adjourned.
JOINT WORKING GROUP
Record of Discussion
1st IDN-EU Joint Working Group
Jakarta, 13 February 2015

Introduction
The meeting was co-chaired by Mr Agus Sasido (IDN) and Mr Colliu Crooks (EU). The meeting served as the first meeting of Joint Working Group which discussed the progress of the Indonesia-EU FLEGT-VPA action plan.

Agenda of the meeting
The meeting discussed the following points:

1. Both parties agreed to develop criteria to measure the progress of the action plans by adding a column on “description” which will consist of data or information relevant to the action points.

2. The indicative data/information needed were explored. Both sides will further discuss the substances of the data through email.

3. Both parties agreed to the following tentative dates for the upcoming meetings:
   • Second meeting of Joint Working Group is scheduled on 24th March
   • Joint Expert Meeting is scheduled on 27th March
   • Third meeting of Joint Working Group is scheduled on 28th April
   • Joint Expert Meeting is scheduled on 7th of May
   • Fourth meeting of Joint Working Group is scheduled on 30th of June
   • Joint Expert Meeting is scheduled on 3rd of July
   • Joint Implementation Committee is scheduled on 8th of July

Closing
Co-chairs delivered their closing remarks, the meeting adjourned.
PUBLIC SUMMARY

PUBLIC SUMMARY Results of Joint Assessment Stage One Still Missing

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PUBLIC SUMMARY
Results of Joint Assessment of
The Indonesian Timber Legality Assurance System
Stage Two, 23 September to 31 October 2014

Context

Indonesia embarked on a negotiation process with the European Union (EU) regarding a Voluntary Partnership Agreement (VPA) under the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2007. Central to the VPA is a timber legality assurance system (TLAS) or sistem verifikasi legalitas kayu (SVLK) as laid down in Forestry Minister’s Regulation P.38/Menhut-II/2009 and its amendments P.43/Menhut-II/2014. SVLK assures that timber and timber products harvested and processed in Indonesia are originated from legal sources and comply with Indonesian laws and regulations.

The parties concluded VPA negotiations in May 2011 and signed the Agreement on 30 September 2013. The Agreement was ratified in 2014 by the Council of the EU and the Government of Indonesia. Once the FLEGT licence is operational, all Indonesian timber-based products covered by the Agreement’s Annex I and imported into the EU must be accompanied by a valid FLEGT licence. Any products covered by the Agreement that arrive in the EU without a valid FLEGT licence will be denied entry.

The VPA stipulates that a technical assessment of the TLAS will be carried out before FLEGT licensing of Indonesian timber for the EU market can commence. The evaluation criteria are defined in Annex VIII of the VPA. To meet this obligation, the parties to the VPA agreed to conduct a joint assessment of Indonesia’s TLAS in stages and with the support of an independent team of experts.

The first stage of the assessment was concluded on 24 September 2013. Based on the assessment’s findings, Indonesia and the EU agreed to an action plan in November 2013 to address the issues raised by the assessment team and to improve the design and implementation of the SVLK. The second stage of the assessment took place from 23 September to 31 October 2014 and is the subject of this public summary. This assessment was conducted jointly by experts from Indonesia and EU as agreed by the Joint Implementation Committee.

The objective was to inform both Parties to the VPA about the technical preparedness of the TLAS, both system and actors, in relation to the start of FLEGT licensing.
The terms of reference was to assess: revisions made to SVLK regulations (especially related to the timber legality definition, supply chain control and licensing) and necessary ensuing changes to the VPA; measures taken to improve information sharing, referring to the requirements laid out in Annex IX of the VPA; measures taken to ensure and secure the role and activities of independent monitoring organisations in the SVLK; measures taken to advance SVLK implementation on the ground; and information shared among auditors, independent monitors, local government authorities and licensing authorities.

Information and materials related to the changed system description in the revised SVLK regulations were collected in Jakarta. Implementation of the SVLK was observed in three provinces: Banten (of Java), Central Kalimantan and North Sumatra. The feedback collected from a stakeholder workshop in Jakarta on 17 October 2014 and a subsequent meeting with representatives from both parties to the VPA, and written comments were incorporated into the joint assessment report.

Assessment Findings

The assessment made suggestions based on findings, summarised below.

Legality standards. The revised SVLK regulations contain legality standards for management of forests and for processing and trading timber products. The report suggests that Indonesia elaborates its reasons why the description of processes to allocate forest resources and to issue rights to harvest are not included in the standards in the SVLK regulation and subsequently in the VPA legality Annex II as well.

Supply chain controls. All sources of legal timber have been identified and included in the SVLK. Procedures for determining the legality of imported timber in the country of harvest have yet to be developed. A new supply chain control procedure was introduced in the revision of the SVLK regulation: Supplier’s Declaration of Conformity (DKP) and examination of the DKP by the buyer following ISO/EC 1750:2010.

Legality verification. New implementation guidelines for legality verification by SVLK verification bodies addressing all the revised legality standards were published in July 2014. The two surveillance audits observed during this joint assessment found that the quality of the work of the verification bodies was good. The report suggests that additional SVLK audits are observed by independent experts to inform joint decision-making on the start of FLEGT licensing.

Licensing. The current procedure to issue V-Legal Documents may still include timber from non-certified sources or timber which is not DKP declared. Indonesia expects this practice to end on 1 January 2015. Indonesia has decided that the Ministry of Environment and Forestry, not the National Accreditation Body (KAN), will oversee the licensing authorities. The report suggests that the Ministry of Environment and Forestry develops a scheme to assess the competence of SVLK verification bodies to act as licensing authorities.

Public disclosure. The VPA requires that important forestry-related information be made available to the public. The assessment found that there are still some development needs. The report suggests that Indonesia develop guidelines for anyone requesting information and for authorities meeting those requests.

Independent monitoring. Updated procedures for independent monitors to submit complaints are detailed in the revised SVLK Regulation. A new element enables submission of complaints to the Ministry of Environment and Forestry on using the V-Legal Label and issuing Supplier’s Declaration of Conformity (DKP). Monitoring activities are often limited by a lack of funding,
technical capacity to carry out field missions and skills to write reports on monitoring findings. The security of independent monitors was also raised.

**Periodic Evaluation.** The report suggests that the Government of Indonesia prepare terms of reference for the periodic evaluation and issues a public call for tender to appoint the evaluating organisation in consultation with the EU.

**Sharing information among SVLK actors.** The revised SVLK regulations provide guidelines on how verification bodies must publicly announce and inform stakeholders about audits and share information about verification results. Relevant authorities are required to inform the verification bodies in case of any detected violation of legal requirements.

**SVLK implementation.** A rapid analysis during this joint assessment indicates that the operations of long-term forest concessions and large and medium sized primary and secondary industries are already well equipped with the registered technical staff (ganis) and technical supervisory official (wasganis).

There was insufficient information available on ganis and wasganis for small-scale primary industry and registered timber depots (TPTs). More information is also needed on the number of trained village heads that play an important role in the issuance of transport documents for timber from privately owned forests and land.

**Conclusions**

Significant improvements had been made to the SVLK since the first stage of the assessment. The report finds that most of the areas for improvement with regard to systems were addressed; the only unaddressed aspect is the procedure for determining the legality of imported timber in the country of harvest.

The introduction of the DKP procedure provides private forest owners, registered timber depots (TPTs) and household industries with a cost-efficient instrument to meet the SVLK requirements. The authorities are still educating businesses about the DKP procedure and it will take time before the relevant actors have built their capacities for practical application. SVLK certification already covers most of the concession areas, but progress in conversion areas (IPKs), private lands (HGUs), and small-sized industries is also needed if timber from such sources are entering to the commercial supply chain.

The report also suggests that information be made available on the implementation capacity of private sector operators, verification bodies and the Government as well as on the progress of SVLK certification to evaluate Indonesia’s preparedness for FLEGT licensing. This may require improvements in information management systems.

The report suggests the parties to the VPA should agree on how and when to work on the remaining areas of work and the extent of SVLK implementation on the ground to inform decision-making on the commencement of FLEGT licensing.

For more information, contact the FLEGT focal points:

**Mariana Lubis,** Head of License Information Unit, Ministry of Environment and Forestry.
Email: annalubis@yahoo.com
Chapter #3: Related Document compiles:

- Aide Memoire
- Video Conference
- Documents Related TWG
- Joint Press Release

AIDE MEMOIRE

The 7th Joint Expert Meeting
9 – 14 February 2011, Solo & Jakarta
Aide Memoire

9. 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 five Technical Working Group (TWG) meetings which took place in April 2008, December 2009 and March 2010, June 2010 and December 2010.

A total of seven Joint Expert Meetings (JEMs) has been held for the development of FLEGT Timber Legality Assurance System (TLAS) and other Annexes of the VPA. The first three 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 TLAS. The JEM4 was mandated by the TWG4 to draw up terms of reference for the Periodic Evaluation and a description on the control of the timber supply chain, whereas the JEM5 focused on the FLEGT/export licensing function and further development of the outputs of the JEM4. The JEM6 was tasked by TWG5 to draft a full description of the TLAS (Annex V of the VPA) on the basis of the outcomes of the previous JEMs, and work on the Annex I: Product average, Annex II: Legality Definition, Annex III: EU customs procedures and information exchange and Annex IV: Technical specifications of the FLEGT license. The objectives and outcomes of the JEM7 are presented below.

10. Objectives

The JEM7 was organized to elaborate the Annex V: TLAS description, the Annex VII: Criteria to assess operational Indo-TLAS and the Annex X: Public disclosure. The outputs of the JEM7 will be discussed in the TWG6 to be held on the 16th and 17th of February in Jakarta.

11. Annex V: Indo-TLAS Description

The Indo-TLAS description developed by the JEM6 and edited by a consultant established the basis of the work of the JEM7. The foremost issues and proposed amendments related to the Annex V are summarized below:

- **Institutional Setup**: The system description was amended with accreditation guidelines specific to the Indo-TLAS that the KAN applies for the assessment of the LP&VIs. The accreditation scope will be enlarged to cover the export licensing (issuance of V-Legal Documents/FLEGT Licenses by LVs). Consequently, the Ministry of Forestry will assign only LVs that are accredited by the KAN as Licensing Authorities.

- **Supply chain control**: The controls of timber from privately-owned forests were expanded to reflect the differences between the cases where the stand existed before the acquisition of the land title and where the stand was established after the acquisition of the land title.

- **Verification process**: A summary of the verification process was added to the Annex 5.

- **Monitoring**: The four types of monitoring to be included in the VPA (Independent Monitoring, Comprehensive Evaluation, Periodic Evaluation and Independent Market Monitoring) are referred to in the Annex V.

In order for an improved presentation of the Indo-TLAS functionalities, the JEM7 mandated EFI to reorganize the Annex V for review of TWG6 using the following structure:

- **Introduction**
- **Scope**
- **Indo-TLAS Standards**
- **Control of the timber supply chain**
- **Institutional setup for the legality verification and licensing**
- **Verification process**
- **Licensing**
- **Monitoring**

It was decided to prepare PowerPoint slides for presenting the Indo-TLAS in the TWG6 (attached to this Aide Memoire).


Assessment criteria proposed by Indonesia were discussed. The JEM7 suggested to (a) limit the scope of legality definition to possible amendments to be made after completing the VPA negotiations and (b) incorporate the Independent Monitoring function (by Civil Society) into the annex and (c) to adapt the annex to the Indonesia situation.

13. Annex X: Public disclosure

It was suggested that the draft Annex X proposed by Indonesia will be included in the agenda of TWG6.

14. Next steps
Other follow-up actions than the restructuring of the Indo-TLAS description (Annex V) will be discussed and agreed upon in the TWG6.

VIDEO CONFERENCE

REPUBLIC OF INDONESIA – EUROPEAN UNION

VIDEO CONFERENCE 3 ON FLEGT-VOLUNTARY PARTNERSHIP AGREEMENT (FLEGT-VPA)

3rd March 2011

RECORD OF DISCUSSION

9. The meeting discussed Annexes 1, 3, 4, and 10 with the following results.
10. Annexes 1: Agreed to removed “Commercial” from the title of the table. Indonesian side will revert on EU proposal to use the language “4-6 digits”.
11. Annex 3: Agreed on no need for introduction. Text cleaned and agreed – reference to licence information unit will be elaborated further in Annex 5
12. Annex 4 (as reformatted by Indonesia and then revised by EU):
   • Agreed no need for introduction
   • Art 2. – EU proposal to use a numbering sequence to help reporting to the JIC, in order to distinguish exports to the EU and non-EU countries. EU will produce an example. Para 3 revisions from EU accepted.
   • Section “Copies of FLEGT Licenses”:
     o EU requested colouring for forms destined for the EU; White for the Original and yellow for the EU Customs Authority, as per other VPA’s.
     o Remove brackets in Para 5
     o Indonesia will revert on proposals in Para 6
   • EU suggestion for new formatting, labeling and numbering of the forms accepted, with the need to explain in the guidance notes that “EU” and “FLEGT” will only be used for EU destinations. For other markets can leave the forms blank. Indonesia suggested might cause problems so EU suggested taking out reference to Europe in the forms so they can be used for other customs authorities in non-European destinations.
   • EU proposal that boxes 19 and 20 only be included in forms 3, 4, 5 and 6, but not in 1 and 2 (the forms destined for the EU). Indonesia will consult and revert in VC4 or VC5.
   • No of digits – EU propose keeping 6 digits in box 10, and only put the 10 digits in Box 20 in Forms 3, 4, 5 and 6 (those destined for Indonesian purposes) to minimise risk of confusion. Indonesia has another export document which has to have the 10 digits, so agreed to take out reference to 10 digit HS codes in Box 20 altogether, which was agreed.
   • Questions on the boxes (see Appendix 2 Notes for Guidance), see amendments proposed. “Commercial” Description. Indonesia suggests using the phrase “6 digits” but EU side will get advice. Some products may not have more than 4 digits. Indonesian side will also consult and revert in VC4. Box 10 stays open.
• Box 15 should make reference to Box 14 – this was agreed.
• Box 18 has minor edits which were agreed
• Box 19 suggestion to include “intended” port in case shipment destination changes en route. Indonesia will revert. This bit of the form is for Indonesia anyway so is not EU’s problem.
• Box 20: take out need for 10 digit HS code. Indonesia to confirm if value is to be FOB or CIF

Annex 10: Information disclosure – new version proposed by EU yesterday was presented:
• Who makes information available – new version notes that there are more bodies than listed that have to make information available. EU suggestion to insert more specific information for functioning of SVLK as per JEM6 table, and adding Implementation of Public Disclosure Provisions section. Also some information currently listed will be commercial and should be removed.
• Indonesia noted that MoFor has now published its regulation implementing the Freedom of Information Act.
• Indonesia to review new text and revert at the next VC

Next steps
a) New Annex 5 with comments will be sent by EU shortly
b) New Annex 10 with comments will be sent by Indonesian side in advance of VC4
c) VC4 on 11th March; Annex 4, 5, 10 and perhaps 7
d) VC5 with Hugo and Agus might be 16th, 17th or 18th March depending on Hugo’s availability

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REPUBLIC OF INDONESIA – EUROPEAN UNION
VIDEO CONFERENCE 4 ON FLEGT-VOLUNTARY PARTNERSHIP AGREEMENT (FLEGT-VPA)
11th March 2011, 3.30pm
RECORD OF DISCUSSION

1. The meeting discussed Annexes 5, 7 and 10 with the following results.
2. Annex 5: Indonesia will send through re-edits to text by Monday 14th March.
   a. Diagram 5: Not sure if it is clear or adds value so take it out and maybe re-insert at the next TWG if useful. Focus on the text and see if the diagram is needed. Section 7.2 doesn’t conflict with Indo-TLAS.
   b. Agreed to go through text accepting or rejecting what Indonesia is happy with.
   c. Section 6.3 (treatment of certification schemes): Indonesia has not yet decided how to treat certification schemes. This needs further consultation and consideration; Indonesia wants to cooperate with voluntary schemes in the future. EU has been discussing with schemes in Africa, where those schemes are prepared to use the same legality standard as the TLAS. Assessment, though, will be country by country. So agreed to rephrase paragraph so that it is there as a reminder. Don’t want double work for the operator. Indonesia will add a few paragraph and refer to P38 articles which refer to existing schemes in Article 18.
d. Page 2: Indonesia will develop a mechanism/procedure for impounded timber and a sentence will be added to the notes to be sent through on Monday.

e. Page 19: Description of verification activities needs to be further elaborated. Also need to know what happens when non-compliances occur and make sure that LP&VI’s do the same thing across Indonesia. Indonesia will put something in the new draft.

f. Page 23: Need to insert a reference in Section 7 to completing the new licensing regulation.

3 Annex 7: EU side has cleaned up the text with the comments made in the margins, which will be sent through, including the additional bullet point “exported” from Annex 10 as agreed below.

4 Annex 10: Information disclosure

  g. New version reviewed and further revisions made.
  h. Information additions include Public Summary Reports of Audits.
  i. Indonesia has prepared a new table and has taken out detail that is too specific and can change too quickly. The table will simply refer to Freedom of Information standard, MOFOR Public Information Service (P7/2011) and what procedures apply. Indonesia will add text describing these procedures.
  j. Indonesia side will subsequently check that the drafts sent to Brussels do not conflict with ministry policies.
  k. Monday EU will receive Annex 10 with accepted text, cross referenced to a table and , procedures for information for larger VPA objectives, what to put into other Annex 7.

5. Signing the VPA
   l. TWG 11th and 12th April in Brussels
   m. SOM in Jakarta with EU Trade Commissioner visits

6. After the VPA is signed; discussion on follow-up measures, such as an MoU to agree matters prior to ratification.

7. Next steps
   n. New Annexes 5 and 10 will be sent through; neither are closed out yet.
   o. VC5 on 22nd or 23rd March; Annex 4, 5, 10 and perhaps 7
   p. VC6 and possible VC7 end of March and early April
   q. Indonesia to propose process to complete after consultation with Agus Sarsito
   r. EU to propose draft ideas of how to keep momentum going after the VPA is signed to keep the process warm.

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REPUBLIC OF INDONESIA – EUROPEAN UNION
VIDEO CONFERENCE 5 ON FLEGT-VOLUNTARY PARTNERSHIP AGREEMENT (FLEGT-VPA)
22nd March 2011, 3.20pm

RECORD OF DISCUSSION

1. The meeting discussed Annexes IV, VII and X with the following results.
2. Annex IV: Para 3.1 accepted, Boxes 19 and 20 deleted, Cleaned up, unless EU reverts regarding Boxes guidance note on box 15 in Appendix 2. In Box 2 importing country and ISO code to be added EU to send cleaned up version.

3. Annex VII: Version sent by the EU accepted by Indonesia. EU will clean up and send back to Indonesia.

4. Annex X: Indonesia presented updated version, EU still seeking opinions so just asking questions; Some tax data is confidential so cannot be disclosed. "EIA" to be written out in full. The removal of Raw Material Transfer report was justified because the information within is integrated in other reports already listed. P3, para 8 – discussion about removal of audit report and the reference to "clarification on what is regarded as commercially confidential". EU will revert on this at the next VC. General point is that terminology used needs to be consistent throughout the text – CAB, LPVs etc… we must not mix up terms. EU will clean up and revert before next VC.

5. Review of outstanding work:
   s. VPA Legal text: open issues on REDD recital remains - leave for TWG
   t. Article 2: d) HS code problem solved in Annexes, just need to make consistent… so need to insert reference to HS code from 4 to 6 digits.
   u. Article 12: Reference to Indigenous People – this remains open until discussion in the TWG
   v. Market incentives: the 2 alternative texts will be decided in TWG
   w. Joint Implementation Committee: no reference to the task of scheduling implementation. EU to propose language for TWG
   x. Communication and Implementation art: still some discussion to do in Indonesia on who will represent GoI? Must be clear before initialing.
   y. EU will send through latest version of VPA Legal Text with cross references to Annex numbers corrected.

6. Review of other Annexes
   z. Annex Ia and 1b: Agreed
   aa. Annex II: still awaiting an introduction from Indonesian side to present the legality definition and how it relates to different legal forest types. For next VC
   bb. Annex III: Agreed but needs some formatting EU to forward
   cc. Annex IV: Clean with exception of guidance note box 15 and final license format. EU dd. Vla and Vlb: Renumber as VI (and cross reference to Annex X) and VII Check refs in VP legal text. EU to send through
   ee. Annex XIII: Clean - Old Annex VII
   gg. Flip will send through a pack of all the updated documents.

7. Next Steps
   hh. Next Video Conference (No. 6) will be on Friday 1st April at 3pm Jakarta time (9am Brussels time)
   ii. TWG on 12th and 13th April in Brussels: dates agreed
   jj. SOM on the morning of 14th April date agreed but who will lead Indonesian delegation to be confirmed asap on consultation with colleagues in MoFor and Foreign Affairs.
   kk. European Parliament event planned on 14th April in the afternoon, giving visibility in EU.
   ll. Visibility in Indonesia will be through an event where the VPA is initialed marking the formal end of negotiations at an event in Jakarta. EU will be represented by Trade Commissioner de Gucht. Indonesia to confirm who, at Ministerial level, will initial the VPA in Jakarta.
   mm. At the TWG in Brussels we will close negotiations on substance. During the TWG, after initialing, we need to work out various matters relating to the period
between initialing and ratification. These include when and how to meet and communicate, implementation issues and cooperation support measures as well as a timeline of first steps.

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REPUBLIC OF INDONESIA – EUROPEAN UNION
VIDEO CONFERENCE 5 ON FLEGT-VOLUNTARY PARTNERSHIP AGREEMENT (FLEGT-VPA)
1st April 2011, 3.00pm

1. The meeting discussed Annexes V and IX with the following results.
2. Inputs from EU side of Annex V and IX are not received yet, however INA delegation has been updating the both annexes and reported the revisions of to EU delegations.
3. The revisions: Annex V, delete impound timber, changed term: CAB (LP and LV) and applied in other annex, delete all text in para 2 of 6.3 certification schemes. Add new text in section FLEGT Licensing (7.5.2) As a result of the above-mentioned compliance, the ETPIK holder is allowed to use conformity marking in the products and/ or packaging. The guidelines on the usage of the mark of conformity will be developed in due course
4. Annex IX: put it back again texts in section 8 i.e. clarification on what is considered commercially confidential information and minutes of public summary...” and add new section on the table of source information that cover detail information in 1, 8 and 9.
5. EU proposed new format text on Impounded timber (annex V) and ask detail information about number and references of ISO/IEC used by CAB and LV in annex IX (section 2. Mechanisms to access information). Also add new text as part of kind of information on JIC (legal information, information on production, information on allocations of concessions, information on management, information on authorities) to reinforce VPA larger objectives.
6. INA delegation reported up dates on annexes II, IV and VI as follows: a) annex II: Introduction on annex II has been develop and proposed, b) annex IV: (1) proposed periode of validity on FLEGT License shall not exceed 4 months based on the shipping experience from Indonesia to Europe Country, (2) proposed text on “Force Majeure” as basis for extended periode of expire of validity of the FLEGT license, c) Annex VI: add ISO/IEC Guide 65 as requirement for qualification of periodic evaluator.
7. INA delegation will send the consolidated annex V and IX after VICON to EU.
8. EU delegation inform the agenda and program in TWG/SOM in Brusels: a) TWG 12 April, b) UNECE seminar (8.30-10.00) 13 April and continued TWG discussion, c) EU economic conselor meeting with Indonesia Embassy and FLEGT briefing and presentation – 14 April, d) SOM minutes signed-15 April and Bilateral meeting. The meeting with member of parliament is still not yet confirmed.
9. EU will send the draft program and agenda for above mentioned and both side agreed for 6th April 2011 Video Conference.
1. After introductions, welcoming the presence of officials from the Indonesian Embassy in Brussels, the meeting reviewed all annexes with the following results:

2. Annex II has a few small editorial changes that the EU will send through. Indonesia will do the grid with a clean copy ready for discussion next week.

3. Annex III: Clean, no further work needed.

4. Annex IV: Edit by Indonesia, para1.5, extension of license by 1 month. Force majeure sentence explained. EU will consult internally and both sides will resolve at the TWG.

5. Annex V: Further work:
   a. What makes Indonesian system unique? New section
   b. Indo will review Sect 2, scope to make it clearer
   c. EU will proposed new wording for
   d. Section 3: cross reference to Annex 2 on legality standards
   e. Indonesia will suggest new wording 4.1.7
   f. EU will suggest an introduction to Section 5.0
   g. EU and Indonesia will look again at Section 6.0 Verification Processes – needs more details and definition. Reference to Annex 2 for instance
   h. Section 6.2: Indonesia to provide a paragraph on non-compliance – based on the revision to the licensing legislation that is underway.
   i. Question about liability if mistakes are made.
   j. Diagrams may have to come out to make translation easier
   k. EU will send suggestion of how to deal with certified timber
   l. Indonesia will have another look at the section on reconciliation (7.4)
   m. Civil Society monitoring needs to be more clearly explained, as it is a strong point of the system, perhaps under 5.7?

6. Annex VI: All edits acceptable, so clean

7. Annex VII: Clean, no further work needed

8. Annex VIII: Version 13th March from EU acceptable to both sides, so clean, but will be tidied up and sent by the EU.

9. Annex IX: Edits from Indonesia explained and accepted. Further work by EU to look at clarity and consistency of language, and legal scrubbing, and send a clean copy back to Indonesia.

10. EU has sent some ideas for the minutes of the SOM. Indonesia has discussed and there will be an inter-ministerial meeting later this week. A timeline for implementation would be useful.

11. EU will send a revised programme for the meetings next week.

Andy Roby, 6th April 2010
A. INTRODUCTION


2. The Meeting was opened by Mr. Timo Makela, Director for International Affairs at Directorate General for Environment at the European Commission (DG ENV). The meeting was co-chaired by Dr. Agus Sarisito, Head of the Centre of International Cooperation, Ministry of Forestry of the Republic of Indonesia and by Dr. Hugo Maria Schally, Head of Unit, Multilateral Environmental Affairs and Trade, DG ENV. Annex A contains the list of participants.

3. The meeting adopted the agenda which is attached as Annex B.

B. EXCHANGE OF VIEWS

- The EU provided an update on the latest developments with regard to the Due Diligence Regulation and announced that with political agreement reached the Regulation was expected to be applicable as of early 2013. Any FLEGT licensed timber coming from a VPA partner country with an implemented licensing scheme will be considered legal.

- In light of this development both delegations reconfirmed their commitment to conclude VPA negotiations by the end of this year.

- Indonesia provided an update on its recent letter of intent with Norway in the context of REDD+. The sides noted that there were a number of FLEGT related deliverables in the transformation phase indicated in the Letter of Intent.

C. REVIEW OF THE CONCLUSIONS OF THE LAST JOINT EXPERTS MEETING

- Indonesia provided an overview with regard to work on:

  a) The linkage between the SFM and legality verification standards: It had been clarified through a handshake that all sustainably produced timber would also have to comply with the legality provisions. These clarifications will be reflected in the annexes to be developed by the upcoming Joint Expert Meetings (JEM).
Document Related 4th TWG

THE 4th TECHNICAL WORKING GROUP
BRUSSELS, 21-22 JUNE 2010
Tentative Outline

Expected Outcomes
Given the high compatibility between SVLK and EU expectation up to this point, DELRI expects that this TWG may result the mutual understanding on the technical matters regarding what need to be done by both sides. This might need another JEM for the technical refinements. DELRI also expects that the further discussion can be escalated to the Senior Official Meeting (SOM) level in parallel with the technical refinement.

List of Questions
This following list intended to guide DELRI during the discussions in the 4th TWG. The questions will be but not limited to:

Communications
Both sides are fully aware of the importance of information disseminations within EU member states.
- Awareness-raising actions
- Information dissemination
- Public education campaigns
- Exchange of information & experiences
- Ratification

THE 4th TECHNICAL WORKING GROUP
BRUSSELS, 21-22 JUNE 2010
Tentative Outline

Expected Outcomes
Given the high compatibility between SVLK and EU expectation up to this point, DELRI expects that this TWG may result the mutual understanding on the technical matters regarding what need to be done by both sides. This might need another JEM for the technical refinements. DELRI also expects that the further discussion can be escalated to the Senior Official Meeting (SOM) level in parallel with the technical refinement.

List of Questions
This following list intended to guide DELRI during the discussions in the 4th TWG. The questions will be but not limited to:

Due Diligence Regulation (DDR)
a. Who are the EU port authorities doing document & physical checking of timber product being imported to the EU?

b. How the technical procedure when the EU port authorities (customs, CA, others) do the checking of material being imported into the EU is going to be like?

c. How the Competent Authority (CA) institutional arrangement is going to be like for the matters of coordination & information exchange with other EU port authorities and also for the matters of monitoring?

d. Article 3 version 1 Mar 2010 “…..(FLEGT licensed product)…. which comply with that Regulation and its implementing provisions shall be considered to have been legally harvested for the purposes of this Regulation”

✓ is there any chance to make it dearer & stronger in the next draft, for the purpose of making sure that the product covered by FLEGT license will be automatically goes through the ‘green line’ OR

✓ is it a chance during the discussion amongst EU Parliament, EU Council, and Commission that this statement is going to be weakened / blurred allowing the EU port authorities treating the FLEGT-licensed product being checked in a way what DDR guides

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The 5th Joint Expert Meeting
28 October – 3 November 2010
Aide Memoire

15. 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 four Technical Working Group (TWG) meetings which took place in April 2008, December 2009 and March 2010 and June 2010.

The first three 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 JEM4 was mandated by the TWG4 to draw up technical annexes on the Periodic Evaluation and control of the timber supply chain for the VPA. The TWG4 estimated that at minimum two more JEMs are needed for the preparation of a full set of the VPA Annexes consisting of the following:

- Annex 1: Product scope
- Annex 2: Legality definition
- Annex 3: Community import procedures for FLEGT products
- Annex 4: FLEGT license (and issuance procedures)
- Annex 5: TLAS description
- Annex 6: TOR for the Periodic evaluation
- Annex 7: Criteria to assess operational TLAS
- Annex 8: VPA Implementation schedule
- Annex 9: Supporting measures for VPA implementation
- Annex 10: Reporting and public disclosure
16. Objectives

The JEM5 was tasked to (i) produce the final draft of the terms of reference for the Periodic Evaluation of the VPA implementation, (ii) further develop the description of the timber supply chain controls, (iii) draft FLEGT licensing procedures and (iv) draft and finalize the legality definition for the VPA. All the previous outcomes will be submitted for review by the TWG5.

17. Periodic Evaluation

JEM5 produced a final draft of the TOR for the Periodic Evaluation. The following issues were agreed to be escalated to the TWG5 for further discussions:

- Scope of evaluation
  - Control of the supply chain after customs clearance of FLEGT licensed products for free circulation in the EU
  - Inclusion of a summary of the Independent Market Monitoring for Indonesia timber products
  - Monitoring of the implementation of EU Illegal Timber Regulation
- Frequency of Periodic Evaluation

The final draft of the TOR is attached to this aide memoire (Annex 1).

18. Supply chain controls

The control procedures were discussed on the basis of “Summary of the Control of Supply Chain” that was prepared in JEM4. EFI provided suggestions on how to improve the clarity of the document; the revision work is still ongoing (see Section 7 Next Steps).

19. FLEGT licensing

The mechanism to issue FLEGT Licenses draws on that of SVLK to issue V-Legal Documents. V-Legal Documents are export licenses to provide evidence that the timber products are in compliance with the legality requirements of SVLK. Issuance of V-Legal Document is under the authority of LVLK (certification body), and this authority can be delegated to ETPIK (registered exporter of timber products) who has to have a timber legality certificate. However, the ultimate responsibility of issuance of the V-Legal Document lies with the LVLK.

The following issues were agreed to be escalated to the TWG5 for further discussions:

- Number of copies of V-Legal Documents needed by the EU side (one copy for both Competent Authority and customs, or two copies?)
- Format of the export license: (i) 4 copies follow the format of V-Legal Document and 2 copies that of FLEGT license; or (ii) each export license is made up of two parts consisting of V-Legal Document and FLEGT License.
- Acceptability of issuance of V-Legal Document by those ETPIKs that are approved and controlled by LVLK
- Establishment of communication links between the EU Competent Authorities and the LVLKs for ensuring the authenticity of V-Legal Documents. Another option is to communicate through the Ministry of Forestry.

A draft document on the issuance of V-Legal documents is attached to this aide memoire (Annex 2).

20. Legality definition

Timber is legal when the validity of its origin, logging permits, logging system and procedures and their implementation, processing, administration and transport documentation, and trade or transfer are verified as meeting all applicable laws and regulations.

Five standards and guidelines on timber legality verification of the SVLK scheme establish the legality definition of the VPA:

- Standard and guidelines on timber legality verification from state-owned forests
- Standard and guidelines on timber legality verification from state-owned forests managed by community
- Standard and guidelines on timber legality verification in primary industry and downstream industry
- Standard and guidelines on timber legality verification from privately owned forests
- Standard and guidelines on timber legality verification from timber utilization license holders
The above documents are complemented by adding references to the legislation (regulations, decrees) that defines the legal requirements embedded in the standards and guidelines (Annex 3).

2.1. Next steps

Meetings:
- A technical VC prior to TWG5; date to be agreed
- TWG5: 25-26 November 2010, Jakarta possibly including technical discussions on the VPA Annexes III and IV on 23-24 November
- JEM6: 2nd week of January 2011

The next steps to work on the VPA annexes are summarized in Table 1.

Table 1: Status and next steps by the VPA Annexes

<table>
<thead>
<tr>
<th>No.</th>
<th>Title</th>
<th>Article</th>
<th>Comments and issues</th>
<th>Status and next steps</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Product scope</td>
<td>2</td>
<td>May need two sub categories: 1A to deal with products to be licensed; 1B with products that cannot be exported from Indonesia</td>
<td>Indonesia will develop the list of products to be covered under the VPA</td>
</tr>
<tr>
<td>II</td>
<td>Legality definition</td>
<td>2 (i)</td>
<td>Based on legality standards of SVLK</td>
<td>Developed</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>To be discussed at TWG5</td>
</tr>
<tr>
<td>III</td>
<td>Community import procedures</td>
<td>5</td>
<td>Based on a draft provided by EU</td>
<td>To be discussed at TWG5</td>
</tr>
<tr>
<td>IV</td>
<td>FLEGT license and licensing procedures</td>
<td>6,8 &amp; 9</td>
<td>Based on a draft provided by EU. Difference between the formats of V-Legal Document and FLEGT license</td>
<td>License format to be discussed at TWG5</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Licensing procedures possibly to be integrated in Annex 5</td>
<td>TWG5 to decide in which VPA annex to present the licensing procedures</td>
</tr>
<tr>
<td>V</td>
<td>Timber Legality Assurance System (TLAS)</td>
<td>5</td>
<td>Based on guidance by EU and EFI. Description of supply chain controls and licensing procedures under preparation.</td>
<td>Description of supply chain controls and licensing procedures under preparation.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- EFI to supplement comments on the supply chain controls by 8 Nov</td>
<td>- TWG5 to discuss these docs</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Indonesia to revise the supply chain doc by 12 Nov</td>
<td>- EFI provides an outline for TLAS description to be shared with Indonesia.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>- Imports should properly be addressed in the TLAS description</td>
<td>Based on this outline, Indonesia will further develop the draft of TLAS description</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>The whole LAS description to be drafted by JEM6 and by technical VCs</td>
</tr>
</tbody>
</table>
The 4th Joint Expert Meeting  
11 – 20 August 2010  
Memorandum

22. 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 four Technical Working Group (TWG) meetings which took place in April 2008, December 2009 and March 2010 and June 2010.

Three earlier Joint Expert Meetings (JEM) 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). During the fourth TWG meeting the parties agreed to hold two more JEMs with the specific tasks of drawing up a number of technical annexes for the VPA.

23. Objectives

The JEM4 aimed (i) to carry out an assessment of the existing supply chain controls and to develop a draft of the relevant VPA annexes on supply chain controls and (ii) to develop a draft VPA annex on Periodic Evaluation. Both drafts will be submitted for review by the TWG5.

24. Control of the Timber Supply Chain

Members of JEM4 visited two companies to assess existing control systems:
• PT. Sarpati (Central Kalimantan): supply chain within a forest concession and
• PT. KLI (Central Java): timber flows within a mill site.

The JEM4 drafted a description of the supply chain controls for timber from state-owned lands within production forest zones. The draft description covers control measures from the forest inventory until the point of export (see Annex 1).

25. Periodic Evaluation

The JEM4 worked on a TOR for the periodic evaluation of the TLAS implementation in Indonesia and import of FLEGT licensed timber into the European Union (see Annex 2).

26. Next steps

The Indonesian side of JEM4 will complement the draft description of the supply chain controls to address privately owned forests and submit the complemented description for review by the EU side of JEM4 by 26.8.2010.

Controls between the mill and point of export will be finalized in the context of development of FLEGT licensing procedures.

The EU side of JEM4 will provide suggestions for improvement of the TOR for the periodic evaluation (PE) by 26.8.2010. The Indonesian side of JEM4 will finalize the draft TOR for the periodic evaluation (PE) for TWG5.

The JEM5 will be organized between 27.9-8.10.2010

THE 4TH TECHNICAL WORKING GROUP
BRUSSELS, 21-22 JUNE 2010

Technical updates

1. Linkage between SFM and Legality Verification Standard
   a. It was clarified during the 3rd JEM that there is now a handbill No 8 / VI-Set / 2010 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” and complies with all of the indicators of the LK

2. Licensing
   The 3rdJEM resulted the following:
   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 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. RI develops a licensing for the product being exported to any countries and this which will be undertaken by a body which has been accredited to ISO/IEC 17020.

RI is now in the process of preparing the instruments to undertake the consignment inspection, and the followed by revision of current regulations to fit into this scheme. The discussion in this TWG is seeking a mutual understanding and possible agreement on this matter, in particular the format of V-legal which will serve as FLEGT license.

3. **Terms of Reference for Periodic Evaluation (PE)**
   a. Indonesia is now developing ToR for PE
   b. Need a JEM to work on and finalize this

4. **Control of Supply Chain**
   The 3rd Joint Experts Meeting proposed that specific material for the purpose of VPA annexes will be prepared on the SVLK description on how the supply chain is controlled.

5. **Verification and Enforcement Responsibilities**
   a. It was clarified that there is now a handbill No 8 / VI-Set / 2010 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.

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   **THE 4TH TECHNICAL WORKING GROUP**
   **BRUSSELS, 21-22 JUNE 2010**
   **Tentative Outline**

**Expected Outcomes**
Given the high compatibility between SVLK and EU expectation up to this point, DELRI expects that this TWG may result the mutual understanding on the technical matters regarding what need to be done by both sides. This might need another JEM for the technical refinements. DELRI also expects that the further discussion can be escalated to the Senior Official Meeting (SOM) level in parallel with the technical refinement.

**List of Questions**
This following list intended to guide DELRI during the discussions in the 4th TWG. The questions will be but not limited to:

**FLEGT License**
Since V-legal document is designed to fulfill all market requirement and also for the internal purpose of controlling and monitoring all products being export from Indonesia to any countries under National Single Window (NSW) scheme, there should be a possibility:

a. To put ‘FLEGT license’ as a ‘sub-title’
b. To state all information required by the EU, plus some additional information asked by other export destination countries
c. To have Indonesian own format as a consequence of the point a & b above
d. To have another JEM to work on and finalize this
3rd FLEGT-VPA Technical Working Group Meeting

between

Indonesia – European Union

Jakarta, 1-2 March 2010

JOINT PRESS RELEASE

The third Technical Working Group for the negotiation of a Voluntary Partnership Agreement (VPA) on Forest Law Enforcement, Governance and Trade (FLEGT) between Indonesia and the European Union was held in Jakarta on 1 and 2 March, 2010.

The VPA is a joint effort to address the problem of illegal logging and related trade, improve forest governance and facilitate and promote the trade in legal timber products between Indonesia and the EU. A key part of the agreement is the development of a timber legality assurance system that guarantees that timber products exported to the EU have been produced in accordance with the laws and regulations of Indonesia.

Since the Joint Statement made by the Indonesian Minister of Forestry and the European Commissioners responsible for Development and the Environment to enter into formal negotiations for a FLEGT-VPA in January 2007 Indonesia and the EU have convened two Senior Officials and two Technical Working Groups respectively.

The Indonesian delegation, consisting of government officials, civil society and the timber industry was led by the Head of the Centre of International Cooperation, Dr. Agus Saristo. The EU negotiating team included officials from the European Commission in Brussels and the UK led by Dr. Hugo Maria Schally, Head of Multilateral Environmental Affairs and Trade Unit of the Directorate General for Environment, European Commission.

The two delegations focused their discussion on the state of play with the implementation of the Indonesian TLAS/SVUK and the EU expectations for a FLEGT VPA.

During the Meeting Dr. Sukmanto stated that when the Sistem Verifikasi Legality Kayu (SVLK) is fully implemented all timber products exported from Indonesia will be certified as legal under this system. He also stated that it is important for Indonesia to obtain recognition of this system from the EU through the FLEGT VPA, as this will provide a market incentive for Indonesian timber and timber products.

Dr. Schally welcomed the rapid development of the SVLK and brieﬁed the Meeting on the state of its FLEGT process with a fast growing number of FLEGT partner countries. The EU is also in the process of developing a new regulation (“Due Diligence Regulation”) expected to be adopted as EU legislation in late 2010, which will require EU traders to take measures to minimize the risk of illegal timber being traded in the EU. He further stated that the draft regulation foresees that timber imported from countries that have concluded a VPA will be considered as ‘legal’. This would give a significant advantage to timber products from VPA partner countries.

The meeting was successful in clarifying important issues and both sides agreed on a number of concrete steps for further work in finalising the SVLK and its linkage to a future FLEGT VPA. Indonesia and the EU agreed to intensify their cooperation in developing the legal text of a VPA. Both sides re-emphasised their commitment to an early successful conclusion of negotiations.
A review of the SVLK Guidelines in preparation of the 3rd FLEGT TWG Meeting

Jakarta, 26th February 2010

8. **BACKGROUND**: The European Commission (EC) and Indonesia commenced the negotiation of a FLEGT Voluntary Partnership Agreement (VPA) in January 2007. More recently, two joint EU-Indonesia experts meetings have been held in September 2009 and January 2010 followed by a Technical Working Group Meeting that took place in December 2010. As a result of these meetings the main points concerning the gaps and compatibilities between Indonesia’s new timber legality verification system (SVLK) and the EU expectations for the FLEGT Timber Legality Assurance System (TLAS) are now becoming increasingly apparent. In order to follow up the findings of the joint EU-Indonesia expert team, the Ministry of Forestry convened four multi-stakeholder Working Groups to further develop SVLK. The Working Groups drafted guidelines to support the verification of the SVLK standards and field-tested them in East Kalimantan. The Indonesian side has emphasized that many of the issues identified during these expert meetings would be addressed through the detailed guidelines.

9. **OBJECTIVES**: A TWG meeting has been scheduled for the 1-3rd of March. In support of this meeting, the following brief technical note has been prepared with the following objective:

   a. Provide an overview of the SVLK guidelines.

   b. Provide an overview of the key issues identified during the expert meetings of September 2009 and January 2010 that need to be addressed in order to reconcile the SVLK with FLEGT TLAS requirements as recorded in the briefing notes.

   c. Determine the extent to which these issues have been taken on board in the SVLK guidelines or other features of SVLK.

10. **SVLK GUIDLINES**: The Guidelines on the Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality have now been formalized through Director General of Forestry Production Developments Regulation No: P02/VI-BPPHH/2010. The Guidelines are articulated through 6 annexes:


    II. Guidelines on Verification and Certification of Timber Legality for holders of In Holder of IUPHHK-HA/HPH, IUPHHK-HT/HTI, IUPHHK-RE; Holder of IUPHHK-HTR, IUPHHK-HKm; License Holder of Right Forest; and Holder of IPK (All forests)

    III. Guidelines on Verification and Certification of Timber Legality of IUIPHHK and Advanced IUI (primary and secondary industry)

    IV. Guidelines on Independent Monitoring in Assessment of Sustainable Production Forest Management Performance (PHPL) and Timber Legality Verification System
V. Guidelines on the Submission and Settlement of Objections in Assessment of Sustainable Production Forest Management Performance (PHPL) and Verification of Timber Legality.

VI. Guidelines on the Criteria and Requirements for Personnel and Auditor in Assessment of Sustainable Production Forest Management Performance (PHPL) and Verification of Timber Legality

The 6 annexes have been specifically designed for use by:

- The Independent Appraisal and Verification Agencies (LP&VI/LP-PHPL) for assessing sustainable production forest management performance and/or verification of timber legality - and for their selection of personnel and auditors.
- The Independent Monitoring agencies in the monitoring of PHPL Performance Assessment and verification of LK carried out by LP&VI.
- License holders / auditee’s, LP&VI/LP-PHPL and IM agencies seeking to settle assessment related objections.

Broadly speaking, the guidelines are well structured and complemented with a wealth of additional technical information and definitions related to SVLK (P.38/Menhut-II/2009 & P6./VI-Set/2009) entailing that they could also be used by the layperson (forest/industry) to support their pre-assessment preparations and post assessment Corrective Action Request (CAR) closures:

<table>
<thead>
<tr>
<th>Annex No</th>
<th>Objective</th>
<th>Format / Structure</th>
<th>Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>To guide the assessment of PHPL Performance in order to guarantee the quality of implementation.</td>
<td>Preface (Objective, scope, References, definitions) Activities (application for assessment, assessment planning, assessment, reporting) Decision making Certificate Issuance Surveillance Recertification (renewal) Special Audit</td>
<td>The auditor is guided through instructional notes concerning the full assessment procedure from initial application through to certificate issuance, re-application and if necessary conducting a special audit.</td>
</tr>
<tr>
<td>1.1</td>
<td>Original Standards and Guidelines on Assessment of Performance in Sustainable Production Forest Management are attached as a reference</td>
<td>Identical to P6./VI-Set/2009 Annex 1</td>
<td>The original Standards and Guidelines for PHPL are provided as an annex to allow for continuity in the assessment guidelines</td>
</tr>
<tr>
<td>1.2</td>
<td>Framework for report content of original assessment</td>
<td>ToC – Table of Contents</td>
<td>The auditors are required to follow a specific and comprehensive assessment report structure</td>
</tr>
<tr>
<td>1.3</td>
<td>Framework for report content for re-certification</td>
<td>ToC – Table of Contents</td>
<td>The auditors are required to follow a specific and comprehensive assessment report structure for the re-certification</td>
</tr>
<tr>
<td>2</td>
<td>Guidelines covering timber legality verification for all forest types:</td>
<td>Verification application Verification planning, Verification implementation. Reporting, Decision making, Certificate Issuance and Re-Certification</td>
<td>As with annex 1, the auditor is guided through instructional notes concerning the full assessment procedure from initial application through to certificate issuance, re-application and if necessary...</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>---</td>
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<td>---</td>
<td></td>
</tr>
</tbody>
</table>
| **Surveillance**  
**Special Audit** | conducting a special audit (a definition of special audit has been provided here unlike in Annex 1). **Additional information concerning CoC has been included in the section.** |   |
| **2.1** Original Standards and Guidelines on Timber legality verification for all forest types are attached as a reference | Identical to P6./VI-Set/2009 Annex 2 BUT include one additional REMARKS column to provide the auditors with additional guidance. These are the notes generated during the field visit in E. Kalimantan | The original Standards and Guidelines for legality verification together with additional guidance notes are provided as an annex to allow for continuity in the assessment guidelines |
| **2.2** Framework for report content for legality verification for all forest types | No ToC - Only Descriptive Only generic guidance is provided on the report structure – unlike Annex 1 of the guidelines where a clearer ToC is provided. |   |
| **3** Guidelines covering timber legality verification for primary and secondary industry | Verification application  
**Verification planning,**  
**Verification implementation,**  
**Reporting,**  
**Decision making,**  
**Certificate Issuance and Re-Certification**  
**Surveillance**  
**Special Audit** | The auditor is guided through instructional notes concerning the full assessment procedure from initial application through to certificate issuance, re-application and if necessary conducting a special audit. |
| **3.1** Original Standards and Guidelines on Timber legality verification for primary and secondary industry are attached as a reference | Identical to P6./VI-Set/2009 Annex 2 BUT include one additional REMARKS column to provide the auditors with additional guidance. These are the notes generated during the field visit in E. Kalimantan | The original Standards and Guidelines for legality verification together with additional guidance notes are provided as an annex to allow for continuity in the assessment guidelines |
| **3.2** Framework for report content for legality verification for primary and secondary industry | No ToC - Only Descriptive Only generic guidance is provided on the report structure – unlike Annex 1 of the guidelines where a clearer ToC is provided. |   |
| **4** To guide Independent Monitor in the monitoring of PHPL Performance Assessment and verification of LK carried out by LP&VI | Implementation  
**Reporting** | The IM (defined as: Non Governmental Organizations (NGOs) or civil society in forestry sector - is broadly instructed to: (a) give a close look at the process and result of LP&VI assessment, decision-making process and decision on LP&VI in issuing and (b) they can use and develop their own monitoring methods that can produce a justifiable monitoring result. |
| **5** To guide either the license holder or IM agency through resolution procedures to objections raised against PHPL or timber legality (LK) assessment results | Submission of Objections  
**Resolution of Objections** | If the objection cannot be handled by the LP-VI within a 10 day period the objection can be submitted to NAC |
| **6** To provide the LP-VI’s with criteria and requirements for Personnel and Auditors | **Criteria and Requirements** | None |

The additional guidance, instructions and definitions detailed in these annexes provide more insight into the overall functioning of the SVLK architecture. A number of additional observations can be made, some with potential implications to the VPA process:
• **PHPL - Implications of poor performance:** Under SVLK – All forest types must achieve sustainability as defined and mandated by Ministerial Regulation no P38/Menhut-II/2009. In the guidelines; Annex 1 – Section IV, a certificate will only be granted to the auditee with a “GOOD” performance score. If a “POOR” overall score results in no certificate being issued, the auditee has 6 months to close out the problems. If the issues are not closed out the assessment process is discontinued after the 6 months. If the auditee wants to obtain a PHPL certificate they must reapply. No additional clause has been added here to limit the number of re-applications before an auditee is deemed unfit or incapable of achieving PHPL.

• **Certificate Issuance / Logo color:** In Annex 2 section VI(A) Guidance is provided on certificate issuance - certificates are issued with different logo colors depending on the certification status. For timber originating from PHPL certified forests, the logo is green, from LK certified forests the logo is yellow. Further color categorizations related to manufacturing are provided in Annex 3 section IV(A) –

<table>
<thead>
<tr>
<th>Colour</th>
<th>Description</th>
<th>Flegt Licensing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Green</td>
<td>Timber products, which their raw materials 100% from PHPL certified forest</td>
<td>Yes</td>
</tr>
<tr>
<td>Blue</td>
<td>Timber products, which their materials from mixed PHPL and LK certified forests</td>
<td>Yes</td>
</tr>
<tr>
<td>Yellow</td>
<td>Timber products, which their raw materials 100% from LK certified forests</td>
<td>Yes</td>
</tr>
<tr>
<td>Brown</td>
<td>Timber products, which their raw materials from the combination of PHPL, LK and Non LK certified forests and the latter complies with Decree of Forestry Minister Number P.55/Menhut-II/2006 and/or Number P.51/Menhut-II/2006, or from LK and Non LK certified forests that have complied with Decree of Forestry Minister Number P.55/Menhut-II/2006 and/or Number P.51/Menhut-II/2006</td>
<td>No</td>
</tr>
<tr>
<td>Red</td>
<td>Timber products, which their raw materials 100% just complying with Decree of Forestry Minister Number P.55/Menhut-II/2006 and/or Number P.51/Menhut-II/2006</td>
<td>No</td>
</tr>
</tbody>
</table>

• **LK- Implications of non compliance:** In Annex 2 Section III(C) - “In case of “Non-Compliance”, LV-LK shall submit a verification report to the License Holder and the LV-LK shall give the opportunity to the License Holder to improve the “Non-Compliance” verifier within no later than 10 (ten) calendar days after receiving the Verification Report” – As above, there is no additional clause to provide guidance on serious non compliance that could not be tackled in the 10 day period e.g. If accurate maps (a critical component) cannot be submitted, or (b) the auditee has operated out side of a authorized zones.

11. **RECAP ON KEY ISSUES**

The two joint EU-Indonesia experts meetings held in September 2009 and January 2010 identified 5 issues that still largely remain. These can be divided into 2 broader categories; VPA critical, and additional technical issues:

**VPA Critical:**

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Covered in Guidelines?</th>
</tr>
</thead>
</table>
Independent Monitoring

The NGOs registered in Indonesia and following mutually agreed monitoring protocols will likely supervise the implementation of SVLK. It is also seen as necessary to have a formal oversight structure to ensure the competence of monitoring staff, and quality of monitoring activities and related reports. The oversight structure should be formally recognised by the government of Indonesia, needs to have access to necessary information sources and to report to the Joint Implementation Committee (JIC) on the monitoring findings. The guidelines only provide specific guidance for the Independent Monitor to effectively monitor the FLEGT Performance Assessment and verification of LK carried out by LP&VI. But IM is needed to provide credibility to the TLAS by inspecting that the whole system is working as intended (not just the audit process). It is generally expected the IM organization must be independent of the partner country’s forest sector regulatory bodies and private sector operators.

FLEGT Licensing

LP&VIs appointed by the government of Indonesia and accredited to ISO 17020 can take on the FLEGT licensing function. It is recommended that the competence requirements for licensing authorities are properly documented and guidance is provided to outline the licensing procedures. Since the VPA is an accord between the government of Indonesia and the EU, MoF or another relevant Indonesian ministry shall have the authority to intervene in the FLEGT licensing activities and where necessary require changes to the current practices or initiation of corrective actions.

Technical Issues:

<table>
<thead>
<tr>
<th>Issue</th>
<th>Description</th>
<th>Covered in Guidelines?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Linkage between SFM and Legality Verification Standards</td>
<td>These two standards providing criteria and indicators for forest concessions are rather different in terms of their requirements. Due to the differences in their articulation, it is recommended that within the verification guidelines of the SFM standard, it is clearly stipulated that the Independent Assessment and Verification agencies (LP&amp;VI) have to check that the license holders comply with all the Principles, Criteria, Indicators and Verifiers of the legality verification standard.</td>
<td>Not explicit</td>
</tr>
<tr>
<td>Verification Responsibilities</td>
<td>Compliance to SVLK requirements is periodically assessed by LP&amp;VI. NGOs or civil society organizations can submit objections to the assessment results to LP&amp;VI for settlement. It is recommended that the government agencies are provided with formal channels to affect the assessment results and consequently issuance, suspension or withdrawal of conformity certificates.</td>
<td>Not mentioned</td>
</tr>
<tr>
<td>Control of the Supply Chain</td>
<td>The regulatory framework provides the key elements to efficiently control the movement of timber from the forest to domestic market or the point of export. However, the regulations are not clear how to manage and analyze quantitative data to make sure the timber volumes throughout the supply chain are logical (e.g. the accumulated harvesting volumes do not exceed the allowable cut, or how to manage the material flows within timber processing plants).</td>
<td>The introduction to Annex 2 provides a clear statement on CoC and additional notes have been added throughout the other Annexes. However, it is recommended that implementation guidelines are prepared to help forest companies put information systems (databases) in place. These systems can be simple spreadsheets or more sophisticated commercial products to manage quantitative and other data on forest inventory, harvesting, transportation, storing and processing of timber. The databases would useful tools for the company itself and external parties while the companies are being subject to a conformity assessment.</td>
</tr>
</tbody>
</table>

1 A committee established for each VPA made up of representatives of the FLEGT partner country, the European Commission and EU Member States, which will meet periodically to review VPA implementation.