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This information brief has been prepared by European and Indonesian experts to inform the public about the VPA. *The contents of this brief cannot be taken to reflect the official opinion of the European Union.*

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Further information and detail can be found on:  
[http://ec.europa.eu/europeaid/what/development-policies/intervention-areas/environment/forestry\\_intro\\_en.htm](http://ec.europa.eu/europeaid/what/development-policies/intervention-areas/environment/forestry_intro_en.htm)

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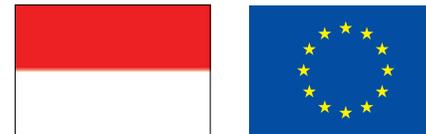
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# FLEGT Voluntary Partnership Agreement Between Indonesia and the European Union

## Briefing Note

May 2011

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Common efforts to ensure and promote legal timber trade and good stewardship of the forest sector



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Illegal logging has a devastating impact on the world's remaining forests and the people that live in them and rely on the resources they provide.

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The European Union's response to tackle illegal logging is set out in the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan, which was published in 2003. The cornerstone of this policy is the FLEGT Voluntary Partnership Agreement (VPA).

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### WHAT IS A VPA?

FLEGT Voluntary Partnership Agreements (VPA) are bilateral agreements between the European Union (EU) and timber exporting countries, which aim to improve forest sector governance and which ensure that the timber and timber products imported into the EU are produced in compliance with the laws and regulations of the partner country.

Under VPAs partner countries develop control systems to verify the legality of their timber exports to the EU. The EU provides support to establish or improve

these control systems. Once ratified and implemented the VPA is legally binding on both parties, committing them to trading only in verified legal timber products.

The European Union's response to tackle illegal logging is set out in the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003. The Action Plan not only comprises the VPAs with partner countries, but also includes the recently adopted EU Timber Regulation which aims to halt the trade in illegally harvested timber on the EU market. This regulation will become operational in March 2013.

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## BACKGROUND

Forestry is an important contributor to Indonesia's economy.

Indonesia covers about 181.2 million ha, spread over 17,000 islands, about the same area as France, Spain, Germany and the UK together. About 70% or 133.6 million ha of the land area is forested. About 37% of the forestland has been set aside for protection or conservation, 17% for conversion to other land uses and about 46% of the forest is destined for production purposes

In the last 5 years the value of Indonesian export from timber and timber products grew from US\$ 8.3 billion to US\$ 9.7 billion per annum. The trend is still positive (1.85% p.a.) but in terms of the economy as a whole the relative share of forestry has dropped from 8.2% to 6.2% as the importance of other commodities has grown more rapidly.

Indonesia exports a wide variety of forest products, ranging from plywood, pulp and a variety of paper products to furniture and handicrafts. The value of this trade grew from approximately US\$7.3 billion in 2005, to US\$8.3 billion in 2006, US\$8.5 billion in 2007, and US\$9.1 billion in 2008. In 2009, after the financial crisis, the value of exports decreased to US\$7.5 billion, but in 2010, the upward trend resumed with a value of US\$9.7 billion US\$. Furniture, pulp and paper products and plywood are the most important timber products by value.

The main export markets for Indonesian timber products are the EU. Within the EU the main market destinations for Indonesian timber are: Germany, UK, the Netherlands, Belgium, French, Spain and Italy.

Forest products are exported from all major ports in country but in particular from Surabaya, Semarang and Jakarta in Java; from Medan and Jambi in Sumatra; from Pontianak, Banjarmasin and Samarinda in Kalimantan; from Makassar in Sulawesi and from various smaller ports around Papua and West Papua.

Image credit:  
Rio Bunet, MFP-Kehati  
Multi-stakeholder meeting  
to develop the Indonesian  
TLAS System



## VPA OBJECTIVES AND PRODUCT SCOPE

The agreement covers all timber production in Indonesia and exports to all markets.

In 2007 the Indonesian government entered into VPA negotiations with the EU to tackle the problem of illegal logging and to improve market opportunities for Indonesian timber and timber products in response to new market regulations in the US, EU and other consumer markets.

The core of the VPA process is to define the set of laws and regulations that apply to the Indonesian forest sector ('the legality definition'), and to develop the control systems and verification procedures that ensure that all timber and timber products exported from Indonesia to the European Union are legal. This means that those products have been acquired, harvested, transported and exported in line with Indonesian laws and regulations. In doing so Indonesia and the EU support improved governance, law enforcement and transparency in the forest sector, promote the sustainable management of Indonesia's forests, and contribute to stopping climate change.

Indonesia will use its timber legality assurance system for all commercial timber and timber products produced, processed and purchased in Indonesia. This includes all exports, whether or not destined for the EU. In future this system may also cover all timber which is consumed domestically. Separate controls to verify the legality of imported timber are still to be developed.

Indonesia began implementing its Indonesian timber legality assurance system ("Indonesian TLAS" or in Indonesian Sistem Verifikasi Legalitas Kayu) in September 2010 when it started a programme of audits and capacity building across the industry. Indonesia will begin licensing products for export once it has revised current regulations governing timber export. It is planned that FLEGT licensing under the VPA will begin in January 2013 once both sides have agreed that the conditions for FLEGT licensing have been met, and in anticipation of the EU Timber Regulation coming into operation.

## THE VPA PROCESS

Nine years of dialogue with many stakeholders.

Indonesia started developing a legality assurance system four years before VPA negotiations started. In 2003 stakeholders began working on a legality definition to be used to audit the forest industry. Initially this process was led by civil society organizations and environmental NGO's such as Telapak, the Environmental Investigation Agency and The Nature Conservancy, with inputs from industry service organizations such as the Indonesian Ecolabelling Organisation (LEI), The Forest Trust and Tropical Forest Foundation. Telapak in particular played a major role in drawing inputs and garnering support from the many local NGO's based in the regions.

Participation in developing the legality definition broadened from 2006 to 2008 by including government and industry at both national and provincial levels. By December 2008 the multi-stakeholder group, under the auspices of the National Forestry Council, formally handed over to government both a legality standard and a proposal for a legality assurance system. The government and a smaller group of stakeholders subsequently turned these proposals into legislation that was passed in June 2009.

Indonesia and the EU began VPA negotiations in January 2007 but it was not until July 2009 that the dialogue intensified when the Indonesian timber legality assurance system (TLAS) was completed. From March 2007 to April 2011 there have been three Senior Officials Meetings, seven Technical Working Groups, seven Joint Expert Meetings and eight Video Conferences to complete and agree the VPA text and annexes.

### A high level of stakeholder participation.

At all times in the design and negotiation process representatives of civil society, forest and timber industry associations and other related ministries have been able to engage directly with the Ministry of Forestry as well as contribute to the negotiations with the EU through the various forms of dialogue described above.

At various stages government has led public consultations around the country inviting regional representatives of industry, government and civil society to comment on the evolving system. National dialogue included a series of 12 programmes on national radio (Green Radio), with phone-ins to officials, civil society, and the private sector and a live interview with the Secretary General of the Ministry of Forestry and the EU Ambassador

The net result is a national legality assurance system and a VPA that has broad support from all Indonesian stakeholders.

Image credit:  
Arbi Valentinus,  
MFP-Kehati  
Signing during SOM



## INDONESIA'S LEGALITY DEFINITION

Indonesia's legality definition draws on Indonesia's laws and regulations on forestry, trade, environment, agriculture and land ownership as well as international treaties signed and ratified by Indonesia. The legality definition was made official in 2009 by two regulations signed by the Minister of Forestry and the Director General of Forestry Utilization respectively.

Indonesia's legality definition is framed around a number of key principles covering essential aspects of forest production and processing, depending on the type of forest.

- For state-owned natural and plantation forests these principles cover: (1) the legal status and area, and right to utilize the forest; (2) compliance with the legal requirements for harvesting; and (3) compliance with the environmental and social aspects related to harvesting.
- For privately-owned forest these principles cover the ownership of the timber as it relates to land area, the logs, and the trading of logs, and this can be cross checked for its traceability.

- Other timber harvesting permits regulate logging from non-forest zones that may or may not lead to forest conversion.
- In addition there is a general legality standard covering the supply chain management of timber from the forest through processing units to the point of export.

For each Principle a number of Criteria, Indicators and Verifiers have been identified to demonstrate compliance, together with verification guidelines describing the method and appraisal norm to be used.

The above two regulations also include the Principles, Criteria and Indicators for sustainable forest management (SFM), which requires SFM Conformity Assessment Bodies to determine whether operators are also following the legality requirements of the Indonesian TLAS. The SFM standard applies to all log production from concessions and covers production, social and ecological aspects.

Many principles of sustainability are included in Indonesia's legality definition. For instance for state-owned natural forests, forests converted to plantations and forests managed by communities, forest operators must have approved harvesting plans with maps that exclude buffer zones, steep slopes, protected habitats and areas of high religious and cultural value. Forest production quotas are calculated from forest inventory data and sustained yield formulae.

## INDONESIA'S LEGALITY ASSURANCE SYSTEM

The Indonesian legality assurance system is based on a certification approach also known as 'operator-based licensing'. A number of so-called Conformity Assessment Bodies, known as Lembaga Verifikasi (LV) must audit the legality of operations of timber producers, timber traders, processors and exporters.

These Conformity Assessment Bodies ensure that the companies audited operate in compliance with the Indonesian legality definition and have credible supply chain controls. Companies that meet these requirements are certified for legality for a period of three years and subject to surveillance audits at least once a year. After three years the legality certificate expires and can be renewed subject to a renewal application and another audit.

The Conformity Assessment Bodies are accredited by the Indonesian Accreditation Body (KAN) against ISO/IEC standards and are directed to fulfill their auditing tasks by the Ministry of Forestry, to whom they also report on the outcomes of their audits. As per forest certification practice Conformity Assessment Bodies are contracted by the companies that want to be certified for legality and they are required to operate according to ISO guidelines.

Silvicultural prescriptions are also checked during forest operations including the allowable cut, species, log diameters, and volumes. Forest operators' social and environmental obligations are specified in Environmental Impact Assessments and Environmental Management Plans. The latter describes measures that must be taken to safeguard the interest of the people living in and around the forest, as well as the measures taken to minimize environmental impacts.

The Conformity Assessment Bodies also check timber exporters and if compliant, supply an export license in the form of a V-legal document or, when the VPA is fully implemented, with a FLEGT License if the shipment is intended for the EU. In due course all exports without a V-legal license will be prohibited. In licensing timber shipments the Conformity Assessment Bodies check that 1) the company and all its suppliers hold valid legality certificates and thus operate in compliance with the Indonesian legality definition; and 2) reconcile the trade data between the various suppliers to the exporter in order to ensure that no unverified timber has entered the supply chain.

If an exporter, or one of his suppliers, does not hold a valid legality certificate, or is found to be in breach of the relevant regulations several things can happen: firstly the request for an export license will be denied, stalling the shipment that was about to be licensed; secondly the exporter in question is at risk of losing his legality certificate altogether, making all exports impossible until he has amended his operations; and thirdly, if malfeasance can be proven, the exporter or his suppliers are at risk of being prosecuted.

## INDEPENDENT MONITORING AND PERIODIC EVALUATION

As elsewhere, the Indonesian TLAS hinges on the quality of the oversight. In this respect Indonesia has developed an innovative approach with in total four forms of monitoring and evaluation.

- *Independent Monitoring by Civil Society:* A key strength of the Indonesian LAS is the responsibility given to civil society groups and individuals to raise objections about the audit of an operator by a Conformity Assessment Body. Local groups and individuals can also file complaints with the Conformity Assessment Bodies in the event of illegal activities detected during operations. In this way civil society groups and individuals throughout the archipelago can request that Conformity Assessment Bodies conduct ad hoc surveillance and review their audit results on the basis of the evidence supplied. In the case of complaints about the operations of the Conformity Assessment Bodies themselves civil society groups and individuals can file complaints with the Indonesian Accreditation Body (KAN). Indonesian civil society has formed a number of networks to take up the task of Independent Monitoring as the Indonesian -TLAS is being rolled out.
- *Comprehensive evaluation:* A Ministry of Forestry Director Generals Decree has established a multi-stakeholder monitoring and evaluation working group that will oversee the functioning of the Indonesian TLAS. The group will regularly review implementation using independent monitoring reports and other inputs, and provide recommendations to strengthen the system, including the standards.
- *Periodic Evaluation:* This evaluation was established under the FLEGT VPA and consists of a formal system audit to review the functioning of the whole TLAS from the point of production in the forest to the

point of export. This audit is undertaken by a qualified body recruited through the Joint Implementation Committee and will review reports from the above two evaluations.

- *Independent Market Monitoring:* This evaluation will keep track of the market position of Indonesian FLEGT-licensed timber in the European market and how the market-based measures are performing.

## INFORMATION DISTRIBUTION AND TRANSPARENCY

Indonesia and the European Union will ensure that key forestry related information is made available to the public under the FLEGT VPA in a timely and appropriate manner. The VPA outlines the forest-related information to be placed in the public domain, the institutions responsible for making that information available and the mechanisms by which this information can be accessed.

The aim is to ensure (1) that Joint Implementation Committee operations during VPA implementation are transparent; (2) that a mechanism exists for both parties as well as involved stakeholders to access key forestry related information; (3) that Indonesian TLAS functioning is strengthened through the availability of information for independent monitoring; and (4) that larger VPA objectives are achieved. Thus both parties see the availability of information as an important contribution to reinforcing good forest governance.

The VPA transparency provisions are underpinned by Indonesia's Freedom of Information Act which distinguishes four categories of information:

- (1) information available and actively disseminated on a regular basis; (2)

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information that should be made public immediately; (3) information that is available at all times and provided upon request; and (4) restricted or confidential information.

The Act requires that every public institution develop implementing regulations outlining how the public can access different pieces of information in that particular aspect of government. The Minister of Forestry has just signed into law the implementing regulation laying out specific provisions for transparency in the forestry sector. This regulation stipulates that requests for information held by the Ministry of Forestry are addressed to the Director of the Centre for Public Relations of that ministry in a “one-door” information policy. Also information available at provincial, regional and district level offices of the Ministry of Forestry can be accessed in this manner.

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## VPA IMPLEMENTATION

Indonesia and the EU have developed an implementation schedule that foresees a number of steps:

1. Indonesia intends to audit its estimated 4,500 Indonesian producers, processors and exporters against the requirements of the Indonesian TLAS progressively. In the first stage by January 2012, exporters of 11 product types will need to provide the V-legal documents. The products covered include wood chips, veneer, mouldings and particleboard. By January 2013 this will be broadened to include all other commodities including pulp, paper and wooden furniture.
2. At the same time, Indonesia, with some external support, will start putting in place the additional elements required for FLEGT licensing (see FAQ 11).
3. Once these elements are in place Indonesia and the EU will commission an

evaluation of the Indonesian TLAS against the set of FLEGT criteria contained in of the VPA, to ensure that the system provides a credible guarantee of legality. When the system is found to provide this guarantee FLEGT Licensing can commence.

It is in the interest of both Indonesia and the EU to endeavour to get the FLEGT licensing system implemented and approved before the EU Timber Regulation becomes operational in March 2013.

To meet this target Indonesia and the EU have agreed to develop a Joint Implementation Strategy outlining the steps necessary to get FLEGT licensing started.

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## SUPPORTING MEASURES

Indonesia’s forest industry is large and diverse, ranging from the many small furniture producers with a handful of workers up to multinational pulp and paper companies employing thousands of people. Industry is also very dispersed across the archipelago. Many of the 4,500 registered operators are small and medium sized, and many have complex supply chains that will initially face challenges complying with the Indonesian TLAS because of their lack of expertise or the cost of the audits. However with the current level of commitment, and the right supporting measures, government intends to get all of its timber exports licensed as legal under the Indonesian TLAS.

Efforts under the Indonesian TLAS have so far led 15 forests and 50 factories to be audited and certified for legality. The Indonesian TLAS now needs to be linked up to the export licensing requirements specified under the Voluntary Partnership Agreement, which means a revision of some trade-related legislation.

The Indonesian TLAS also requires independent, highly competent auditors to monitor compliance with the legality definition, together with civil society

organizations and members of the public that can observe the forest industry first hand, determine whether it is acting within the legality definition, and if not, provide the necessary evidence of the breach in the law in order to make a complaint.

Resources to comply with and run the Indonesian TLAS will primarily come from industry and government but external investment is also needed to get systems up and running, build capacity and help implement the terms of the agreement. Support from the UK will continue up to September 2011 through the DFID-funded Multi-stakeholder Forestry Program after which a new program is being developed to continue this work and strengthen links to climate change. Likewise the EU is planning further support to the VPA starting in 2012, and other donors such as the USAID, Australia and Norway are likely to support complementary activities to tackle illegal logging.

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## FREQUENTLY ASKED QUESTIONS

### 1. Why has Indonesia signed the FLEGT Voluntary Partnership Agreement?

The FLEGT VPA provides a way by which Indonesia can simultaneously address the problems associated with illegal logging, improve its forest management, and strengthen market opportunities for its timber products in European and other markets.

From the 1990s onwards Indonesia suffered from serious illegal logging and rapid deforestation, leading to a loss of economic opportunities, social problems and environmental degradation. The recognition of these problems has led the Indonesian Government to play a prominent role in the international debate on illegal logging and related trade.

In September 2001 Indonesia hosted a ministerial meeting, which resulted in the ‘Bali Declaration on Forest Law

Enforcement and Governance’. In 2003 Indonesian stakeholders started an intensive stakeholder process to define what the production of legal timber meant in practice. Broad agreement on this definition, reached in 2007, enabled Indonesia to start work on a country-wide system to verify and provide assurance that its timber production is legal (Sistem Verifikasi Legalitas Kayu). This system is now being implemented. The Indonesian TLAS also constitutes the basis for the FLEGT Voluntary Partnership Agreement between Indonesia and the EU.

Besides the interest of the Indonesian Government to enhance governance and strengthen law enforcement in its forest sector, Indonesian timber exporters have become aware that their customers are increasingly looking for verified legal and certified sustainable timber products. In the US and the EU this trend has recently been strengthened by the adoption of legislation that prohibits the sale of illegally harvested timber and products made from illegal timber. Other consumer markets are expected to follow, making legality verification an important part of the global marketing of timber products.

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## **2. What is the relationship between the FLEGT VPA and the REDD debate in Indonesia?**

FLEGT and REDD are complementary policy instruments. Implementing a FLEGT VPA can assist forested countries in meeting REDD policy goals.

FLEGT aims to enhance the overall governance, transparency and law enforcement of the forest sector in order to make sure that timber production takes place in accordance with the laws and regulations of a country. REDD aims to create a monetary incentive to halt deforestation.

A future REDD mechanism requires clarity over land and forest ownership and use rights as well as the capacity to prevent indiscriminate and illegal logging.

The VPA process helps to clarify forest-related legislation and identify the roles of different government institutions and private sector bodies. It also enables countries to address underlying problems with regard to other users' use and tenure rights. In doing so it enhances forest law enforcement and assists countries in putting their forest sectors on a more sustainable footing.

## **3. How important is the EU as an export market for Indonesian timber?**

The EU is a key market for Indonesian forest products with the total average annual value of timber and paper exports from Indonesia reaching US\$ 1.2 billion which is around 15% of Indonesia's exports.

Indonesia is a major exporter of timber and timber products globally. The total value of these exports is estimated at US\$ 9 billion. Indonesia does not export unprocessed products such as logs and rough sawn timber, and the main timber products destined for the EU are paper & paper board, wooden furniture and plywood. The main destination markets within the EU are Germany, UK, the Netherlands, Belgium, French, Spain and Italy.

## **4. Which products are covered by Indonesia's FLEGT licensing scheme?**

The VPA covers all Indonesia's main exports of timber and timber-based products, going beyond the five core categories set out by the 2005 EU FLEGT Regulation (logs, sawn wood, veneers, plywood and railway sleepers). The VPA also includes woodchips, moulded timber products, and wood-based panels, as well as pulp and paper, paper products and wooden furniture. As Indonesian law prohibits the exports of round logs and rough sawn timber of certain dimensions these are excluded from FLEGT licensing.

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## **5. What is the link between VPAs and the EU new EU Timber Regulation?**

The EU Timber Regulation recognises that the legality of FLEGT-licensed timber has been verified through a FLEGT partner country's control systems agreed under the VPA. The Regulation therefore exempts FLEGT-licensed timber and timber products from further due diligence requirements.

In October 2010 the European Union adopted the EU Timber Regulation which prohibits the sale of illegally harvested timber and products manufactured from such timber. It also obliges traders who first supply timber or timber products in the EU to exercise 'due diligence' to minimise the risk of selling illegal timber. This legislation will reduce undercutting of prices of bona fide traders by those supplying cheaper but illegally-harvested timber. The Regulation will become operational in March 2013.

## **6. Are timber markets other than the European market also changing?**

All major consumer markets have passed or are developing policies or regulations aimed at excluding illegally harvested timber.

Two of most important markets, the European Union and the United States, have prohibited the sale of illegally harvested timber while Japan's Green Purchasing Law requires its government agencies to buy legal timber products. The adoption of the EU Timber Regulation in 2010 was preceded by an amendment to the US Lacey Act in 2008, which made it an offence to market, process or transport illegally harvested timber in the United States. Australia has just released draft legislation, the "Illegal Logging Prohibition Bill 2011", which prohibits the importation of regulated timber products that contain illegally logged timber. A growing number of other countries are expected to follow suit.

## **7. Are VPAs and the EU Timber Regulation a form of trade restriction?**

VPAs and the EU Timber Regulation aim to facilitate legitimate trade in timber products and provide a level playing field for all market participants. The EU Timber Regulation does not discriminate between imported and domestically produced timber. Both are equally subject to the prohibition and due diligence requirements.

Timber markets are changing because consumers and companies do not want to be associated with criminal activities that have grave consequences for the forest environment and forest-dwelling populations. The introduction of purchasing policies which require legality verification and sustainability certification for both public agencies and the private sector is a response to these public concerns. Companies that play by the rules also have an interest in closing potential loopholes as they don't want to be undercut by those who sell illegally-sourced cheaper products.

Indonesia is entering a VPA voluntarily because it sees benefits in doing so. The VPA will enable Indonesia's timber industry to respond to changing market requirements and strengthen its market position in the EU and elsewhere, while improving forest sector governance and strengthening its capacity to sustain the country's forest resources.

### 8. If EU-bound timber exports require a FLEGT license, what is there to stop Indonesian traders from exporting to other markets?

The VPA does not specify requirements for timber exported to markets other than the EU. However, Indonesia has committed to using its Indonesian TLAS control systems to verify the legality of all exports of timber and timber products, regardless of the destination. Shipments of timber destined for the EU will receive FLEGT licenses. Those destined for other export markets will receive so-called V-legal documents FLEGT licenses.

### 9. Will the FLEGT-licensed timber fetch higher prices than un-verified timber?

Buyers' response to FLEGT-licensed products is still unknown, as none is yet available on the international market. However, while the European Commission does not anticipate significantly higher prices, the combination of government timber procurement policies in markets of importance to Indonesia and the Timber Regulation are expected to increase demand for FLEGT licensed timber products.

Government procurement contracts represent between 5% and 25% of total timber consumption, depending on the country. Procurement policies in a growing number of EU Member States stipulate that timber products purchased by central government agencies must at least be verified legal and the European Commission has encouraged European Member States to accept FLEGT licenses as proof of legality in public procurement.

The EU Timber Regulation specifically recognises FLEGT-licensed timber supplies as meeting its requirements. This will remove the need for (and cost of) due diligence checks on those supplies and provide assurance of compliance with the Regulation's prohibition provision.

## BEING SURE OF THE LEGALITY OF TIMBER

### 10. How is legality defined in the Indonesian VPA?

Legal timber is defined as "timber which has been harvested, transported, processed and traded in accordance with all relevant Indonesian laws".

The Indonesian process of defining what these laws are and how compliance is verified was developed through intensive multi-stakeholder dialogue which included Government officials as well as representatives from Indonesian trade associations and civil society. Starting in 2003 with support from, amongst others, the UK Department of International Development, the dialogue analysed all Indonesian forest-related legislation and regulations covering the legality of various types of permits, social safeguards as part of the Environmental Impact Assessment process, forest management and timber production regulations, transport and trade rules as well as the payment of forest-related fees and the relevant export provisions.

The resulting legality standards are contained in Annex II of the Agreement.

### 11. How will the timber legality assurance system in Indonesia work?

Indonesia has opted for an "operator-based" licensing system for implementation of the Indonesian TLAS. In essence this means that all timber exporters are audited annually to determine whether all timber they export meets the requirements of the timber legality assurance system. They must be able to show that they are implementing management systems that preclude the possibility that any timber they use to manufacture timber products for export has been illegally harvested. If they can demonstrate this to an approved auditor, their timber can be licensed for legality.

Failure to show that they use only legal timber or serious problems with the control systems will result in companies losing the right to export timber. They may also face prosecution.

Indonesia has already started auditing its operators to ensure compliance with the Indonesian TLAS. This process is likely to take some time since it is a very large country with a large number of timber producers, processors and exporters. The Ministry of Forestry currently plans to have 600 active exporters audited by the end of 2011. The auditing of these operators is undertaken by Conformity Assessment Bodies (so-called LPs and LVs) which are operating in accordance with ISO standards and accredited by the National Accreditation Body of Indonesia (KAN).

Indonesia has adapted its Indonesian TLAS to FLEGT licensing. Apart from a detailed description of the TLAS, the VPA, amongst others, also defines:

- Strict requirements for the chain of custody, as contained in Annex V;
- An independent audit function ('Periodic Evaluation') carried out on a yearly basis to assess the functioning and effectiveness of the whole timber legality assurance system, as contained in Annex VI;
- A market monitoring function to assess the impact of FLEGT licensing on the position of Indonesian timber on the EU market, as contained in Annex VII

d. FLEGT licensing procedures, the format of licenses and the procedures for information exchange between EU Competent Authorities and the Indonesian Licensing Authorities, as contained in Annexes III and IV; and

e. A set of criteria which the Indonesian TLAS needs to meet before FLEGT licensing of timber destined for the EU can start.

### 12. Who will issue FLEGT licenses in Indonesia?

FLEGT licences will be issued by Conformity Assessment Bodies (LVs). They will not only audit operators on an annual basis for overall compliance with the provisions of the timber legality assurance system, but also act as outsourced licensing authorities for individual shipments. They are thus also responsible for verifying that each shipment meets the requirements of the Indonesian TLAS before it can be FLEGT licensed. It is expected that up to 20 Conformity Assessment Bodies will be appointed across Indonesia to act as licensing authorities.

Exchange of Information between EU competent authorities and Indonesia's licensing authorities will be facilitated by a License Information Unit to be established in the Ministry of Forestry. This Unit will keep records of all export licenses. The procedures for such information exchange are contained in Annexes III and V of the VPA.

Image credit:  
Rio Bunet, MFP-Kehati  
Group Photo - Delegation  
after signing TWG



### 13. What happens if a producer, processor or exporter does not comply with the indicators set out in the definition of legality?

Once FLEGT licensing is operational, timber that does not come from a producer, processor or trader who has been audited and certified as legally compliant will not receive a FLEGT license at the point of exportation. Such timber can thus not be exported to the EU. Failure to adhere to the legality criteria will also lead to withholding or withdrawal of the operator's legality certificate. The operator has committed a serious offence such as logging in a protected forest. In serious cases the timber can be impounded. Indonesia has decided not to export impounded timber.

### 14. Within the VPA framework, all timber produced by Indonesia for export to the EU will be licensed as legal. What happens if timber from other countries is processed in Indonesia and exported to the EU?

Currently, not much timber is imported into Indonesia to be processed for re-export. That could however change in the future. As part of the VPA the Indonesia has agreed to ensure that imported timber fully complies with Indonesia's import

regulations and will be accompanied by documents demonstrating the legality of the timber in its country of harvest. Indonesia will develop guidance on what constitutes acceptable proof of legality of imported timber. Imported timber will be appropriately marked and entered into the supply chain controls in order to ensure that there is no mixing with unverified sources of timber.

### 15. Which markets do the Indonesian legality control systems intend to cover?

The control systems to be implemented in Indonesia are intended to cover all exports of timber and timber products and not only to FLEGT licensed exports to the EU. In addition, Indonesia intends to use the Indonesian TLAS control systems for its domestic markets. Given the complexity of the implementation process in a country the size of Indonesia, priority will be given to exports of Indonesian TLAS and FLEGT licensed timber.

### 16. How does the VPA address issues of sustainable forest management?

The Indonesian control systems not only cover legality but also have a mechanism to certify the sustainability of forest operations. It is the intention of Indonesia to develop a stepwise approach by which exporters and the companies and producers wanting to supply timber to export markets at a very minimum have to ensure the legality for the timber products but are encouraged to move towards fully sustainable forms of timber production

### 17. Is certified timber accepted as legal within Indonesia's VPA framework?

Currently, Indonesia has a number of certified concessions. Certified concessions do not have to be verified for legality until their current certificate expires after which they will also become subject to legality verification unless they renew their certificates.

When FLEGT licensing of exports to the EU starts, all timber producers, must have their operations audited for legality.

### 18. What type of legislative reforms will be implemented?

During discussions between the various Indonesian stakeholder groups and during the negotiation between Indonesia and the EU a number of issues were identified which require additional guidance by Indonesia. The main areas of work, which need to be undertaken as part of the implementation of the VPA are: 1) develop guidance on the functioning of civil society independent monitoring; 2) develop guidance on the legality of timber imports into Indonesia; 3) develop guidance on the availability of forest-related information in the public domain; 4) develop procedures for Comprehensive Evaluation and 5) establish a License Information Unit and 6) export licensing procedures.

### 19. What does the VPA say about communities that depend on the forest?

In order to minimize possible adverse impacts of this Agreement, Indonesia and the EU agree to develop a better understanding of the impacts on the timber industry as well as on the livelihoods of potentially affected indigenous and local communities as described in their respective national laws and regulations.

Indonesia and the EU will monitor the impacts of this Agreement on those communities and other actors identified above, while taking reasonable steps to mitigate any adverse impacts. Indonesia and the EU may agree on additional measures to address adverse impacts.

### 20. How will the VPA and the TLAS be monitored and audited?

Indonesia and the EU have agreed to use no less than four auditing and monitoring mechanisms. Two of these are part of the Indonesian TLAS. Two others were added as part of the FLEGT negotiations.

1. Independent Monitoring by Civil Society Organisations and members of the public. The Indonesian TLAS regulations give Civil Society Organisations the right to file complaints with the auditing Conformity Assessment Bodies if they believe that operators are not acting in compliance with the law. Indonesian civil society organisations have in the mean time established a monitoring network to monitor the functioning of the Indonesian TLAS. The EU and UK provides financial support to this network.
2. Comprehensive evaluation of the Indonesian TLAS through a multi-stakeholder working group to monitor and review the system and identify gaps and possible improvements.

Image credit:  
Arbi Valentinus,  
MFP-Kehati  
NGO training TLAS on  
industry



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3. Periodic Evaluation by an independent auditor. This evaluation will take place on a yearly basis and takes the form of a systems check to ensure that the whole timber legality assurance system, from the point of harvesting to the point of export provides a credible guarantee of legality.

4. Independent Market Monitoring. This is a two yearly exercise to assess the position of Indonesian FLEGT-licensed timber on the EU market, and determine how policy measures influence the position of verified legal timber against timber from unknown sources.

#### **21. How will the agreement and its implementation be managed?**

The VPA establishes a so-called Joint Implementation Committee (JIC) in order to facilitate the oversight and implementation of the Agreement. Indonesia and the EU will choose their respective representatives for this committee. The JIC will facilitate the dialogue and regular exchange of information between the parties; it will publish an annual report, detailing activity, progress and relevant statistics; and it will commission the necessary monitoring and evaluation activities. The JIC will also be responsible for analysing the different impacts of the Agreement, including those on local and indigenous communities.

#### **22. How are stakeholders involved in the VPA following implementation?**

Indonesian Civil Society organisations, industry and government have been part of design process of the Indonesian TLAS as well to the FLEGT VPA negotiations for many years. They will play a key role in monitoring the performance of the Indonesian TLAS, a role that has been recognised in Indonesian legislation. It is expected that civil society representatives will be part of the Joint Implementation Committee to contribute to a balanced and transparent process of implementation throughout the implementation of the Agreement.

#### **23. How will the public be informed about progress and challenges that arise during implementation of the VPA?**

Indonesia and the EU agreed to maximise the transparency of information with respect to VPA implementation and performance. In practice this means that the proceedings of the Joint Implementation Committee, as well as the annual report outlining progress with the VPA and the results of the monitoring and evaluation of the VPA will be made public.

#### **24. What forest-related information will be made available in the public domain?**

In addition to the transparency of proceedings of the Joint Implementation Committee (see FAQ 21) Indonesia has made a strong commitment to putting all relevant forest-related information in the public domain. Annex IX to the VPA stipulates in detail which forest related information will be available from which government agencies and by which procedure this information can be obtained under its Freedom of Information Act. Transparency of information is of great importance to Independent Monitoring of the Indonesian TLAS as it allows civil society access to concession-related information prior to field based monitoring activities.

#### **25. How can I get a copy of the agreement?**

The text of the agreement, including annexes, will be publicly available following ratification by the two parties. It will be published in the Official Journal of the European Union (OJEU) and will also be available on the Commission's website and that of the Government of Indonesia.

#### **26. What is the agreement's duration?**

The agreement remains in force for 5 years, and is renewable for consecutive periods of 5 years.