Centralized National Risk Assessment for Indonesia
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## Risk assessments that have been finalized for Indonesia

<table>
<thead>
<tr>
<th>Controlled Wood categories</th>
<th>Risk assessment completed?</th>
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<tr>
<td>1  Illegally harvested wood</td>
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<tr>
<td>2  Wood harvested in violation of traditional and human rights</td>
<td>YES</td>
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<tr>
<td>3  Wood from forests where high conservation values are threatened by management activities</td>
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</tr>
<tr>
<td>4  Wood from forests being converted to plantations or non-forest use</td>
<td>YES</td>
</tr>
<tr>
<td>5  Wood from forests in which genetically modified trees are planted</td>
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Risk designations in finalized risk assessments for Indonesia

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<thead>
<tr>
<th>Indicator</th>
<th>Risk designation (including functional scale when relevant)</th>
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<td>Controlled wood category 1: Illegally harvested wood</td>
</tr>
<tr>
<td>1.1</td>
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<tr>
<td>1.2</td>
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</tr>
<tr>
<td></td>
<td>Specified risk for the rest of the country</td>
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<tr>
<td>1.3</td>
<td>Low risk for state forest with SLK or PHPL certificates</td>
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<td></td>
<td>Specified risk for the rest of the country</td>
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<tr>
<td>1.4</td>
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<td>1.7</td>
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<td>Controlled wood category 3: Wood from forests where high conservation values are</td>
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<td>Controlled wood category 4: Wood from forests being converted to plantations or</td>
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<td>non-forest use</td>
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<td>Controlled wood category 5: Wood from forests in which genetically modified trees</td>
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<td>are planted</td>
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Risk assessments

Controlled Wood Category 1: Illegally harvested wood

Overview

Indonesia has been, for many years, one of the most significant players in the international trade of tropical timber. Nearly half of the Indonesian nation is covered by forests,¹ and the timber extracted from this resources is converted into many products, including plywood, furniture, pulp and paper.² Indonesia’s main export markets are China, the EU, Japan and Korea.³

Indonesia was the first country in Asia to sign a voluntary partnership agreement (VPA) with the EU in 2013.⁴ In November 2016, the VPA came into full effect with the endorsement of the timber legality assurance system, the SVLK by the European Commission. Since that time, Indonesia has been able to issue FLEGT licenses to verified legal timber products it exports to the EU. SVLK also applies to timber-based exports to other countries, which are accompanied by V-Legal Documents.⁵

Indonesian legal framework

The Forestry Law (Law No. 41 of 1999) is the primary legislative instrument that governs forestry in Indonesia. It replaced the Basic Forestry Law (Law No. 5 of 1967) that had been in effect throughout the New Order period (1965–1998). The Constitution does not mention forests explicitly, but does refer to the state’s control over all natural resources of the country. Although the Basic Agrarian Law (BAL, Law No. 5 of 1960) purports to apply to all land in Indonesia; since 1967, the government has regarded all areas designated as forest as being regulated exclusively by these forestry laws.⁶

³ http://www.euflegt.efi.int/indonesia
⁴ Ibid.
⁵ Ibid.
Forests in Indonesia are categorised as hutan negara (state forests) and hutan hak (forests subject to rights). There is publicly owned (i.e. by the State) as well as privately owned forest land in Indonesia. The State owns 72% of the forest land, while communities and individuals own 28%. Only half of the State-owned land is State-managed; the other half is managed by private companies, individuals or communities, most commonly through concession permits.

There are three main administrative forest categories for state forests in Indonesia:

1. Production Forest “Hutan Produksi”, the most common type at 58% coverage, with sub-categories such as:
   a. Permanent Production Forest, called HP “Hutan Produksi Tetap”;
   b. Limited Production Forest, called HPT “Hutan Produksi Terbatas”; and
   c. Production Forest, which can be temporarily converted (e.g. for mining), called HPK “Hutan Produksi yang dapat di Konversi “.
2. Protection Forest (e.g. for watershed) at 24%, called HL “Hutan Lindung” and
3. Conservation Forest “Hutan Konservasi” HK at 18% (Which includes Nature Reserves, Nature Conservation areas and Hunting Parks (KSA/KPA/TB).

The following forest management permits are legal in Indonesia:

1. IUPHHK-RE “Izin Usaha Produk Hasil Hutan Kayu-Restorasi Ekosistem” which translates into Business Licence of Forest Timber Production for a Restoration Ecosystem,
2. IUPHHK-HA “Hutan Alam” which is a Permit for Natural Forests,
3. IUPHHK-HTI “Hutan Tanaman Industri” is an Industrial Plantation Permit,
4. IUPHHK-HD “Hutan Desa” is a Village Forest Management Permit without commercial timber sales, and
5. IUPHHK-HTR “Hutan Tanaman Rakyat” which is Community Plantation Forest, up to 700ha.

A moratorium on granting new concession licenses has been in place in Indonesia since 2011 (renewed in 2014). Harvesting on concessions is regulated according to these various types of Concession Permits and Licenses (IUPHHK), issued by the Ministry of Environment and Forestry (MoEF), which defines boundaries, areas, duration and harvestable timber species. The Annual Work Plan (known as RKT) and Ten Year Work Plan (called RKUPHHK or simply RKU) – both of which have to be approved by the MoEF – specify harvesting volumes and logging areas. Receipts
relating to tax payments as well as roundwood transport documents (SKAU) are retained by the company, as well as a registration number and the Forest Product Legality Documentation (FAKO) for processed logs issued by the District Forest Office.\textsuperscript{7}

Harvesting by State Forest companies requires Ten Year Work Plans, followed by Annual Work Plans, specifying harvesting block, a Stand Inventory Before Felling document (called ITSP “Inventarisasi Tegakan Sebelum Penebangan”) and a Logging Plan.\textsuperscript{8}

For harvesting in Private Forests (known as HR “Hutan Rakyat” and defined as a minimum area of 0.25ha), both land certificates as well as roundwood transport documents (SKAU) are needed. The type and volume of timber to be harvested has to be reported to the Chief of Village for approval and issuing of the SKAU.

Apart from the MoEF, the District Forest Office and the Chief of Village, mentioned above, there are technicians of Sustainable Forest Management, called GANISPHPL “Tenaga Teknis Pengelolaan Hutan Produksi Lestari”, who have 19 types of qualification (trained by the authorities) for writing standardized work plans, checking/approving harvesting plans, measuring logging volumes/area, etc. The Government employs experts, called WASGANISPHPL (15 types) for GANISPHPL supervision.\textsuperscript{9}

\textit{The VPA and the SVLK}

There is a mandatory Indonesian timber legality verification system, called SVLK “Sistem Verifikasi Legalitas Kayu”, which forms the basis of the ratified 2013 Voluntary Partnership Agreement (VPA) between the EU and Indonesia – developed following the 2005 Forest Law Enforcement, Governance and Trade (FLEGT) Regulation. This policy is mandatory for all businesses ranging from upstream to downstream sectors where regulatory compliance is verified by the acquisition of certificates based on criteria and standards appropriate to the type of business.\textsuperscript{10}

\textbf{The SVLK is mandatory for the entire wood sector}. The SVLK system has been developed to mainstream sustainable forest management. It is mandatory for all businesses ranging from upstream to downstream sectors where regulatory compliance is evidenced by the acquisition of certificates based on criteria and standards appropriate to the type of business. Fulfilment of the obligations as stipulated by the relevant laws and regulations is audited by an independent agency in accordance with Minister of Forestry Regulation No. 43 of 2014, which outlines the performance assessment of sustainable forest management and timber legality verification of the licence holder or forest subject to rights. The licence holder of


\textsuperscript{8} Ibid.

\textsuperscript{9} Ibid.

\textsuperscript{10} Ibid.
forest products utilization that passes the sustainable forest management audit obtains a Sustainable Forest Management Certificate/Sertifikat Pengelolaan Hutan Produksi Lestari (PHPL) or a Timber Legality Certificate/Sertifikat Legalitas Kayu (SLK). For the wood industry, it is compulsory to obtain Timber Legality Certificate. PHPL includes all aspects covered by SVLK, but requires more efforts by the concession management, in particular concerning social and environmental aspects\(^\text{11}\).

The Indonesian regulation on the “Standards and Guidelines on the Assessment of Performance of Sustainable Forest Management and the Verification of Timber Legality in the State and Privately-owned Forests” (Forestry Minister’s Regulation P.38/Menhut-II/2009) establishes the Indonesian Timber Legality Assurance System (TLAS). The TLAS also includes the Indonesian sustainability scheme and targets to improve forest governance, to suppress illegal logging and the associated timber trade to ensure credibility and to improve the image of Indonesia’s timber products (Council Decision 2014/284/EU and Commission Decision (EU) 2015/1158 known here after as the ‘EU/Indonesia VPA’, Annex V)

The TLAS comprises the following elements:

1. Legality Standards,
2. Control of Supply Chain,
3. Verification Procedures,
4. Licensing Scheme,
5. Monitoring.

TLAS is the basic system used to assure the legality of timber and timber products produced in Indonesia for export to the European Union and to other markets (EU/Indonesia VPA, Annex V).

**Key actors:**

1. Conformity Assessment Bodies (CAB) - The CABs are authorized by the Ministry of Forestry and contracted by individual operators to verify the legality of the production, processing and trade activities of individual operators in the supply chain, including the integrity of the supply chain. There are two types of CABs:

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a. **assessment bodies** (Lembaga Penilai/LP) which audit the performance of Forest Management Units (FMUs) in state forests against the sustainability standards as well as the requirements of the legality standard; and

b. **verification bodies** (Lembaga Verifikasi/LV), which audit FMUs, forest-based industries, traders and exporters against the legality standards. LVs can also act as Licensing Authorities. In this case the LVs issue export licences to cover timber products destined to international markets. For non-Union markets, the Licensing Authorities will issue V-Legal Documents, and for the Union market, FLEGT licences will be issued in accordance with the requirements as outlined in Annex IV.

2. The LP and LV are required to develop the necessary management systems addressing competency, consistency, impartiality, transparency, and assessment process requirements as outlined in ISO/IEC 17065. These requirements are specified in the TLAS Guidelines. The conformity assessment bodies (CAB) are accredited by the Indonesian National Accreditation Body (KAN).

3. Indonesian National Accreditation Body (Komite Akreditasi Nasional — KAN) is an independent accreditation body established through Government Regulation (Peraturan Pemerintah/PP) 102/2000 concerning National Standardisation and Presidential Decree (Keputusan Presiden/Keppres) 78/2001 regarding the National Accreditation Committee. It operates under the guidance of ISO/IEC 17011 (General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies)

4. Auditees - Auditees are operators which are subject to legality verification. They include forest management units (concessionaires or timber utilization permit holders, community-based or village based forest permit holders, private forest/land owners), registered timber depots, forest-based industries, non-producer registered exporters.

5. Independent monitor (IM) - Civil society groups, individuals and communities acting as Independent Monitors have the right to assess and report on the compliance of operations against legality requirements, as well as on accreditation, verification and licensing activities. Findings from an Independent Monitor can also be used as part of the Periodic Evaluation (PE) which is required under the VPA Agreement (Annex VI).

6. The Government - The Ministry of Forestry (as of October 2014, the Ministry of Forestry was merged with the Ministry of Environment to become the Ministry of Environment and Forestry) regulates the TLAS and authorises the accredited LPs to undertake SFM assessment and LVs to undertake legality verification. The Ministry of Forestry also authorises the LVs to issue export licences (V-Legal Documents or FLEGT licences).

7. Licence Information Unit (LIU) - an information management unit which validates information concerning V-Legal Document/FLEGT licence issuance. The LIU is also responsible for general information exchange on the TLAS, and receives and stores relevant data and information on the issuance of certificates of legality and V-Legal Documents/FLEGT licences.
8. Technical governmental field supervisors (Wasganis) and technical company field staff (Ganis) – Registration is controlled by the Ministry of Forestry. Wasganis are tasked to carry out the supervision and control of log measurements. They also terminate the mandatory transport documents and carry out data reconciliation (for further details refer to the Appendix of this Annex). Ganis prepare the production and transport documents from all production in state forests. Ganis can also terminate the mandatory transport documents in the case of Wasganis’ absence for more than 48 hours. Both Wasganis and Ganis are registered with the Ministry of Forestry. On a yearly basis, they are evaluated by the Ministry of Forestry through an official examination.

Operation of the SVLK

Indonesia’s SVLK, is designed to verify the legality of timber from the forest or the point of import through the entire supply chain to the point of final sale or export. See Annex V of the VPA. The application of SVLK is mandatory for all forest management units and industries, traders and timber depots, and for all export destinations. The VPA includes different legality standards for timber and timber products from different types of permits and rights holders. For each legality standard, the VPA lists criteria, indicators and verifiers that can be used to prove compliance. In addition, the underlying Indonesian legislation describes agreed upon verification methods. See Annex V of the VPA and the SILK website’s page on regulations.

Auditors called Conformity Assessment Bodies (CABs) verify the compliance of timber producers, traders, processors and exporters with the relevant legality standard. Operators that pass the audit are issued with a legality certificate. The legality certificate is valid for three years for large companies and for up to ten years for small-scale operators or low risk operators. Surveillance visits take place every year (large companies) or every two years (small-scale operators or low risk operators).

Licensing authorities issue FLEGT licences to accompany each consignment of verified legal timber exports from registered operators that hold a valid legality certificate. This assessment and licensing are continuously monitored and informed by civil society actors acting as independent monitors of the timber legality assurance system. In addition, ‘periodic evaluation’ (termed ‘independent audit’ in other VPAs) will assess the functioning of the legality assurance system at least once a year.

To get certified, timber-based industries, timber depots, traders including exporters, and small-scale privately owned (household or cooperative) forests must conform to the relevant legality standard.

An alternative procedure called Supplier’s Declaration of Conformity (SDoC) can be used to enter SVLK supply chains under certain conditions. This alternative procedure is only open to small and medium enterprises and smallholders who deal only with low-risk timber from privately-owned forests and/or SVLK-certified plantation timber from state-owned company (Perhutani). SDoC enable timber with a low illegality risk (i.e. planted exotic
species) from non-SVLK certified sources to enter the SVLK supply chain. SDoC are self-declarations containing information about the supplier, products and recipient of the products\(^\text{12}\).

A sustainability standard is also mandatory for state owned forests managed by companies (natural and plantation forest concessions). Companies must conform to this standard no later than the end of the three-year validity period of their first legality certificate. All operators working on the basis of permits included in the VPA need to be SVLK certified (or provide a Supplier’s Declaration of Conformity), regardless of whether they export or place timber products on the domestic market. Only exporters need also to have a V-Legal Document for each consignment or a FLEGT licence if the export is destined to the EU (once FLEGT licensing starts). Public summaries of all audits and surveillance visits are available on the Ministry of Environment and Forestry’s SILK website and the respective sites of the Conformity Assessment Bodies.

### Problems / issues raised with SVLK

Christine Overdevest & Jonathan Zeitlin in their report *Experimentalism in Transnational Forest Governance: Implementing EU Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements in Indonesia and Ghana*\(^\text{13}\) take a comprehensive look at the issues/shortcomings of the SVLK that have been identified and the actions taken to address these issues:

- The slow and uneven pace of SVLK certification.
- Widespread questions have likewise been raised by civil society Independent Monitors and other observers about the quality of the audits themselves. Key issues include variability in the stringency of accredited auditors, opportunities to shop around for more lenient auditors, follow-up of complaints raised by the IMs, and loopholes for the entry of illegally harvested wood into the supply chain.
- Although NGOs have praised the formal role given to civil society as IMs in the SVLK, there have been numerous complaints about the latter’s ability to perform this function effectively in the system’s initial roll-out. Thus JPIK monitors have reported difficulties in accessing necessary information about each stage of the certification process, from planned audits and required consultations through audit reports to follow-up

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\(^{12}\) Ibid.

actions taken in response to complaints (JPIK 2014). JPIK has also drawn attention to the lack of human and financial resources that limit civil society’s capacity to carry out independent monitoring.

- One longstanding point of contention concerns the status of indigenous peoples’ rights to their traditional lands. The dispute goes back to a 1999 law. At one point during the multi-stakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’. But these criteria were deleted from the final version included in the VPA, though NGOs were hopeful that these issues would be addressed to some extent in the environmental and social impact assessment required by law and included in the legality standard (Bartley 2014: 99-100; EU-Indonesia 2014: Annex I).

- At least some of the problems with the operation of the SVLK reported above likewise stem from deeper land and resource governance challenges, including inadequate spatial planning capacity, bureaucratic silos, and corruption.

- Independent monitors have also complained that the VPA fails to tackle the legality of permit allocation. CABs are required to consider only ‘the existence of a permit document, without examining the process of the issuance of the permit’ (Indonesia NGO interview 2014). JPIK has therefore argued that the SVLK needs to be revised to oblige auditors to check whether permits are issued in violation of officially designated area functions, and/or in response to side payments or other forms of corruption (JPIK 2014).

- Three key critical reports:

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Abidah Setyowati & Constance L. McDermott, 2017\textsuperscript{17} in their report stated the following:

“We found that the VLK legality standards consist of an easily auditable document checklist, and examined the implications of this approach for addressing the key issues of corruption and land and resource tenure. This revealed how the focus on documentation ignored the issue of whether concessions, plan approvals, or harvest or transport permits were issued through corrupt practices. This is perhaps not surprising, given the limited authority, capacity, and incentive for private auditors, hired by private companies, to uncover either government or private-sector corruption. Regardless of the justification, verifying operations as “legal” that have engaged in corruption obscures its significance relative to the issues that are covered in the standards, and risks further entrenching and legitimating that corruption”.

\textit{Actions taken to address these problems/issues}

Overdevest and Zeitlin discuss, at length, the actions taken to address the issues mentioned above, in the lead up to the endorsement of the SVLK system by the EC:

- European Parliament resolution - Responding to criticisms of the SVLK raised by Human Rights Watch (whose report is explicitly cited) and the Anti-Forest Mafia Coalition (the publication of whose report was carefully timed to feed into the debate), the European Parliament resolution:
  - Calls upon the European Commission to press the Indonesian government to ensure that auditors, verification bodies, and independent monitors receive ‘adequate funding and training so that they can carry out regular field monitoring, spot checks and audits.’
  - Demanded that the Indonesian government ensure that independent monitoring complaints about legality infringements are responded to adequately and that ‘effective and dissuasive enforcement action is taken by relevant authorities’
  - Calls upon the Commission to urge the Indonesian government to ensure that ‘stakeholder involvement in the implementation and operationalisation of the SVLK is continued and enhanced’, and that the SVLK’s audit requirements ‘are subject to periodic review by Indonesian stakeholders with a view to their continuous improvement’.

\textsuperscript{17} Comodifying Legality? Who and What Counts as Legal in the Indonesian Wood Trade, Society & Natural Resources, 30:6, 750-764, DOI: 10.1080/08941920.2016.1239295
• Asks the Commission to report back to it on progress in meeting these requests (some of which it acknowledges go beyond the original terms of the VPA) before approving the Indonesian licensing system, as well as to report regularly on progress made in implementing the VPA and addressing its concerns (European Parliament 2014).

• Joint Technical Assessments - The VPA stipulates that joint technical assessments had to occur before SVLK timber could receive a FLEGT export licence. These assessments are intended to inform both parties about the fitness for purpose of the TLAS system, based on a review of implementation on the ground, including how information is shared among auditors, independent monitors, local government, and licensing authorities, resulting in recommendations for changes needed to the VPA and/or the SVLK regulation to ensure the credibility of FLEGT licences.

• Stage I of the joint assessment, concluded in September 2013, involved field visits to three provisions, a stakeholder workshop, meetings with official representatives from both parties, and a report co-authored by experts from Indonesia and the EU. This assessment resulted in a joint Action Plan which identified 17 timetabled actions needed for Indonesia to move from SVLK certification to the issuance of FLEGT licences. The Action Plan committed Indonesia to:
  - improve the effectiveness of SVLK oversight through ‘active use of the data collected, including reconciliation analyses throughout the whole supply chain’
  - impose sanctions on certifiers and companies who fail to deliver audit reports on time.
  - oblige certification bodies to outline in their own procedures how they act on reports of infringements detected in ‘regulatory controls’, e.g. by local governments.
  - ‘identify through a multi-stakeholder process how the function of the Independent Monitors and its sustainability can be secured’, including access to information, security, capacity-building and funding (the latter to be partly supported by the EU); to make the results of these stakeholder meetings publicly available and to integrate the revised standards and metrics into the procedures of the verification bodies.
  - develop procedures for identifying SVLK and non-SVLK certified timber, and to draft a new regulation for controlling the legality of imported wood, and to update the already agreed VPA legality matrix to incorporate these revisions.

• The Action Plan listed a number of specific areas needing additional discussion, including: ‘allocation of forest resources and permitting, environmental requirements, labor rights, and respect for use rights of other parties and application scope’ (Indonesian Ministry of Forestry 2014).
Stage II of the joint assessment, which took place in the fall of 2014, included a review of progress in carrying out these commitments as well as further field testing of the SVLK, and resulted in a revised Action Plan outlining the steps that still needed to be taken before FLEGT licensing could be approved.

Between September 2014 and January 2016, EU and Indonesian officials, accompanied by representatives of domestic civil society and private business, convened regularly in the Joint Implementation Committee to monitor the process and follow up on action items, supported by Joint Expert Meetings to evaluate progress on the SVLK and multi-stakeholder Joint Working Groups (JWGs) to resolve outstanding problems (Indonesia-EU 2014e: 21).

The participation of both EU officials and civil society representatives in the meetings ensured that sensitive issues raised by the EP Resolution and NGO reports would be addressed, including not only the roll-out of the SVLK itself, but also the availability of information, the effectiveness of independent monitoring, and the enforcement of certification requirements for all new conversion permits (Indonesia-EU 2015b).

- The SVLK has been revised to allow small producers to establish cooperatives to obtain group certification and receive financial assistance from the government for this purpose (European Commission 2015, Annex V). To accelerate the certification process among small primary and secondary producers, the Ministry of Environment and Forestry (MoEF) established a network of independent facilitators or focal points in 21 provinces to map their location, assess gaps in meeting SVLK requirements, and assist them in achieving group certification (Indonesia-EU 2014e: 19). The revised VPA annexes explicitly include forest conversion (IPK) permits and the JIC has agreed that all new forest conversion concessions must be SVLK certified (European Commission 2015, Annex I; Indonesia-EU 2015c). As mandated by the VPA, a Periodic Evaluator has now been appointed to review the operation of the SVLK, and the methodology has been drafted for monitoring its socio-economic impacts (Indonesia-EU 2016).

- There has been an intensive process of capacity building and training for public officials, third-party auditors, and private businesses, orchestrated through collaboration between the MoEF, the UK-supported Multistakeholder Forestry Programme (MFP), and a variety of domestic and international trade associations and conformity assessment bodies.

- The roll-out of the SVLK has greatly increased (Indonesia-EU 2015e: 19, 21-22). In early 2016, the SVLK information system listed 1,386 certificate holders, compared to 637 in December 2013. As of August 2015, SVLK certification had attained 100% coverage among state forest concessions and large primary timber processors and 52% among medium-sized primary timber processors. 904 secondary processing firms had also been certified, though the coverage rate could not be assessed. The JWG estimates that by the end of 2015, 98% of all timber
exports covered by the VPA (including both primary and secondary products were equipped with an SVLK legality certificate (Indonesia-EU 2016).

- There has been a significant increase in the number of accredited Conformity Assessment Bodies (from 14 in 2014 to 21 in early 2016), as well as in the number of trained auditors to 980 by mid-2015 (Indonesia-EU 2015c, 2014e: 19). Revised procedures for filing and addressing complaints shift responsibility for oversight of the CABs from the National Accreditation Body (KAN) to the Ministry of Forestry and Environment. The revised SVLK regulations stipulate that if local communities and NGOs do not get a satisfactory response to complaints raised with a CAB for illegal activities detected in connection with an SVLK license, they can file complaints directly to the MoEF (Indonesia-EU 2014; European Commission 2015).

- There are signs that Indonesian police and courts have begun to move aggressively to crack down on illegal logging, at least in some provinces such as Riau and North Sumatra.35

- The JPIK representative at the July 2015 JIC meeting reported ‘good progress’ on options for ensuring security and sustainable funding for their activities, a goal which was also included in the third joint Action Plan (Indonesia-EU 2015c, 2015d). The UK DfID has supplied capacity-building support for independent monitoring through the MFP and the EIA by organizing experiencesharing workshops for NGOs involved in the JIC, and training local journalists in the SVLK monitoring process (Indonesia-EU 2015e: 21). The Joint Working Group reports that independent monitoring organizations have carried out gap analyses of their own needs, provided training to their members, and integrated local communities into their capacity-building activities. They also report that there are now 629 people from 95 organizations involved in independent monitoring, covering over 60 companies, twice as many as in 2013. The security and funding of IMs have been addressed in the latest revision of the SVLK regulations, but detailed mechanisms and implementing protocols still remain to be developed. IM organizations themselves are currently developing monitoring guidelines and internal safety protocols for eventual discussion with the government (2016).

- Inadequate public disclosure and sharing of information about the SVLK verification process has been a recurrent complaint of the Independent Monitors. The revised SVLK regulations include guidelines obliging CABs ‘to publicly announce and inform stakeholders about audits and share information about the verification results’. The CABs are now required to send copies of all audit reports to the MoEF, including information on non-compliances, which the Ministry may follow up with law enforcement actions based on their findings. The next revision of the SVLK regulation will establish a formal procedure for dealing with companies that have not passed an audit, including ‘information sharing with all relevant authorities at central and local levels’ and follow-up of the verifiers ‘not passed’. The JWG reports that the availability of publicly available data needed for the IMs to perform their tasks effectively ‘has improved recently but is not yet considered adequate’ (Indonesia-EU 2014, 2015a, 2015b, 2015c, 2016).
The Joint Assessment of the SVLK and associated Action Plans failed to require specific measures to corruption in the permit allocation process. Instead, the Joint Assessment merely acknowledged this concern, and requested Indonesia to ‘elaborate…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’ (Indonesia-EU 2014). According to one EU interviewee, this request was ‘batted back on the grounds that the historical corruption that went on in the distribution of licences, there’s very little you can do about that without raising so many skeletons in cupboards that you’d need to have a major and wholesale review of licences…’ (EU advisor interview 2016). Nevertheless, civil society organizations continue to pursue this issue using another platform, namely the 2008 Public Information Law. After the MoEF rejected requests from Forest Watch Indonesia and ICEL for information on permits, claiming that this fell outside the law, FWI submitted a complaint to an administrative court, the Central Information Commission, and won the case, with the court ruling in May 2015 that such information must be made public. The MoEF appealed the decision, and on August 26 the Commission rejected the appeal reaffirming the ministry’s obligation to release permit information publicly.

Additionally, the First Annual Overview of the TLAS Operationality in Indonesia, Implementation Report as part of the Periodic Evaluation FLEGT VPA developed by PT SUKOFINDO SBU LS (SUPERINTENDING COMPANY OF INDONESIA) (2018), provides the most updated information of the implementation of the VPA in Indonesia. The fieldwork was conducted in April – June 2017, and targeted actors in the following provinces: Special Region of Yogyakarta, Central Java, East Java, Bali and Jabodetabek-Banten areas (focus on timber industry, planted trees on private lands and smallholder issues); and East Kalimantan, Jambi and Central Kalimantan (focus on natural forests, forest conversion and industrial timber plantations). A total of 101 actors were included in the evaluation sample. The main results and conclusions of this report are the following:

- In the case of state-owned forest: Information from the MOEF indicates that 74% of natural forests covered by IUPHHKHA (selective logging concessions) and IUPHHK-HT (industrial forest plantations) are SVLK certified, amounting to 23.3 million ha. Based on the latest data available, in 2016 about 19 million ha of State forest was allocated to 262 commercial logging concessions. About 3.5 million ha (55 concessions) of IUPHHK-HA holders were certified as SVLK, while another 10.5 million ha (89 concessions) had sustainable forest management certification (PHPL). Overall, at least 14 million ha (out of 19.5 million ha allocated) was under the TLAS. The Industrial Forest Plantations (IUPHHK-HT) covered 10.8 million ha spread over 286 concession permits. Of these, 154 concessions (6.5 million ha) were SVLK or PHPL certified.
  The remaining quarter of IUPHHK-HA and IUPHHK-HT are not certified because the concessions are not yet in production stage, operations are suspended due to financial difficulties, or their SVLK certificates have been revoked. SVLK prohibits timber from the non-certified sources
to enter the supply chain. However, if the SVLK or PHPL certification are suspended or withdrawn, the regulations appear to allow permit holders to continue log production within the frame of their already allocated annual logging quotas, raising questions on the use and destinations of such logs. No real-life cases on log supply from forest areas with suspended or withdrawn SVLK certificate were discovered in this Periodic Evaluation. However, this issue is a potential systemic weakness that needs further investigation.

- In the case of private tree plantations: Timber supplies from private (households and smallholder) tree plantations account for a substantial and fast-growing proportion of the total timber production in Indonesia and predominantly qualify for SVLK through the use of DKPs. The share of SVLK-certified private plantations is insignificant due to the fact that the use of DKP is an easier and more cost-effective procedure within the SVLK. There is no Government database on the use of DKPs. The provincial forest agencies are regulated to carry out spot checks on the proper use of DKPs. However, no documented evidence on the conduct of spot checks was found during the Periodic Evaluation. The MOEF has communicated that CABs assessing compliance with SVLK requirements are currently their main source of information on the use of DKPs. At present, eight CABs have provided such information, whereas submission from other CABs is still pending.

- The findings of this Periodic Evaluation indicate that in 2017, there were at least 56 cases of suspected non-compliance in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, potentially casting a shadow over the quality of a number of SVLK audits. In cases where field inspections are needed to address IM complaints, these investigations are time-consuming for the CABs (field investigations are usually carried out during the next scheduled surveillance audit). It was also detected that not all audit plans and reports are available on the CABs' websites. The non-compliant observations relate, for example, to: harvesting of logs prior to the granting of an approved utilisation permit; harvesting of under-sized logs; mismatch between production and timber royalty payments; conflict with local communities; clearing of river banks and other environmental and social irregularities; logs not marked with VLegal Logo; and sourcing of timber from non-SVLK certified forests. About half of these cases were related to administrative failures of certified companies. However, 28 cases were of a more serious nature and thus also reported to the MOEF. All these cases have been acted upon, while at the time of writing the report of this evaluation, four cases were not yet concluded. However, IM organisations have not been duly informed about the handling of the suspected cases of non-compliance.

It is noted, however, that most of the available information on non-compliance cases are from the JPIK network. Many other IM organisations do not coordinate the disclosure of their findings and do not always follow the established procedures for reporting suspected cases of non-compliance. There is a need for coordination among IMs and for consistent adherence to the established reporting procedures.
Despite comprehensive procedures in place to ensure the robust issuance of V-Legal Documents, this Periodic Evaluation found indications of problems associated particularly with the export of furniture and other household utility items. Lesser extent problems were also detected on other export products. As of September 2017, the LIU has received queries from FLEGT competent authorities of the EU Member States seeking clarifications on: a) Inconsistencies in product quantities between V-Legal Documents and invoices and packing lists; b) Appearance variations in the V-Legal Documents (paper quality, paper colour, logo, signature attributes) in part related to decentralised printing practices; and c) Inconsistencies in HS codes between export and import declarations.

The LIU is currently implementing an action plan to address the identified problems. The action plan covers: (i) exploring feasible means to minimise the practice of making changes to export documents after V-Legal Documents/FLEGT licences have been issued; (ii) harmonising the use of HS codes; (iii) providing LAs with additional instructions and guidance for appropriate issuance of V-Legal Documents/FLEGT licences; and iv) improving the communication between the LIU and competent authorities on the identified problems.

In order to improve the exchange of information between the LIU and the competent authorities, the LIU is developing a standard query/response form that is expected to make communication on V-Legal Documents/ FLEGT licences more efficient. The LIU also plans to host visitors from competent authorities to solve these issues through direct communication.

The overall conclusion of this Periodic Evaluation is that the SVLK is operational and applied by all relevant actors. It captures operations of most private sector companies involved in harvesting, processing and trading of timber, and Government agencies and other bodies tasked with controlling and verifying legal compliance of operations.

The MOEF has been instrumental in overseeing SVLK implementation, coordination, compilation of data, and development of data management systems. On the operational side, provincial forest authorities are the main bodies that control the private sector and take law enforcement actions. The findings of this Periodic Evaluation suggest that their control function and level of compliance are satisfactory, but further efforts are needed in monitoring of and follow up on reported non-compliance cases. The MOEF also needs to do more in terms of outreach to private forest holdings and SVLK certification support for small and medium enterprises.

The private sector implementing the SVLK consists of diverse operators. The largescale operators upstream of the supply chain (forest-based operations) and in the processing sector further downstream have the greatest preparedness, adequate skills and resources to comply with SVLK requirements. With regard to small and medium enterprises that are usually the secondary processing sector, there are still challenges as small-scale operations may struggle with meeting SVLK requirements due to insufficient technical knowledge and limited financial resources. More Government and donor support is needed to strengthen small and medium enterprises performance. To this end, it is
encouraging to see that in 2018, the MOEF plans to intensify the financial support and field extension service for small and medium enterprises.

- In recent years, CABs and LAs have systematically developed their capacities. This is encouraging as both play a critical role in the control of supply chain certification of operations and licensing of exports. Their procedures and resources to implement audit, certification processes, as well as issuance of V-Legal Documents are subject to systematic external checks, building confidence in their integrity. However, feedback from IM organisations suggests that improvements may still be needed in the quality of field audits, mechanisms to investigate IM findings, and the incorporation of this material into the evidence base of SVLK certification. It is also encouraging to see coordinated follow up by the MOEF and KAN on the reported cases of non-compliance to ensure that CABs check on these cases. Both CABs and the MOEF need to be more forthcoming with information on the exact steps and law enforcement implications.

- Civil society organisations engaged in IM activities have been instrumental in detecting and reporting suspected cases of non-compliance in the functioning of the SVLK. IMs have satisfactorily carried out monitoring operations on the ground and produced valuable findings for CABs and Government law enforcement. The exact number of IM missions and surveys is unknown, but it is clear that their intensity is still low. This Periodic Evaluation concludes that IM organisations need to make further efforts to strengthen their capacities in terms of organisational structures, planning and reporting, intensity of field monitoring and sustainable funding.

- The implementation of the SVLK includes massive amounts of data, presently collected and analysed using electronic and paper-based systems. Data management on licensing and certification-related activities is well developed, and competent authorities of the EU Member States have access to the SILK database on legal documents / FLEGT licences issued. However, further development is needed to improve data management on the supply chain controls, especially from the primary processing to the point of exports or sales on the domestic market. It is acknowledged that the MOEF has made great strides in managing supply chain data using two stand-alone systems – one for controlling timber flows from natural forests to primary industries and the other one within primary industries. However, additional steps are needed to capture all timber sources and timber processors. Therefore, the plans for an integrated timber information system (i.e. SI PHPL) are warmly welcomed. Such an integrated system holds great promises for real-time data reconciliation and evaluation of legal compliance.

- Availability of data is crucial for effective communication and evaluation of the SVLK implementation. IM organisations and others interested in the use of State forests and associated processing and trade of timber have recently managed to acquire information as per the definition of the Indonesian Law on Freedom of Information. Thus, it can be concluded that access to information at the MOEF level has improved during the past three years, though some delays remain. IM organisations and other civil society actors will likely need more detailed datasets
for assessing the integrity of the timber supply chain. The MOEF will therefore need to make decisions on how to handle requests for access to disaggregated data on SIPUHH and SI PHPL.

**NOTE:** As the review and endorsement of the SVLK system, undertaken over a number of years by the European Union has considered these issues specifically raised by stakeholders, this risk assessment takes into consideration the current outcomes of its implementation in the indicators that are expressly covered by the SVLK system. The risk designation for each of these indicators was based not only on the outcomes of SVLK implementation, but also on updated evidences about the law enforcement. In the cases where SVLK endorsement has been the main evidence for the assessment of an indicator which derived in low risk designation, it is only considered applicable for state-owned forests with SLK or PHPL certificates. In the case of private tree plantations, it is not possible to consider the endorsement of SVLK as sufficient, as there is no data available on the use of DKPs, according to the First Periodic Evaluation of the VPA. Even though SVLK is mandatory for the entire wood sector, there are forests that remain without SVLK certification.

**Stakeholder consultation note:**

Taking into consideration the lack of data about the use of DKPs, which limits the assessment of private tree plantations, we encourage stakeholders to provide all possible information that allow FSC to make a proper assessment, considering all outcomes of VPA implementation, as well as evidences that are considered relevant for each indicator where possible.

The list of sources provided in FSC-PRO-60-002a, section 3.3.3 has been reviewed for relevance in regards to the national legality risk assessment of Indonesia. The following sources have been used: (NOTE: delete as appropriate)

2. Environmental Investigation Agency: http://www.eia-international.org;
3. EU FLEGT process: http://ec.europa.eu/comm/development/body/theme/forest/initiative/index_en.htm;
4. Forest Legality Alliance: http://www.forestlegality.org/;
5. Government reports and assessments of compliance with related laws and regulations;
6. Independent reports and assessments of compliance with related laws and regulations, e.g., the Royal Institute of International Affairs: http://www.illegallogging.org;
7. Interpol: http://www.interpol.int/Crime-areas/Environmental-crime/Projects/Project-LEAF;
8. Justice tribunal records;
9. Public summaries of FSC forest management certification reports published at info.fsc.org (information on legal areas where non-compliances have been identified during the certification process that are likely to be common for non-certified operations);
10. Public summaries of other 3rd party forest legality certification/verification systems;
11. Stakeholder and expert consultation outcomes from NRA development processes;
12. Telapak (for Indonesia): http://www.telapak.org;
15. In cases where other sources of information are not available, consultations with experts within the area shall be conducted.

Where relevant, they have been specifically referenced under “sources of Information” for each applicable sub-category. The remaining sources was found not to be relevant for the legality risk assessment for Indonesia.
### Sources of legal timber in Indonesia

#### Timber source types in Indonesia

<table>
<thead>
<tr>
<th>Forest type</th>
<th>Region/Area</th>
<th>Legal Land Classification</th>
<th>Ownership</th>
<th>Management regime</th>
<th>License / Permit Type</th>
<th>Description of source type</th>
</tr>
</thead>
<tbody>
<tr>
<td>State owned lands</td>
<td>Whole country</td>
<td>Permanent Production Forest (HP “Hutan Produksi Tetap”)</td>
<td>State owned</td>
<td>Company managed Concessions</td>
<td>IUPHHK-HA/HPH Permit to utilise timber from natural production forests, IUPHHK-HTI/HPHTI Permit to establish and manage industrial plantation forest, IUPHHK-RE Permit for forest ecosystem restoration</td>
<td>Timber from concessions on state owned land, allocated prior to 2011 holding the requisite permit (IUPHHK-HA, IUPHHK-HTI or IUPHHK-RE), possessing the appropriate SVLK documentation. <strong>NB:</strong> Since 2011, a moratorium has been in place in Indonesia, which prevents new IUPHHK-HA (Natural Forest) or IUPHHK-HTI (Plantation Forest) licenses being issued.</td>
</tr>
<tr>
<td>State owned</td>
<td></td>
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<td>State owned</td>
<td>Harvested by a State Company</td>
<td>Forest management right (Perum Perhutani)</td>
<td>Timber from state owned land, harvested by a State Company established in accordance with Government Regulation No. 72/2010, possessing the appropriate SVLK documentation.</td>
</tr>
<tr>
<td>State owned</td>
<td></td>
<td></td>
<td>State owned</td>
<td>Community or privately managed</td>
<td>IUPHHK- HTR Permit for community or private forest plantation, IUPHHK-HKM Permit for community forest management</td>
<td>Timber from community or privately managed forests on State owned land, possessing the appropriate SVLK documentation.</td>
</tr>
<tr>
<td>Non-forest zones or Production Forest, which can be temporarily converted (e.g. for mining), (HPK “HutanProduksi yang dapat di Konversi)</td>
<td>State owned</td>
<td>Timber utilisation rights</td>
<td>Permit to utilise timber from non-forest zones (ILS). Permit to utilise timber from convertible production forest (IPK)</td>
<td>Timber from non-forest zones or from convertible production forests, possessing the appropriate SVLK documentation.</td>
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<tr>
<td>Limited Production Forest (HPT “HutanProduksi Terbatas”)</td>
<td>State owned</td>
<td>Company managed Concessions</td>
<td>IUPHHK-HA/HPH Permit to utilise timber from natural production forests IUPHHK-HTI/HPHTI Permit to establish and manage industrial plantation forest IUPHHK-RE Permit for forest ecosystem restoration</td>
<td>Timber from concessions on state owned land, allocated prior to 2011 holding the requisite permit (IUPHHK-HA, IUPHHK-HTI or IUPHHK-RE), possessing the appropriate SVLK documentation. NB: Since 2011, a moratorium has been in place in Indonesia, which prevents new IUPHHK-HA (Natural Forest) or IUPHHK-HTI (Plantation Forest) licenses being issued.</td>
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<tr>
<td>State owned</td>
<td>Harvested by a State Company</td>
<td>Forest management right (Perum Perhutani)</td>
<td></td>
<td>Timber from state owned land, harvested by a State Company established in accordance with Government Regulation No. 72/2010, possessing the appropriate SVLK documentation.</td>
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<tr>
<td>Forest Category</td>
<td>Owner Type</td>
<td>Management Type</td>
<td>Permits Required</td>
<td>Source Information</td>
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<tr>
<td>Protection Forest (HL “Hutan Lindung”)</td>
<td>State owned</td>
<td>N/A</td>
<td>N/A</td>
<td>No source</td>
<td></td>
<td></td>
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<tr>
<td>Conservation Forest “Hutan Konservasi” HK (Which includes Nature Reserves, Nature Conservation areas and Hunting Parks (KSA/KPA/TB).)</td>
<td>State owned</td>
<td>N/A</td>
<td>N/A</td>
<td>No source</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Privately-owned forests</td>
<td>Privately owned</td>
<td>Defined as a minimum of 0.25ha. No regulation on the maximum size of a private forest</td>
<td>No permit required</td>
<td>Timber from private, with possessing the appropriate SVLK documentation.</td>
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IUPHHK- HTR Permit for community or private forest plantation
IUPHHK-HKM Permit for community forest management
IUPHHK-HD Permit for village forest management
IUPHHK-HTHR Permit to utilise timber from reforestation areas

Timber from community or privately managed forests on State owned land, possessing the appropriate SVLK documentation.
area, but they tend to be below 5ha.
There is the option to have cooperatives where multiple private forest lands are managed together.
### Risk assessment

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Applicable laws and regulations, legal Authority, &amp; legally required documents or records</th>
<th>Sources of Information</th>
<th>Risk designation and determination</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Legal rights to harvest</strong></td>
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</table>

#### 1.1 Land tenure and management rights

**Applicable laws and regulations**

For Concessions within Production Forest Zones

- Government Regulation PP72/2010
- Regulation of the Minister for Forestry P12/2010
- Regulation of the Minister for Forestry P.30/2014
- Regulation of the Minister for Forestry P.31/2014
- Regulation of the Minister for Forestry P.33/2014
- Regulation of the Minister for Forestry P.76/2014

**Government sources**

- Indonesia-EU VPA Joint Implementation Committee.  2015.  Summary of Indonesia-EU Action Plan on the Advancement of VPA Implementation -

**Overview of legal requirements**

The majority of forested land in Indonesia is classified as state forest and is therefore controlled by the state. Although the basic Agrarian Law (BAL) recognizes the customary land rights – called *hak ulayat* – of traditional *adat communities*, including communities living in forests, the recognition applies only to communities that still exist, and only if the interests of the community do not violate interests of the Indonesian state. The criteria to determine the validity of a community is set forth in Ministerial Regulation 1999 entitled —Guidelines to Solving Problem of Adat Communities ‘hak ulayat’ ” (Thorburn 2004; Contreras-Hermosillo and Fay 2005). In practice, the Ministry of Forestry has consistently ruled that the interests of the state trump any interests of adat communities to use the trees or the land that the ministry has classified as state forest. The ministry essentially treats all such lands as state lands and freely grants concessions to companies to harvest trees or establish plantations of oil palm or other commercial crops.

Today, only a small proportion of forests in Indonesia are on privately titled land (Lindsey 1998; Contreras-Hermosilla and Fay 2005). It has been difficult for adat communities to establish land rights in forests...
| Indicator                                                                 | Applicable laws and regulations, legal Authority, & legally required documents or records | Sources of Information                                                                 | Risk designation and determination                                                                                                                                                                                                                                                                                                                                 |  |
|--------------------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| For community plantation forests and community forests within Production Forest Zones | • Regulation of the Minister for Forestry P37/2007  
• Regulation of the Minister for Forestry P49/2008  
• Regulation of the Minister for Forestry P12/2010  
• Regulation of the Minister for Forestry P55/2011  
• Regulation of the Minister for Forestry P43/2014 | [link](http://www.euflegt.efi.int/documents/10180/196582/Summary+IDN+EU+Action+Plan+on+the+advancement+of+VPA+implementation.pdf/d3381158-69b0-47d9-9c03-af7d1db0a72)  
• Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 - [link](http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Committee.pdf/b6ebbb8e-8f86-4319-94db-b66beba9282c)  
• Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - [link](http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b)  
• Annual report progress update April 2015-May 2016: Implementing the controlled by the Ministry of Forestry. The new era of decentralization of government authority – from the central government to the district (kabupaten) governments – has created more space for adat communities to assert rights to at least receive compensation for the removal of trees from their land. While community-managed forests have been successful in rehabilitating heavily degraded forest areas and generating sustainable income for adat communities, newly regenerated forests have attracted the attention of illegal loggers, who operate with seeming impunity. Local residents, forest advocacy groups and conservationists cite corruption, mismanagement, apathy from local law enforcement and fear among local residents as underlying factors in this growing trend (Contreras-Hermosillo and Fay 2005; Jakarta Post 2010b). Systematic land registration is ongoing in Indonesia, but most private rights to urban and rural land remain unregistered. Forest dwellers who might wish to assert customary rights (hak ulayat) have almost no tenure security. Hak ulayat rights cannot be registered, and although there is a process on the books by which the state can recognize such rights, this is seldom done. Nor is it clear that the act of recognizing the right prohibits the state from later withdrawing recognition (Mitchell et al. 2004). Theoretically, in Indonesia, a company can rent land for forest management from the state only if the company is in compliance with |
<table>
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<tbody>
<tr>
<td></td>
<td>• Act 6/1983</td>
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<td></td>
<td>• Regulation of the Minister for Forestry P43/2014</td>
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<td></td>
<td>• Government Regulation PP27/2012</td>
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<tr>
<td></td>
<td>• Within non-forest zone without altering the legal status of the forest:</td>
</tr>
<tr>
<td></td>
<td>- Regulation of the Minister for Forestry P18/2011</td>
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<td></td>
<td>- Regulation of the Minister for Forestry P59/2011</td>
</tr>
<tr>
<td></td>
<td>- Regulation of the Minister for Environment 05/2012</td>
</tr>
<tr>
<td></td>
<td>• Within non-forest zone which leads to a change in the legal status of the forest:</td>
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<tr>
<td></td>
<td>- Regulation of the Minister for Forestry P33/2010</td>
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<td>- Regulation of the Minister for Forestry P14/2011</td>
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| Indonesia – EU FLEGT Voluntary Partnership Agreement - http://www.euflegt.efi.int/documents/10180/296026/Indonesia+VPA+Annual+Report+progress+update+April+2015-May2016.pdf/f42aba21-55d7-49b7-a518-d3f646837db0 | the legal requirements described in the column ‘Applicable laws and regulations’. Non-compliance can result in loss of land tenure rights. Land tenure rights can be entered into the Land Registry only if the company provides all legally required documents described in the field ‘Legally required documents or records’.
<p>| Annual report May 2014-April 2015: Implementing the Indonesia – EU FLEGT Voluntary Partnership Agreement - <a href="http://www.euflegt.efi.int/documents/10180/211477/VPA+Annual+Report+Indonesia+EU+2014-2015.pdf/09c63a6a-377f-4b4e-99e1-cb3808a9a52c">http://www.euflegt.efi.int/documents/10180/211477/VPA+Annual+Report+Indonesia+EU+2014-2015.pdf/09c63a6a-377f-4b4e-99e1-cb3808a9a52c</a> | To summarise, the following legal requirements apply to the different source types: For concessions within Production Forest Zones: | For community plantation forests and community forests within Production Forest Zones: |
| EU FLEGT Facility briefing note on the EU-Indonesia VPA - <a href="http://www.euflegt.efi.int/files/attachment">http://www.euflegt.efi.int/files/attachment</a> s/euflegt/briefing_note_indonesia%20en.pdf | • Forest management unit (concessionaires) is located within the production forest zone - Permit holder can demonstrate that the timber utilisation permit (IUPHHK) is valid. For community plantation forests and community forests within Production Forest Zones: |
| Non-Government sources | • Forest management unit is located within the production forest zone - Permit holder can demonstrate that the timber utilisation permit (IUPHHK) is valid. Business unit in the form of group - The business group is legally established. For Privately-Owned Forests |
| United Nations Office on Drugs and Crime (UNODC) (undated). Indonesia - Forest Crimes. Available at | • Private land or forest owner can prove ownership or use rights of the land. |</p>
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|           | - Regulation of the Minister for Forestry P59/2011  
- Regulation of the Minister for Environment 05/2012  
- Regulation of the Minister for Forestry P14/2011  
- Within non-forest zone.  
- Regulation of the Minister for Forestry P14/2011  
- Regulation of the Minister for Environment 05/2012  
Voluntary Partnership Agreements with the European Union  
- FERN (2016). Do FLEGT VPAs improve governance? Examining how FLEGT VPAS are changing the way forests are owned and managed. Available at http://www.illegallogging.info/sites/files/chlogging/FERN_flegtvpaforestgov.pdf [Accessed 13 September 2016]. | • Business unit in the form of groups are legally registered - the business groups are legally established.  
For timber utilisation rights within non-forest zones or from convertible production forest  
- Within non-forest zone without altering the legal status of the forest - Harvesting operation authorised under Other Legal Permit (ILS)/conversion permits (IPK) in a lease area Note: This also applies for area previously categorised as Reforestation-based Plantation Forest (HTHR)  
- Within non-forest zone which leads to a change in the legal status of the forest - Timber harvesting authorised under a land conversion permit (IPK) Note: This also applies for area previously categorised as Reforestation-based Plantation Forest (HTHR) and Conversion permit (IPK) for transmigration settlement  
- Within non-forest zone - Timber harvesting authorised under a land conversion permit (IPK) within non-forest zone and Conversion permit (IPK) for transmigration settlement  

**Description of risk**  
According to numerous sources, there are risks of uncertain and insecure land tenure in Indonesia, a number of factors contribute to this:  
- According to Landportal.org (undated), throughout Indonesia, the land rights of unregistered owners are insecure, women’s
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|           | guidelines/timber-legality-assurance-system-eng.pdf | https://landportal.info/book/countries/IDN/pdf/pdf. (accessed 23 January 2017). | **Disputes over land are widespread.** In recent years it has been estimated that at least 1500 major land conflicts remain unsettled. Conflicts often involve clashes between communities of farmers on one side and either the Ministry of Forestry or private plantation companies on the other (Thorburn 2004). **Conflicts are common between forest-dwelling adat communities and timber companies and others who want to harvest trees, and such conflicts often turn violent.** The basis of all such conflicts is disagreement over the state’s authority to harvest the trees or grant harvesting rights to corporations. Five core factors that motivate and sustain forest-related conflicts are:  
1. direct and indirect involvement of the Indonesian formal security and military forces in timber conflict;  
2. fragmentation of natural resource management authority due to rapid devolution of political power from the central government to kabupaten authorities;  
3. kabupatens’ abuse of their newly evolved political powers;  
4. selective and inconsistent law enforcement; and  
5. ambiguous land and resource tenure (ARD 2004). |  |
|           | • Minister for Forestry Regulation P.42/Menhut-II/2014 | |  |
|           | • Circular of the Director General of Sustainable Production Forest Management No. SE. 21 / SFM / PPHH / HPL.3 / 12/2016 on the Implementation of Timber | |  |

**JPIK, March 2018.** Deforestation and Social Conflict Keep Happening.
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<td>Legality Verification in Non Manufacturers Exporters (Surat Edaran Direktur Jenderal Pengelolaan Hutan Produksi Lestari Nomor SE, 21/PHPL/PPHH/HPL.3/12/2016 Tentang Pelaksanaan Verifikasi Legalitas Kayu Pada Eksporir Non Produsen) - <a href="http://silk.dephut.go.id/app/Upload/hukum/20161209/db0e503955d6513ee112e6b35d644144.pdf">http://silk.dephut.go.id/app/Upload/hukum/20161209/db0e503955d6513ee112e6b35d644144.pdf</a></td>
<td>Indonesian Government has to Strengthen Sustainability System of Forest Management. News published in JPIK website. Available online at: <a href="http://jpik.or.id/deforestation-social-conflict-keep-happening-indonesian-government-strengthen-sustainability-system-forest-management/">http://jpik.or.id/deforestation-social-conflict-keep-happening-indonesian-government-strengthen-sustainability-system-forest-management/</a>, accessed on 16 May, 2018.</td>
<td>• There is a high risk of illegal practice when it comes to the issue of legal documents because there is a high rate of corruption and bribery among officials in the Indonesian forestry sector. Transparency International, in the 2017 Corruption Perceptions Index, ranked Indonesia as 96 out of 180 countries, with a score of 37 which is relatively low (meaning there is a high level of perceived corruption). Indonesia's level of corruption is decreasing (in 2009, the country was ranked 111).</td>
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<td>The Director General of Sustainable Forest Management No. P.15 / PHPL / PPHH / HPL.3/8/2016 on Amendment Peraturan Director General of Sustainable Forest Management No. P.14 / PHPL/ SET / 4/2016 Concerning Standards and Guidelines for the Implementation Performance Assessment of Sustainable Forest Management (SFM) and Timber Legality Verification (VLK) -</td>
<td>SUCOFINDO, 2018. First Annual Overview of the TLAS Operationality in Indonesia, Implementation Report as part of the Periodic Evaluation FLEGT VPA. Available online at: <a href="https://silk.dephut.go.id/app/Upload/hukum/20180406/86399d9d6774bedd9373b8a144fa8359.pdf">https://silk.dephut.go.id/app/Upload/hukum/20180406/86399d9d6774bedd9373b8a144fa8359.pdf</a>, accessed on 15 May 2018.</td>
<td>• The independent Corruption Eradication Commission (Indonesian: Komisi Pemberantasan Korupsi; abbreviated as KPK) was established in 2003 and has brought forest crime suspects to trial. The President of Indonesia (elected in 2014) has a corruption-free record, and a forestry degree. He has appointed a KPK-cleared Minister of Environment and Forestry. (Note this Ministry became a combined Ministry under the new government; previously two separate entities existed, namely the Ministry of Forestry and the Ministry of Environment.)</td>
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<td>CSOs involved in the VPA process are typically also involved in formulation and revision of the SVLK. They contend that, while some structures for governance improvements, and precedents including multi-stakeholder negotiation were established by the SVLK before the VPA began, the VPA and the enhanced political pressure associated has played an important role in strengthening and sustaining the gains made. (Fern, 2016).</td>
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- Letter of the Secretary of the Director General of Sustainable Forest Management Number: SE.2 / SET / KV / 7/2016 on Implementation Announcement Performance Assessment of Sustainable Production Forest Management and Timber Legality Verification (Surat Edaran Sekretaris Direktur Jenderal Pengelolaan Hutan Produksi Lestari Nomor : SE.2/SET/KV/7/2016 Tentang Pelaksanaan Pengumuman) | - Setyowati et al. (2017) reports on the ongoing debates on the extent to which forest tenure clarification needs to be addressed in the timber legality assurance system, especially considering widespread overlapping tenure claims over forest areas. […] Currently, the VLK standards merely require documentation showing clarity on the origin of the timber, permits for timber harvesting (if on state forests), proof of land ownership (if on privately owned forest), transport permits, and any other legal documentation required.  
- Setyowati et al. (2017) also state that the ‘focus on official documentation of ownership, harvest, and transport rights is ill suited to address tenure-related corruption and conflicting resource rights. Furthermore, the Indonesian stakeholders interviewed did not view SVLK certification as a promising tool to address these issues in the future either, belying predictions that legality verification is likely to “ratchet up” forest standards (Cashore and Stone 2012) in ways that enhance community rights (Bartley 2014) or contribute to the formalization of local rights as advocated by Obidzinski and Kusters (2015).  
- The recognition of the property right is verified as part of the SVLK certification process. SVLK certification is mandatory for any operator in the forest sector, and SVLK license (V-Legal document/FLEGT License) mandatory for all exports. The SVLK legality certificate ensures that all legal requirements associated with the relevant permit type (legality grid) has been verified as |
### Indicator

**Applicable laws and regulations, legal Authority, & legally required documents or records**

- Penilaian Kinerja Pengelolaan Hutan Produksi Lestari dan Verifikasi Legalitas Kayu.
- Regulation of Minister of Forestry of The Republic of Indonesia Number P.46/Menlhk-Setjen/2015 Concerning Post Audit Guidelines For Holders of Business Permit to Utilize Timber Forest Products and Timber Utilization Permit -

### Sources of Information

Risk designation and determination

met by a professional auditor. In all 5 legality grids in the VPA annex II (legality definition) the 1st legal requirement covers the "Legal status of area and right to utilise" or "timber ownership" and must be verified through the use of listed verifiers. However, a press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management), stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement. […] Almost 50% or 11.2 million hectare of land in North Sumatera, East Kalimantan, and North Maluku were controlled by permit holders corporates (Logging, timber, palm oil, and mining). Only 4% or 812,000 hectare of land were allocated for people in many forms of social forestry (Community Forestry, People’s Plantation Forest, Partnership Forestry, Forest Village, and customary Forest). “Beside as direct cause of deforestation, inequality of land tenure in the three provinces also impacted on social conflict happened between the company and the people.” Agung continued. Delima Silalahi, Coordinator of Advocacy and Studies Division KSPPM added, “Forest logging which also include incense plantation belongs to the people is still happening at concession area of PT. Toba Pulp Lestari (TPL) at Pollung Sub-District, Humbang Hasundutan District. All this time, concession area of
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• Regulation Of The Director General Of Forestry Production Development Number: P.5/VI - BPPHH/2013 Regarding Guideline For Approval For Access Or Memorandum Of Understanding In The Provision And Service Of Timber Legality Verification Information Via Timber Legality Information System Portal (SILK) - http://silk.dephut.go.id/app/Uploa d/hukum/20160111/a6d39df1cde7e7d277843d77272e2339d.pdf | TPL overlapped with customary territories of the indigenous people. Despite being rejected by the indigenous people in the area, the company still tried to enter their customary land”.  
Similar matter also stated by Fathur Roziqin, Executive Director of Walhi in East Kalimantan, “Tenurial conflicts between Lebak Cilong villagers and PT. ITCI Manunnggal (IHM) happened after IHM claimed their right to manage the land which had been managed by the people after getting concession permit from Ministry of Environment and Forestry, whereas the land had been managed by the people from generation to generation”. […]  
JPIK monitoring resulted in 54 permits holder with SVLK certificates (PHPL and VLK) still found issues about boundary conflict, low basic rights recognition of the people, and weak forest protection efforts to the holder of IUPHHK-HA and HT.”  
Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: conflict with local communities and social irregularities, among others”.
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<td>• Circular Letter Number: SE.14/V/1/BPPHH/2014 Concerning The Obligation of Verification System Application of Timber Legality (As Follow Up Action of Regulation of The Ministry of Forestry Number P.43/MENHUT-II/2014 jo. Regulation of The Ministry of Environment and Forestry Number P.95/MENHUT-II/2014) - <a href="http://silk.dephut.go.id/app/Upload/hukum/20150918/2941344a2e5ceb1a2e88f10ba6cb3842.pdf">http://silk.dephut.go.id/app/Upload/hukum/20150918/2941344a2e5ceb1a2e88f10ba6cb3842.pdf</a> • Regulation of The Minister of Environment And Forestry Of The Republic of Indonesia Number: P.96/Menhut-II/2014 Concerning The Amendment to The Minister of Forestry Regulation Number P.13/MENHUT-II/2013 Concerning Cost Standard of Performance Assessment of Sustainable Production Forest</td>
<td>• It is important to highlight the concerns raised by Bartley (2014) and EU-Indonesia (2014) (cited by Christine Overdevest &amp; Jonathan Zeitlin, 2016, which can also be found above in the Overview of the forest sector in Indonesia section of this category): “One longstanding point of contention concerns the status of indigenous peoples’ rights to their traditional lands. The dispute goes back to a 1999 law. At one point during the multi-stakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’. But these criteria were deleted from the final version included in the VPA, though NGOs were hopeful that these issues would be addressed to some extent in the environmental and social impact assessment required by law and included in the legality”, and also the concerns raised by Setyowati et al. (2017) in relation to the same topic, mentioned above. In this context, it is relevant to mention that the assessment of this indicator focuses on legislation covering land tenure rights, including customary rights as well as management rights. Therefore, the endorsement of the SVLK cannot be considered as sufficient evidence for the assessment of this indicator.</td>
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<td>Management And Timber Legality Verification - <a href="http://silk.dephut.go.id/app/upload/hukum/20150918/1a402402e295d745fdbf7cc4f5e2a3e8.pdf">http://silk.dephut.go.id/app/upload/hukum/20150918/1a402402e295d745fdbf7cc4f5e2a3e8.pdf</a></td>
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<td>Risk Conclusion This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</td>
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<td>• Regulation of Director General Forestry Business Development Number: P.15/VI-BPPHH/2014 Concerning Stipulation Mechanism of Timber Legality Verification Institution (LVLK) as The Issues of V-Legal Document - <a href="http://silk.dephut.go.id/app/upload/hukum/20150918/7e56b1f46d20035db2d84c89fc73fa0a.pdf">http://silk.dephut.go.id/app/upload/hukum/20150918/7e56b1f46d20035db2d84c89fc73fa0a.pdf</a></td>
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<td>• Regulation of Director General Forestry Business Management Number P.13/VI-BPPHH/2014 Concerning Guidelines of Timber Legality Certification In Groups - <a href="http://silk.dephut.go.id/app/upload/hukum/20150918/3334c9f0ed8ccf952ae03032d876ef5.pdf">http://silk.dephut.go.id/app/upload/hukum/20150918/3334c9f0ed8ccf952ae03032d876ef5.pdf</a></td>
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<td>• Regulation of the Minister of Forestry Number: P.13 / Menhut-II / 2013 on Standard Cost Assessment of Sustainable Production Forest Management Performance and Timber Legality Verification (Peraturan Menteri Kehutanan Nomor : P.13/Menhut-II/2013 tentang Standar Biaya Penilaian Kinerja Pengelolaan Hutan Produksi Lestari dan Verifikasi Legalitas Kayu) -</td>
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<td>• The use of V-Legal (Penggunaan Tanda V-Legal)</td>
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<td>• Regulation Minister of Forestry P.18 in 2013 - <a href="http://silk.dephut.go.id/app/Upload/hukum/20130927/1c2834b717a433b97b98429cde13d614.pdf">http://silk.dephut.go.id/app/Upload/hukum/20130927/1c2834b717a433b97b98429cde13d614.pdf</a></td>
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<td>Other relevant legislation</td>
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<td>• Act No 5 Year 1960 on Agrarian Law (State Gazette of the Republic of Indonesia Year 1960 Number 104, Supplement to</td>
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<td>State Gazette of the Republic of Indonesia Number 2034) - <a href="http://www.bpn.go.id/Publikasi/Peraturan-Perundangan/Undang-Undang/undang-undang-undang-nomor-5-tahun-1960-920">http://www.bpn.go.id/Publikasi/Peraturan-Perundangan/Undang-Undang/undang-undang-undang-nomor-5-tahun-1960-920</a></td>
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<td>• Government Regulation No 34 Year 2002 on Forest Land Use and Development of Forest Management Plan (attempted to reduce further the impacts of small-scale logging concessions by making Community Cooperatives (Kopermas) illegal) - <a href="http://www.bkpm.org/peraturan/the_file/PP_34-2002_TataHutan.pdf">http://www.bkpm.org/peraturan/the_file/PP_34-2002_TataHutan.pdf</a></td>
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<td>• Former Minister of Forestry Regulation No 50 Year 2010 (on procedures for granting an extension of work area IUPHHKHA, IUPHHK-RE, IUPHHK-HTI on production forest Article 3 - Article 12)</td>
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<td>• Trade Minister Regulation No 36 Year 2007 on publishing SIUP in conjunction with Trade Minister Regulation No 46 Year 2009 on changes of Trade Minister Regulation No 36 Year 2007.</td>
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<td>SIUP stands for Surat Izin Usaha Perdagangan and is a business permit.</td>
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<td>• Act No 40 of 2007 on Limited Liability Companies.</td>
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<td>• Trade Minister Regulation No 46 Year 2009 - <a href="http://bp2t.kutaikartanegarakab.go.id/v2/read/pdfview/2">link</a></td>
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<td>• Ministry of Forestry Regulation No.P41/Menhut-II/2014 on Management of Timber forest product from natural forest - <a href="http://www.dephut.go.id/uploads/files/eaca23fd3ce906a848b5c0c72d5efa6.pdf">link</a></td>
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<td>• Ministry of Forestry Regulation No.P42/Menhut-II/2014 on Management of Timber forest product from production forest - <a href="http://www.dephut.go.id/uploads/files/39ccc39763369bc4fb6aac9df849b22c3.pdf">link</a></td>
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<td>• President Instruction No 10 Year 2011 on Suspension of Granting</td>
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<td>of New Licenses and Improvement of Governance of Natural Primary Forest and Peat Land in conjunction with Presidential Instruction No 6 Year 2013 and Peat Land in conjunction with President Instruction No 6 Year 2013. Legal Authority • Minister and Ministry of Environment and Forestry (MoEF) “Kementrian Lingkungan Hidup dan Kehutanan”. • Ministry of Trade. • Bupatis (Regent) and Town Mayors have the authority to send a technical request to the Governor. Based on technical consideration, the Governor has the authority to send a recommendation letter to the MoEF.</td>
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<td>• The Coordinating Agency for Surveys and National Mapping (Badan Koordinasi Survey dan Pemetaan Nasional/BAKOSURTANAL) is the agency with the authority to release information about the proposed location of companies who apply for management rights.</td>
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<td>Legally required documents or records</td>
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<td>• Concessions within Production Forest Zones</td>
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<td>- Timber utilisation permit (IUPHHK-HA or IUPHHK-RE or IUPHHK-HP)</td>
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<td>- Forest concession right certificate</td>
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<td>- Proof of payment for the timber forest product utilisation permit.</td>
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<td>- Proof of other legal area utilisation permit (if any)</td>
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<td>• Community plantation forests and community forests within Production Forest Zones</td>
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<td>- Deed or proof of business establishment.</td>
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<td>• Privately-owned forests</td>
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<td>- Valid land ownership or land tenure documents (land title documents recognised by competent authorities)</td>
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<td>- Land Cultivation Right.</td>
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<td>- Deed or proof of Establishment of the Company</td>
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<td>- Business license for companies engaging in trading business (SIUP)</td>
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<td>- Company registration (TDP) T</td>
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<td>- Collective labour agreement documents or company policy documents on labour rights</td>
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<td>• Land Cultivation Right.</td>
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<td>- Deed of Establishment of the Company Business licence for companies engaging in trading business (SIUP)</td>
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<td>agreement documents or company policy documents on labour rights</td>
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<td>- Map of the area of private forest and boundaries delineated on the ground.</td>
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<td>• Timber utilisation rights within Non-Forest Zones or from Convertible Production Forest</td>
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<td></td>
<td>- Other Legal Permit (ILS) / conversion permits (IPK) for harvesting operations in the lease area (including applicable environmental impact assessment/EIA document of non-forestry business).</td>
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<tr>
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| 1.2 Concession licenses | **Applicable legislation**  
- Act No 5 Year 1960 on Agrarian Law (State Gazette of the Republic of Indonesia Year 1960 Number 104, Supplement to State Gazette of the Republic of Indonesia Number 2034) - [http://www.bpn.go.id/Publikasi/Peraturan-Perundangan/Undang-Undang/undang-undang-nomor-5-tahun-1960-920](http://www.bpn.go.id/Publikasi/Peraturan-Perundangan/Undang-Undang/undang-undang-nomor-5-tahun-1960-920)  
- Directorate General of Tax Regulation No 20 Year 2013 Chapter 2 Point C, Chapter 6 point C in Conjunction with Directorate General No 38 year 2013 Chapter 6 point c. - [http://www.ortax.org/ortax/?mod=aturan&page=show&id=15280](http://www.ortax.org/ortax/?mod=aturan&page=show&id=15280) | **Government sources**  
- Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - | **Overview of Legal Requirements**  
Forest operations and timber production in state forests is only permitted in production forests through the granting of forest concessions (business licenses) to individuals, cooperatives, private enterprises, state-owned and regional enterprises (concessionaires). The government does not regulate forest management operations of rights-based forests (hutan hak) (CSG 2015). Only the Minister of MoEF has the right to issue forestry concession licenses. The following forest management permits are legal in Indonesia:  
- IUPHHK-RE “Izin Usaha Produk Hasil Hutan Kayu-Restorasi Ekosistem” which translates into Business Licence of Forest Timber Production for a Restoration Ecosystem,  
- IUPHHK-HA “Hutan Alam” which is a Permit for Natural Forests,  
- IUPHHK-HTI “Hutan Tanaman Industri” is an Industrial Plantation Permit,  
- IUPHHK-HD “Hutan Desa” is a Village Forest Management Permit without commercial timber sales, and  
- IUPHHK-HTR “Hutan Tanaman Rakyat” which is Community Plantation Forest, up to 700ha.  
These may be allocated to individuals, cooperatives, private sector companies or state-owned enterprises. The permit term is 55 years for concession areas where logging will occur, but 100 years if timber is harvested from plantations. Harvesting on concessions is regulated |
<table>
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<td>• Directorate General of MoEF Regulation Number P.2/VI-BUHT/2014 on Guidelines for Preparation, Appraisal, Approval and Reporting Annual Work Plan and Work Chart In Timber Forest Product Utilization in Natural Forest - <a href="http://www.dephut.go.id/index.php/news/detais/9606">www.dephut.go.id/index.php/new s/detais/9606</a></td>
<td><a href="http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joirt+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b">http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joirt+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b</a></td>
<td>according to these various types of Concession Permits and Licenses (IUPHHK), issued by the Ministry of Environment and Forestry (MoEF), which defines boundaries, areas, duration and harvestable timber species. The Ministry of Forestry as the primary body to administrate the handling of licensing, permitting, and extraction of commercial timber operations in Indonesia. A moratorium on granting new licenses has been in place in Indonesia since 2011 and was renewed in 2014 under the new Government. (See ‘Legal Framework Overview’ for more details.). The moratorium only applies to primary natural forests and peat lands. This moratorium has not slowed actual deforestation, but has slowed the practice of issuing licenses, which is expected to slow down deforestation in the mid to long-term. Note that the moratorium for new licenses does not apply for all forest areas, only peat lands and primary forest areas. There are specific areas that the moratorium does not apply to, called PIPIB (Peta indicatif Penundaan Ijin Baru / Indicatif map for new license). This map is updated every 6 months (visit this site <a href="http://webgis.dephut.go.id:8080/kemenhut/index.php/id/peta/pippiblicences">http://webgis.dephut.go.id:8080/kemenhut/index.php/id/peta/pippiblicences</a>. The areas of forests not included in the moratorium include selectively logged forest, mature secondary (regrowth) forest, and limited primary forest demarcated via 2009 satelliteimage interpretation by the MoF.</td>
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According to these various types of Concession Permits and Licenses (IUPHHK), issued by the Ministry of Environment and Forestry (MoEF), which defines boundaries, areas, duration and harvestable timber species. The Ministry of Forestry as the primary body to administrate the handling of licensing, permitting, and extraction of commercial timber operations in Indonesia.

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<td>See 1.1. Applicable laws and regulations covering Voluntary Partnership Agreement with the European Union and INDO-TLAS/Sistem Verifikasi Legalitas Kayu (SVLK)</td>
<td>s/euflegt/briefing_note_indonesia%20en.pdf</td>
<td><strong>Description of risk</strong></td>
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<td></td>
<td><strong>Legal authority</strong></td>
<td>Non-Government sources</td>
<td>• Historically, there have been reports of bribery associated with the process of obtaining a concession licenses in Indonesia. According to experts consulted in the preparation of this report, it is common practice for government officials to delay the process of obtaining a license until additional illegal payments (or other kinds of bribes) have been paid. A company that provides bribes to individuals within the authorized institutions is more likely to get a license more easily.</td>
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<td></td>
<td>• Directorate General of Tax</td>
<td>Mongabay Indonesia. KPK Didesak Tuntaskan Aktor-Aktor Korupsi Perizinan Kehutanan Riau (on corruption in Riau Province). Available online: <a href="http://www.mongabay.co.id/2013/01/17/kpk-didesak-tuntaskan-aktor-aktor-korupsi-perizinan-kehutanan-riau/">http://www.mongabay.co.id/2013/01/17/kpk-didesak-tuntaskan-aktor-aktor-korupsi-perizinan-kehutanan-riau/</a>, accessed 7 February 2017.</td>
<td>• Despite the moratorium, there are continued instances of corruption and bribery with the issuing of concession licenses and logging permits. For instance, in 2014 the former governor of Indonesia’s Riau province was sentenced to 14 years in prison and ordered to pay almost $90,000 USD in fines for illegally issuing logging permits (RKT &quot;Rencana Kerja Tahunan&quot; without approval from the Minister of MoEF) and accepting bribes linked to construction projects for sports facilities in Riau (Mongaby 2014).</td>
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<td></td>
<td>• Directorate general of MoEF</td>
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<td>• Many stakeholders are looking to the SVLK system to resolve the corruption and bribery issues associated with the issuance of concession licenses in Indonesia.</td>
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<td>• The Forest Planning Agency is the agency to release information about potential locations of concessions. With this mapped recommended location, a given company can apply for management rights with the MoEF.</td>
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<td>• The Government employs experts, called WASGANISPHPL (15 types) with the authority to</td>
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|           | supervise GANISPHEL personnel at the concessions.  
- GANISPHEL is a technician with official training in one of 19 specified tasks. For example, the GANISPHEL-CANHUT conducts forest inventory, creates annual logging work plans, conducts timber cruising, or creates maps in the concession. Another example is the GANISPHEL-BINHUT who is trained in land preparation, monitoring harvest areas, managing protected forest, fire control, responding to illegal logging, protection of endangered flora and fauna and the implementation of environment impact analysis as well as managing social conflict and collaboration with Indigenous people. The GANISPHEL-KURPET technician has official training to measure land and create topographic maps, | Environmental Investigation Agency (EIA) study, dated Dec 2014: PERMITTING CRIME: How palm oil expansion drives illegal logging in Indonesia [http://eia-international.org/wp-content/uploads/Permitting-Crime.pdf](http://eia-international.org/wp-content/uploads/Permitting-Crime.pdf), accessed 7 February 2017.  
- Overdevest & Zeitlin (2016) state that Independent Monitors complained that the VPA fails to tackle the legality of permit allocation. CABs are required to consider only ‘the existence of a permit document, without examining the process of the issuance of the permit’ (Indonesia NGO interview 2014). JPIK has therefore argued that the SVLK needs to be revised to oblige auditors to check whether permits are issued in violation of officially designated area functions, and/or in response to side payments or other forms of corruption (JPIK 2014).  
- Overdevest & Zeitlin further state that the Joint Assessment of the SVLK and associated Action Plans failed to require specific measures to corruption in the permit allocation process. Instead, the Joint Assessment merely acknowledged this concern, and requested Indonesia to ‘elaborate…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’ (Indonesia-EU 2014). According to one EU interviewee, this request was ‘batted back on the grounds that the historical corruption that went on in the distribution of licenses, there’s very little you can do about that without raising so many skeletons in cupboards that you’d need to have a major and wholesale review of licenses…’ (EU advisor interview 2016). Nevertheless, civil society organizations continue to pursue this issue using another platform, namely the 2008 Public Information Law. After the MoEF rejected requests from Forest Watch... | Overdevest & Zeitlin (2016) state that Independent Monitors complained that the VPA fails to tackle the legality of permit allocation. CABs are required to consider only ‘the existence of a permit document, without examining the process of the issuance of the permit’ (Indonesia NGO interview 2014). JPIK has therefore argued that the SVLK needs to be revised to oblige auditors to check whether permits are issued in violation of officially designated area functions, and/or in response to side payments or other forms of corruption (JPIK 2014).  
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<td></td>
<td>Legally required documents or records</td>
<td>• United Nations Office on Drugs and Crime (UNODC) (undated). <em>Indonesia - Forest Crimes</em>. Available at <a href="https://www.unodc.org/southeastasiaandpacific/en/indonesia/forest-crime.html">https://www.unodc.org/southeastasiaandpacific/en/indonesia/forest-crime.html</a> [Accessed 13 September 2016].</td>
<td>• The first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the <em>Overview of the forest sector in Indonesia</em> section of this category), did not raise concerns regarding non-compliances specific to concession licenses requirements.</td>
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<td></td>
<td>• A Registered Tax Number must be obtained.</td>
<td>• Transparency International (2018). <em>Corruption Perception Index 2017 - Indonesia</em>. Available at <a href="https://www.transparency.org/news/feature/corruption_perceptions_index_2017">https://www.transparency.org/news/feature/corruption_perceptions_index_2017</a> [Accessed 13 March 2018].</td>
<td>• Furthermore, it is important to highlight the concerns raised by JPIK (2014) and Setyowati &amp; McDermott (2017) (detailed information is provided above in the <em>Overview of the forest sector in Indonesia</em> section of this category), that as part of the SVLK system, CABs are required to consider only the existence of a concession license document, without examining the process of the issuance of the concession, which might have implications on detecting concession licenses that have been issued through corruption.</td>
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<td>• A Receipt of Payment of Invoice from the Registration Fund must be obtained.</td>
<td>• In this context, it is relevant to mention that the assessment of this indicator focuses on the procedures for issuing forest concession licenses. Therefore, the endorsement of the SVLK cannot be</td>
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<td>• An Annual Work Plan and a Ten Year Work Plan have to be provided.</td>
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● Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A full list of experts consulted has been provided to FSC. | considered as sufficient evidence for the assessment of this indicator.  
Taking into consideration the moratorium for granting new concession licenses on primary natural forest and peat land, this indicator is considered low risk for this type of forest. In the case of other type of forests, as corruption and bribery might be an issue in the issuance process of new concession licenses, precautionary approach has been applied, thus specified risk is considered for the rest of the country.  
**Risk conclusion**  
This indicator has been evaluated as low risk for peat lands and primary natural forest under moratorium for granting new concession licenses. Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.  
This indicator has been evaluated as specified risk for the rest of the country. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities. |
| 1.3 Management and harvesting planning |  
|----------------------------------------|--------------------------------------------------|--------------------------------------------------|
| **Applicable laws**                   | For concessions within production forest zones (State owned) | For community plantation forests and community forests within Production Forest Zones |
| For concessions within production forest zones (State owned) | • Regulation of the Minister for Forestry P62/2008  
• Regulation of the Minister for Forestry P56/2009  
• Regulation of the Minister for Forestry P60/2011  
• Regulation of the Minister for Forestry P.33/2014 | • Regulation of the Minister for Forestry P62/2008  
• Regulation of the Minister for Forestry P53/2009 |
| For community plantation forests and community forests within Production Forest Zones |  
• Regulation of the Minister for Forestry P62/2008  
For timber utilisation rights within non-forest zones or from convertible production forest |  
• Regulation of the Minister for Forestry P62/2008  
For timber utilisation rights within non-forest zones or from convertible production forest |

| **Government sources** |  
|------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|
| Indonesian Country Specific Guideline 2015 | • Indonesia-EU VPA Joint Implementation Committee. 2015. Summary of Indonesia-EU Action Plan on the Advancement of VPA Implementation -  
| • Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 -  
| • Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance | • Indonesia-EU VPA Joint Implementation Committee. 2015. SUMMARY OF IDN-EU ACTION PLAN ON THE ADVANCEMENT OF VPA IMPLEMENTATION |

| **Overview of Legal Requirements** |  
|-----------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|--------------------------------------------------|
| In principle, all trees in Indonesia may be harvested, except those designated as endangered and set out in the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) appendix. The utilization of timber from state forests is governed by Law No. 41 of 1999 on Forestry, Government Regulation No. 6 of 2007 regarding procedures and forest management plans and utilization of forests, as well as Ministry of Forestry regulations. In principle, Law No. 41 of 1999 regulates forest management based on sustainable forest management principles (CSG 2015). The government has survey teams and auditors (WASGANISPHEL-CANHUT and WASGANISPHEL-BINHUT) who are evaluating the described management plans (RKT/RKU). If a company does not provide the RKU and RKT or if there are mistakes in these plans, the company will face one of the following: |  
| a) temporary suspension of administrative services; |  
| b) temporary suspension of fieldwork; |  
| c) a fine; |  
| d) reduction of production quota; |  
| e) revocation of the permit. |  
| Fulfilment of the obligations as stipulated by the laws and regulations is audited by an independent agency in accordance with Minister of Forestry Regulation No. 43 of 2014, which outlines the performance assessment of sustainable forest management and timber legality verification of the licence holder or forest subject to rights. The licence holder of forest products utilization that passes the sustainable forest management audit obtains a Sustainable Forest |  

<table>
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<tr>
<th>Other relevant regulations</th>
<th>Non-Government sources</th>
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<tbody>
<tr>
<td>• Government Regulation No 35 Year 2002 on Reforestation Fund - <a href="http://www.bpkp.go.id/uu/filedownload/4/63/1076.bpkp">www.bpkp.go.id/uu/filedownload/4/63/1076.bpkp</a></td>
<td>Management Certificate/Sertifikat Pengelolaan Hutan Produksi Lestari (PHPL) or a Timber Legality Certificate/Sertifikat Legalitas Kayu (SLK). For the wood industry, it is compulsory to obtain a Timber Legality Certificate (CSG 2015).</td>
</tr>
<tr>
<td>• Directorate General of MoEF Regulation Number P.2/VI-BUHT/2014 on Guidelines for Preparation, Appraisal, Approval and Reporting Annual Work Plan and Work Chart In Timber Forest Product Utilization in Natural Forest - <a href="http://www.dephut.go.id/index.php/news/details/9606">www.dephut.go.id/index.php/news/details/9606</a></td>
<td>FOR TIMBER FROM STATE-OWNED FORESTS (covers Company managed Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights) the following felling Site legality verification activities are mandatory:</td>
</tr>
<tr>
<td>• Directorate General of MoEF Number P.7/VI-BUHT/2014 on Guidelines for Preparation, Assessment and Work Plan Approval in Business Utilization of Forest Timber Forest Industrial Plant - <a href="http://www.dephut.go.id/uploads/files/dfdd61271087a2f95388e287b39f4097.pdf">http://www.dephut.go.id/uploads/files/dfdd61271087a2f95388e287b39f4097.pdf</a></td>
<td>1. <em>Timber cruising</em> (enumeration of trees for natural forest concessions or Perum Perhutani) or <em>timber inventory</em> (for plantation forest concessions or to propose an IPK):</td>
</tr>
<tr>
<td>• Minister of MoEF Regulation No P.11/Menhut/2009 in conjunction with Minister of Forestry Regulation No P.65/Menhut-system: Public summary - <a href="http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b">http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b</a></td>
<td>o Conducted by the permit holder using tags with three detachable sections, one is attached to the stump, one to the harvested log, and one to the operator report.</td>
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<td>o Each section of the tag contains the necessary information required for timber tracking, including the number of the tree and its location.</td>
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<td>2. Preparation of a <em>Timber Cruising Report</em> or <em>Timber Inventory Report</em> by the permit holder:</td>
</tr>
<tr>
<td></td>
<td>o contains information on the number, estimated volume, preliminary species identification, and location of trees (or harvesting location for plantation forest concessions or IPK) to be harvested.</td>
</tr>
<tr>
<td></td>
<td>o Must be in the prescribed Ministry of Forestry form.</td>
</tr>
<tr>
<td></td>
<td>3. Verification and approval of the Timber Cruising Report or Timber Inventory Report by the district forestry official:</td>
</tr>
<tr>
<td></td>
<td>o The permit holder submits the Timber Cruising Report/ Timber Inventory Report to the district forestry official.</td>
</tr>
<tr>
<td>Minister Regulations No. 50 of 2010 and No. 12 of 2012 specify the certainty of the utilization area.</td>
<td></td>
</tr>
<tr>
<td><strong>Legal authority</strong></td>
<td></td>
</tr>
<tr>
<td>Minister and Ministry of Environment and Forestry (MoEF).</td>
<td></td>
</tr>
</tbody>
</table>


4. Submission of a Proposed Annual Work Plan (or Work Plan/Bagan Kerja to propose an IPK) by the permit holder. |
5. Approval of the Annual Work Plan (or Work Plan/Bagan Kerja for IPK) by the provincial forestry official: |
   - Prepared by the permit holder and submitted to the district forestry officer for review and to the provincial forestry officer for approval. |
   - The Timber Cruising Report (or the Timber Inventory Report) provides the basis for the Proposed Annual Work Plan (or Work Plan/Bagan Kerja). |
   - The district forestry official reviews and cross-checks the Proposed Annual Work Plan (or Work Plan/Bagan Kerja) against the approved Timber Cruising Report (or the Timber Inventory Report) and approves the work plan if all is in order. |
   - The official approval is not required for a permit holder who has passed SFM certification with a good grade as described in TLAS Guidelines. |
   - Once the Annual Work Plan (or Work Plan/Bagan Kerja) is approved by the official, the permit holder is allowed to commence harvesting operations; |
   - Note that an operator holding a valid SFM certificate issued under the SVLK can self-approve and issue his Annual Work Plan. |
• Directorate General of MoEF.
• The Government employs experts, called WASGANISPHPL (15 types) with the authority to supervise GANISPHPL personnel at the concessions.
• GANISPHPL-CANHUT stands for Tenaga Teknis Pengelolaan Hutan Produksi Lestari - Perencanaan Hutan, which means "Technical Person of Sustainable Forest Management - Forest Planning" and this is the authorized person with the capability to conduct forest inventory, create annual felling work plans, plan timber cruising, make work plans, and make working maps of the concession.

Legally required documents or records

In general, after a company has obtained a concession permit (IUPHHK), the company has to develop Ten Year Work Plans (RKUHHK) and Annual Work Plans (RKTUHHK).


6. Harvesting operations

• Conformity of the Annual Work Plan is verified by the CAB when carrying out initial and surveillance audits.
• Carried out by the permit holder, including skidding of logs to the log-landing site.
• During harvesting operations, tags are used to ensure that the log is from an approved felling site, as described above.
• For planted trees or trees harvested in plantation forest concessions (for pulp or chip purposes), tags are not required.

For timber utilisation rights within non-forest zones or from convertible production forest

• IPK/ILS plan and implementation must comply with land use planning, and an approved work plan must be in place for the areas covered by IPK/ILS.

FOR PRIVATELY OWNED FORESTS/LANDS - Timber harvesting operations on privately-owned forests/lands are regulated by Minister of Forestry Regulation P.30/ Menhut-II/2012 (hereinafter referred to as the Regulation).

There are no legal requirements for the private owners of forests/lands to affix ID tags or marks on trees inventoried for harvesting.

Control procedures for timber from privately-owned forests/lands differ between logs obtained from trees which were on the site when the land title was acquired and logs obtained from trees that have been established since the title was acquired. They also depend on the tree species harvested.
For concessions within production forest zones

- The approved master plan & attachments (drawn up based on a comprehensive forest inventory conducted by technically competent staff)
- The approved annual work plan (drawn up based on the master plan)
- Maps (drawn up by technically competent staff, which describe the layout and boundaries of the areas covered by the plan of work)
- Map indicating logging exclusion zones within the Annual Work Plan and evidence of implementation on the ground.
- Harvesting locations (blocks or compartments) on the map are clearly marked and verified on the ground.
- Timber forest product utilisation master plan document & attachments (on going applications are acceptable).
- The location and extractable volumes of natural forest logs


- Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A full list of experts consulted has been provided to FSC.

Description of Risk

- Historically, the government oversight process for approving management plans has led to delays in getting their management plans approved. According to expert input into this report, there has been a risk that inaccurate/unlawful management and harvesting plans are approved.
- In the absence of evidence, government audits should not be assumed free of wrongdoing, it is a fact that salaries in the public sector in Indonesia, while increasing, but still low; which places these government surveyors and auditors at risk of being bribed. Most commonly, bribes may simply be used to speed up the process of getting approvals for management plans. This risk has been confirmed during interviews with concession managers. (See description in relation to indicator 1.1 about the rate of corruption in Indonesia.)
- In the EIA study, the example is given of "the Supreme Audit Agency (BPK) investigated five companies in Kalteng to assess their compliance with IPK regulations. All five had failed to report commercial timber stands extracted during clearance and authorities had failed to check or monitor their activities." The former governor of Indonesia's Riau province has been sentenced to 14 years in prison and ordered to pay almost $90,000 in fines for illegally issuing logging permits (RKT "Rencana Kerja Tahunan" without approval from the Minister of MoEF) and accepting bribes linked to construction projects for sports facilities in Riau (Mongaby 2014).
- Management harvesting and planning has not consistently been raised as an issue with SVLK by commentators and the existence of plans is specifically checked as part of the SVLK certification process. Furthermore, the first Periodic Evaluation of the FLEGT...
within areas to be harvested correspond with the work plan. For community plantation forests and community forests within Production Forest Zones

- Approved annual work plan document.
- Map indicating logging exclusion zones in the annual work plan and evidence of implementation on the ground.
- Harvesting block location are clearly marked and can be verified on the ground.
- Timber Forest Product Utilisation Master Plan document and attachments (on-going applications are acceptable)

For timber utilisation rights within non-forest zones or from convertible production forest

- IPK/ILS work plan documents

VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), did not raise concerns regarding non-compliances specific to management and harvesting planning requirements.

Taking into consideration that no issues related to management and harvesting planning requirements have been raised in the first Periodic Evaluation of the FLEGT VPA developed by SUCOFINDO, this indicator is considered low risk for state-owned forests with SLK or PHPL certificates. As already mentioned in the Note in the Overview of the forest sector in Indonesia section of this category, in the case of private tree plantations, it is not possible to consider the endorsement of SVLK system as sufficient, as there is no data available on the use of DKPs. Furthermore, based on the fact that there are forests that remain without SVLK certification, and taking into account the lack of data to assess these forests, precautionary approach has been applied, thus specified risk is considered for the rest of the country.

**Risk Conclusion**

This indicator has been evaluated as low risk for state forest with SLK or PHPL certificates. Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

This indicator has been evaluated as specified risk for the rest of the country. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
### 1.4 Harvesting permits

For Concessions within Production Forest Zones

- Act No 41 Year 1999 on Forestry
- Government Regulation PP72/2010
- Regulation of the Minister for Forestry P12/2010
- Regulation of the Minister for Forestry P.30/2014
- Regulation of the Minister for Forestry P.31/2014
- Regulation of the Minister for Forestry P.33/2014
- Regulation of the Minister for Forestry P.76/2014

Community plantation forests and community forests within Production Forest Zones

- Regulation of the Minister for Forestry P37/2007
- Regulation of the Minister for Forestry P49/2008

### Applicable legislation

- Act No 41 Year 1999 on Forestry
- Government Regulation PP72/2010
- Regulation of the Minister for Forestry P12/2010
- Regulation of the Minister for Forestry P.30/2014
- Regulation of the Minister for Forestry P.31/2014
- Regulation of the Minister for Forestry P.33/2014
- Regulation of the Minister for Forestry P.76/2014

### Overview of Legal Requirements

There are fifteen timber harvesting permit types/rights in Indonesia, they are:

1. IUPHHK-HA/HPH - Permit to utilise timber from natural production forests - State owned/company managed
2. IUPHHK-HTI/HPHTI - Permit to establish and manage industrial plantation forest - State owned/company managed
3. IUPHHK-RE - Permit for forest ecosystem restoration - State owned/company managed
4. Forest management right (Perum Perhutani) - Right to manage plantation forest - State owned/company managed (state company)
5. IUPHHK-HTR - Permit for community or private forest plantation - State owned/community or privately managed
6. IUPHHK-HKM - Permit for community forest management - State owned/community managed
7. IUPHHK-HD - Permit for village forest management - State owned/managed by a single village
8. IUPHHK-HTHR - Permit to utilise timber from reforestation areas - State owned/community or privately managed
9. Private Land - No permit required - Privately owned/privately utilised
10. IPK/ILS - Permit to utilise timber from non-forest zones or from convertible production forest - State owned/privately utilised
11. IUIPHHK - Permit for establishing and managing a primary processing company - Not applicable
12. IUI Lanjutan or IPKL - Permit for establishing and managing a secondary processing company - Not applicable

### Government sources

- Indonesian Country Specific Guideline 2015
- Indonesia-EU VPA Joint Implementation Committee. 2015. Summary of Indonesia-EU Action Plan on the Advancement of VPA Implementation
- Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015
  - [http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Commit](http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Commit)
Privately-owned forests

- Act 5/1960
- Regulation of the Minister for Forestry P33/2010
- Regulation of the Minister for Trade 36/2007
- Regulation of the Minister for Trade 37/2007
- Act 6/1983
- Regulation of the Minister for Forestry P43/2014

Timber utilisation rights within Non-Forest Zones or from Convertible Production Forest

- Government Regulation PP27/2012
- Within non-forest zone without altering the legal status of the forest.

Government Regulation No. 6 of 2007 regulates the legal subjects entitled to take advantage of state forests for production; the different types of forest use; procedures for the application of permits; the duration, extension and cancellation of permits; procedures and requirements for a business licence under primary industry; the rights and obligations of the licensee; the distribution and marketing of forest products; guidance and control; and sanctions (Indonesian Country Specific Guideline 2014).

The SVLK covers timber and timber products from all permit types as well as the operations of all timber traders, downstream processors and exporters. The SVLK requires that imported timber and timber products are cleared at customs and comply with Indonesia's import regulations.

The permit holder (in the case of concessions), landowner (in the case of private land) or company (in the case of traders, processors and exporters) shall demonstrate that every node of their supply chain is controlled and documented. All consignments in the supply chain must be accompanied by relevant transport documents. Business entities must apply appropriate systems to recognize timber and timber products from verified sources and impounded timber and timber products, and maintain records that distinguish between these two sources. Companies at each point in the supply chain are required to
- Regulation of the Minister for Forestry P18/2011
- Regulation of the Minister for Forestry P59/2011
- Regulation of the Minister for Environment 05/2012

**Within non-forest zone which leads to a change in the legal status of the forest**
- Regulation of the Minister for Forestry P33/2010
- Regulation of the Minister for Forestry P14/2011
- Regulation of the Minister for Forestry P59/2011
- Regulation of the Minister for Environment 05/2012
- Regulation of the Minister for Forestry P14/2011

**Within non-forest zone.**
- Regulation of the Minister for Forestry P14/2011
- Regulation of the Minister for Environment 05/2012

See also the legislation listed for the SVLK and VPA in 1.1.

**Legal authority**

<table>
<thead>
<tr>
<th>Prescribed sources</th>
<th><a href="http://www.euflegt.efi.int/files/attachments/euflegt/briefing_note_indonesia%20en.pdf">http://www.euflegt.efi.int/files/attachments/euflegt/briefing_note_indonesia%20en.pdf</a></th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Non-Government sources</strong></td>
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</tbody>
</table>

All operators in the supply chain are required to keep records on received, stored, processed and delivered timber and timber products to enable subsequent reconciliation of quantitative data between and within nodes of the supply chain. Such data shall be made available for provincial and district forestry officials to carry out reconciliation tests.

The following legal requirements apply to the different source types, and are verified as part of the SLK certification process:

For concessions within Production Forest Zones:
- Forest management unit (concessionaires) must be located within the production forest zone and a Permit holder must be able to demonstrate that the timber utilisation permit (IUPHHK) is valid.

For community plantation forests and community forests within Production Forest Zones:
- Forest management unit must be located within the production forest zone and a Permit holder must be able to demonstrate that the timber utilisation permit (IUPHHK) is valid.
- Business unit in the form of group - The business group is legally established.

For Privately-Owned Forests
- A Private land or forest owner must be able to prove ownership or use rights of the land.
- The Business unit in the form of groups is legally established and registered.
- Minister and Ministry of Environment and Forestry (MoEF).
- Directorate General of Minister of MoEF.
- The Government employs experts, called WASGANISPHPL (15 types) with the authority to supervise GANISPHPL personnel at the concessions.
- GANISPHPL-CANHUT stands for Tenaga Teknis Pengelolaan Hutan Produksi Lestari - Perencanaan Hutan, which means "Technical Person of Sustainable Forest Management - Forest Planning" and this is the authorized person with the capability to conduct forest inventory, create annual felling work plans, plan timber cruising, make work plans, and make working maps of the concession.

Legally required documents or records
- Concession License from MoEF.
- Annual Work Plan sent to the Provincial Department of Environment and Forestry with a

For timber utilisation rights within non-forest zones or from convertible production forest
- Within non-forest zone without altering the legal status of the forest, a harvesting operation must be authorised under either an Other Legal Permit (ILS)/conversion permits (IPK) in a lease area. Note: This also applies for areas previously categorised as Reforestation-based Plantation Forest (HTHR)
- Within the non-forest zone which leads to a change in the legal status of the forest, Timber harvesting is authorised under a land conversion permit (IPK). Note: This also applies for area previously categorised as Reforestation-based Plantation Forest (HTHR) and Conversion permit (IPK) for transmigration settlement
- Within the non-forest zone, timber harvesting is authorised under a land conversion permit (IPK) within non-forest zone and Conversion permit (IPK) for transmigration settlement

Description of Risk
- Historically, there has been a risk associated with illegal harvesting permits, illegal harvesting and illegal transport of timber in Indonesia. EIA reports risks of of bribery between the concessionaires and the government inspectors such that the latter approve harvesting practices that violate permits (EIA 2014).
- According to INTERPOL (2012), one of the most common ways to conduct illegal logging is to obtain a permit by bribing an official responsible for issuing permits. This can take place in three ways: a) by paying a standard commission – a fixed price for a permit paid directly to an official, for example US$ 25,000 for a permit to cut 17 km2 of forest; b) by paying a percentage of the value of goods extracted or the value of the permit. A common price in Indonesia, for example, is 10–40 per cent of the value of the deal,
recommendation letter from the District Department of Environment and Forestry.

- The Ten Year Work Plan (as distinct from the Annual Work Plan) is to be approved by the MoEF.
- Legal Documentation of Forest Products from the MoEF.

Concessions within Production Forest Zones

- Timber utilisation permit (IUPHHK-HA or IUPHHK-RE or IUPHHK-HP)
- Forest concession right certificate
- Proof of payment for the timber forest product utilisation permit.
- Proof of other legal area utilisation permit (if any)

Community plantation forests and community forests within Production Forest Zones

- Timber utilisation permit (IUPHHK)
- Forest concession right certificate
- Proof of payment for the timber forest product utilisation permit.


much lower than for obtaining a permit; or c) by paying high prices for other services or goods, such as housing, vehicles, gas or other.

- INTERPOL also states that the use of bribes and corruption is a primary challenge in combating illegal logging (Amacher et al. 2012). In the Bulungan, Malinau and Nunukan districts of Northeast Kalimantan, Indonesia, an investigation revealed that illegal loggers paid up to three bribes of US$ 25,000 each in 2000–01 to obtain a logging permit for areas of approximately 1766 hectares (Smith et al., 2008). In some years loggers paid only one bribe, but had to pay similar amounts for new permits, and sometimes additional payments for former permits. Furthermore, companies paid an average of only 28 per cent (a range of 0–88 per cent) of the real tax owed. An additional “royalty” of three dollars per cubic metre was paid to villagers. However, as timber contractors can specify the volumes themselves, they could easily evade some of this tax (http://www.unep.org/pdf/RRAlogging_english_scr.pdf).

- In 2014 the Anti Forest-Mafia Coalition of NGOs including WWF Indonesia presented results of an in-depth investigation of SVLK and its implementation, including the finding that SVLK does not prevent "illegal and unsustainable harvesting".

- Palm oil companies have been found guilty of driving illegal logging for expansion of palm establishment. A December 2014 report by the Environmental Investigation Agency (EIA) states that "the importance of the traditional, selective logging forestry model is declining. In its place, the conversion of rich forests to plantations for palm oil and other products is generating a vast and poorly regulated stream of timber. Although the rule of law has increasingly been brought to bear on the old selective logging
- Deed or proof of business establishment.
- Privately-owned forests
- Land Cultivation Right.
- Timber utilisation rights within Non-Forest Zones or from Convertible Production Forest
- Other Legal Permit (ILS) / conversion permits (IPK) for harvesting operations in the lease area (including applicable environmental impact assessment/EIA document of non-forestry business)


system, Indonesia’s plantation sector remains in abject chaos.” Not all timber from palm oil establishment is illegal if the license is legal and clear.
- Forests Trends (2014) reviewed production and consumptions data in Indonesia, found that “large operators are consuming more wood than the MoF reported as being legally produced, in 2014, there was a gap of more than 30 percent”.
- That report goes on to state that the situation in natural forests is as alarming as the status of plantations. It states that “the majority of timber reportedly harvested from natural forests now comes from clear-cuts as opposed to selectively harvested forestry concessions. According to MoF data, for every cubic meter harvested from forestry concessions at least two cubic meters are produced from deforestation during land clearing. This ratio, however, is likely an underestimate.” Forest Trends state that as the SVLK was not required until 2013, it would have had little impact on the timber production analyzed in that report.
- EFI (2016) include an analysis of an Indonesian Anti-Corruption Commission (KPK) report that said Indonesia’s reported timber production was far less than what is actually harvested from natural forests (also analysed in the Forest Trends report, 2014). EFI states that the KPK report covers the period 2003-2014. It is based on expert estimations, not on field work or remote sensing. As a response to the report’s findings, the Ministry of Environment and Forestry is developing an integrated production data management system for all sources of timber. The system’s development is among the list of actions in the Indonesia-EU VPA action plan up to the end of 2017. The KPK analysed natural forest production until 2014. Today, however, plantations and smallholders on private lands account for most of Indonesia’s


EFI concludes that in 2016, the majority of Indonesia's total timber production comes from SVLK sources.

According to Setyowati et al. (2017), much of [the] corruption comes from irregularities in the issuance of permits and associated documents for log transports (KPK 2014; Rasad and Febisanto 2015), involving the bribing of government officials. The signing of a VPA agreement with the European Union and the establishment of SVLK hence form part of the Indonesian government's efforts to curb corruption in the forest sector, and especially corruption embedded in the permitting systems (Obidzinski and Kusters 2015).

The findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that "at least 56 cases of}
of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: harvesting of logs prior to the granting of an approved utilisation permit, among others”.

- Furthermore, it is important to highlight the concerns raised by JPIK (2014) and Setyowati & McDermott (2017) (detailed information is provided above in the Overview of the forest sector in Indonesia section of this category), that as part of the SVLK system, CABs are required to consider only the existence of a permit document, without examining the process of the issuance of the permit, which might have implications on detecting harvesting permits that have been issued through corruption.

In this context, it is relevant to mention that the assessment of this indicator focuses on the procedures for issuing harvesting permits, licenses or other legal document required for harvesting operations. Therefore, the endorsement of the SVLK cannot be considered as sufficient evidence for the assessment of this indicator.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
### Taxes and fees

<table>
<thead>
<tr>
<th>1.5 Payment of royalties and harvesting fees</th>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
</table>

#### Overview of Legal Requirements

There are three types of levies for forest concessionaires' holders:

- **Forest Utilization Business Permit Fee/luran Izin Usaha Pemanfaatan Hutan (IIUPH)** is a fee imposed to forest concessionaires' holders over a certain area of forest.
- **Reforestation Fund (DR)** is a fund allocated for reforestation and the rehabilitation of forest and its supporting activities, collected from forest concessionaires’ holders who manage natural production forest.
- **Forest Resources Provision/Provisi Sumber Daya Hutan (PSDH)** is a levy imposed to forest concessionaires’ holders as the replacement of intrinsic values from the forest products taken from state forests.

The Government has control measures (auditors) in place to ensure royalty payments. The Government issues an Instruction to Pay Letter (Surat Perintah Pembayaran, SPP) for the levy based on the tariff which is calculated based on the Working Area Map. If payment of SPP is not done the company will get a fine of 2% each month. The report on the royalty payment is submitted every five months. The payment of all royalties is done immediately after harvesting (log landing) and reported every 15 days to MoEF (not to Taxation DG) for HPH/HTI.

A company will be given latitude to postpone payment of SPP only once; if in a subsequent period the company still has not transferred
### TIMBER FROM STATE-OWNED FORESTS

- Covers Timber Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights.

#### Production

Logs are transported from the log-landing site to log yards and then either directly transported to a processing mill, to an intermediate log-yard or to a registered timber depot.

**Where the Log Production Report has not yet been approved at the Log-Landing Site:**

- Preparation of a log-list by the permit holder; Submission of Proposed Log Production Report by the permit holder;
- Approval of the Log Production Report by the Wasganis;
- If using the national online log tracking system, the permit holder may submit the Log Production Reports and the related summary report to the Wasganis for approval;
- The Wasganis carries out sample-based physical verification of the reports, if not already approved at the log-landing site. The result of the field inspection is summarised in a log-verification-list using an official form established by the Ministry of Forestry;
- Subject to a positive outcome of the field inspection, the official approves the reports; in case 48h is exceeded after the submission of the Log Production Reports and the related summary report, the Ganis self-approves the reports on its own responsibility (not applied for IPK);

#### Production Report in the Log-Yard

- Where the Log Production Report has not yet been approved at the Log-Yard:
  - Preparation of a log-list by the permit holder; Submission of Proposed Log Production Report by the permit holder;
  - Approval of the Log Production Report by the Wasganis;
  - If using the national online log tracking system, the permit holder may submit the Log Production Reports and the related summary report to the Wasganis for approval;
  - The Wasganis carries out sample-based physical verification of the reports, if not already approved at the log-landing site. The result of the field inspection is summarised in a log-verification-list using an official form established by the Ministry of Forestry;
  - Subject to a positive outcome of the field inspection, the official approves the reports; in case 48h is exceeded after the submission of the Log Production Reports and the related summary report, the Ganis self-approves the reports on its own responsibility (not applied for IPK);

#### Activities Related to the Applicable Fees

<table>
<thead>
<tr>
<th>Activity</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>For TIMBER FROM STATE-OWNED FORESTS</td>
<td>Covers Timber Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights.</td>
</tr>
<tr>
<td>Government Regulation No 12 Year 2014 on Non Tax Revenue</td>
<td><a href="http://www.rimbawan.com/peraturan-menteri-kehutanan-republik-indonesia-nomor-p-68-menhut-ii-2014">http://www.rimbawan.com/peraturan-menteri-kehutanan-republik-indonesia-nomor-p-68-menhut-ii-2014</a> in conjunction with Minister of Forestry Regulation No P.68/Menhut-II/2014 on The Benchmark Prices for Calculation of forest products, forest resources and replacement indemnity stands stumpage.</td>
</tr>
<tr>
<td>Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary</td>
<td><a href="http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b">http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b</a></td>
</tr>
</tbody>
</table>

The previous payment, the production report will not be approved by the Government, which incentivises companies paying taxes promptly.
For community plantation forests and community forests within Production Forest Zones:

- Regulation of the Minister for Forestry P18/2007
- Regulation of the Minister for Trade 22/2012

For privately-owned forests:

- Regulation of the Minister for Forestry P18/2007

For timber utilisation rights within non-forest zones or from convertible production forest:

- Regulation of the Minister for Forestry P18/2007

See also the legislation listed for the SVLK and VPA in 1.1.

**Legal authority**

- Minister and Ministry of Environment and Forestry (MoEF).
- Directorate General of Taxation

**Non-Government sources**


**Invoicing by the district forest office and payment of relevant amount for the Forest Resources Fee and to the Reforestation Fund by the permit holder.**

- Calculated based on the approved Log Production Reports;
- The permit holder submits a request to settle the relevant fees to the district forestry official in charge of billing, based on the log–list, which is attached to the request;
- The district forestry official issues an invoice or invoices for settlement by the permit holder;
- In case 48 hours are exceeded after the submission of the request, the permit holder can issue the related invoice or invoices engaging its own responsibility;
- The permit holder pays the amount set out in the Forest Resources Fee and/or Reforestation Fund Invoice(s) and/or stumpage value and the district forestry official issues a receipt or receipts for this payment.
- Stumpage value only applied for HTHR or IPK;
- Issuance a Log Transport Document by the Ganis, to which is annexed a log-list.
- Preparation of a Log Balance-Sheet Report by the permit holder.
- Data reconciliation

For PRIVATELY OWNED FORESTS/LANDS, control procedures differ between logs obtained from trees which were on the site when the land title was acquired and logs obtained from trees that have been established since the title was acquired. They also depend on the tree species harvested.

The payment of the Forest Resources Fee, to the Reforestation Fund and stumpage fee apply to logs from trees already present on the site.
- District Forest Department Staff (presenting royalty invoice, called SPP)

**Legally required documents or records**

- The SPP is the invoice for royalties, based on production reports. This royalty has to be paid to the Central Government MoEF.
- A company must have evidence of the payments of royalties according to PSS (cash or transfer payment from company to Government account according to SPP invoice).

- Hukumonline, 2010. *Trillions of losses from the State Forestry Sector*. Available online: [http://new.hukumonline.com/berita/baca/1t4bdadf3be1d0/kerugian-negara-dari-when the land title was awarded but does not apply to logs from trees established after the award of the land title.

Management units (either owned individually or by a group) must be able to show proof of payment of applicable charges related to trees present prior to the transfer of rights or tenure of the area.

**Description of Risk**

- According to experts consulted in the preparation of this report, in order to reduce payment of royalties, it is a common risk that companies do not pay all royalties and do not make regular reports to the Director General of Taxation.
- A 2010 Hukumonline report claims that the losses from the State Forestry Sector amount to trillions of Indonesian rupiah. In the report ICW recommends that the government immediately improves licensing policies and make clear arrangements for central and local permits. In the report examples are given of some companies who carry out illegal logging and never pay any royalties.
- According to Human Rights Watch: “In 2006 the Indonesian government lost over US$2 billion from untaxed illegal logging ($1.3 billion USD), artificially low forest royalties ($563 million)...”.
- The payment of royalties is expressly verified as part of the SVLK certification process. The findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The
1.6 Value added taxes and other

<table>
<thead>
<tr>
<th>Applicable laws and regulations</th>
<th>Non-Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>• UU No 8/1983 concerning Value Added Tax on Goods and Services and Sales Tax on</td>
<td>• Food and Agriculture Organization of The United Nations, Regional Office for Asia and the Pacific, 2009. Asia-Pacific</td>
<td>VAT and Goods and Services Tax (GST) are applied to the timber sector in Indonesia. Imports are subject to VAT and GST, but exports of timber (and most other exports) are not.</td>
</tr>
</tbody>
</table>


Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A full list of experts consulted has been provided to FSC.

Taking into consideration that updated data about law enforcement of payments of royalties and harvesting fees requirements is limited, and that the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO has raised some issues in relation to this indicator, precautionary approach is applied. Thus, this indicator is considered specified risk for all timber sources.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
Sales taxes

Luxury goods; this law has been revised three times via UU No 11/1994; UU No 18/2000 and UU No 42/2009.


The implementing regulations for this law are governed by Government Regulation No. 1/2012 concerning implementation of UU 8/1983 and revisions.


- Gayatri Suroyo and Eveline Danubrata for Reuters, 2015. Indonesia to crack VAT and GST taxes are called Pertambahan Pajak Nilai or PPN. PPN is a ten percent, point-of-sale tax that extends to services supplied by foreign taxpayers outside Indonesia if these services benefit Indonesia. Provisions allow for certain items to be taxed as high as 20 percent with a cap of 35 percent.

As PPN applies to the sale of agricultural products, a difference is made between modern and traditional retailers. In deference to Indonesia's traditional market economy in rural areas, cottage industries such as farmers' markets and other small businesses are exempt from sales and service taxes.

Companies/individuals designated as taxable enterprises (Pengusaha Kena Pajak/PKP) are required to report their business activities and settle the VAT liabilities on these every month. Tax collection is decentralised, and payable to the local jurisdictional office. Certain companies (i.e. those with enterprises in many jurisdictions) may centralise their reporting, there is a list of companies eligible for this (including large taxpayers, listed companies, foreign companies etc…).

Seeds and seedlings for plantation forestry are categorized as strategic goods, and are exempt from VAT (PWC 2017).

Risk Description

- According to Reuters (2015) tax avoidance/evasion in Indonesia seems to be legitimised by its weak tax administration. Note that this article is focussed on income tax, not VAT. Reuters state that the issues with tax evasion are exacerbated by a shortage of employees in the Tax Department, (currently around 36,000 tax officials compared to the population of 255 million).
Legal Authority

- Ministry of Finance - charged with formulating, stipulating and implementing policies connected to budgeting, taxes, customs, excise, treasury, state assets management, fiscal balance as well as budget financing and risk management
- Subsidiary government institutions responsible for the formulation of tax policy and procedures of relevance to timber companies:
  - State Treasury
  - Indonesian Tax Offices
  - Director General of Taxation - Responsible for issuing tax policy
  - District Tax Service Office and the Local Tax on Land and Building Office (PBB)

Legally required documents or records

- Tax invoices meeting the requirements of the Act for information relevant to VAT.
- Monthly VAT Report

The Economist (2016) states that Indonesia routinely has difficulty collecting the taxes it imposes; in 2015 only 82% of expected taxes were paid, and its ratio of tax revenue to Gross Domestic Product was near 10%. That ratio for most Southeast Asian nations is between 13% and 15% (Economist 2016, Library of Congress 2016).

A review of literature specifically focused on the forestry sector (for example: Forest Trends 2015, EIA 2014, Anti Forest-Mafia Coalition 2014, Hukumonline, 2010. Human Rights Watch, 2009 and Overdevest & Zeitlin 2016) shows that underpayment of royalties has been a significant issue in the past in Indonesia, but they do not specifically address the issues of value added taxes.

Value added taxes are not included in the Legality Definition (annex V) of the Indonesia/EU Voluntary Partnership agreement. This means that payment of income tax is not verified as part of the SVLK certification process.

Information received from experts (FM auditors) in the preparation of this report is that people and companies in Indonesia are aware of this requirement, and if they do not comply then they are penalised. If they do not pay the penalties, the the company will be closed by the government and the name of the directors will be blacklisted in every business in Indonesia.

Unlike the other tax indicators, it has not been possible to find information during the research for this indicator of risks relating to non-payment of VAT. Acknowledging the general points about the capacity of the Taxation Department, and the generally high level of corruption risk in Indonesia, a precautionary approach has been applied here, and a specified risk is concluded.
system. Available online:


**Risk conclusion**

This indicator has been evaluated as specified risk. Threshold (2):
Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
<table>
<thead>
<tr>
<th>1.7 Income and profit taxes</th>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Legal authority</td>
<td>• Non-Government sources</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• The authorized person from Directorate General of Tax</td>
<td>• Gayatri Suroyo and Eveline Danubrata for Reuters, 2015. <em>Indonesia to crack down on corporate tax avoidance</em>. Available online: <a href="http://www.reuters.com/article/us-indonesia-tax-taxavoidance">http://www.reuters.com/article/us-indonesia-tax-taxavoidance</a></td>
<td>CIT liabilities are calculated against the taxable business profits (on the basis of normal accounting principles). A number of specific deductions (e.g., for equipment) are applicable for the forestry sector (PWC 2016).</td>
</tr>
<tr>
<td></td>
<td>Legally required documents or records</td>
<td></td>
<td>Penalties of 2% per month are imposed for late payment of tax, up to a maximum of 48% of the unpaid tax. In criminal cases, fines of 200%-400% of the unpaid tax are possible, as is imprisonment. The penalties for tax evasion and avoidance are strict; including for underpaid tax, additional underpaid tax, overpaid tax and nil tax assessments that may be received by the debtor in the form of letters,</td>
</tr>
<tr>
<td></td>
<td>• Monthly Withholding Tax Reports</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
There are a number of reports in recent years of significant issues with income tax evasion (both personal and company tax) in Indonesia. In 2015, Reuters reported that the Finance Minister Bambang Brodjonegoro's estimated that only 27 million of Indonesia’s 255 million people are registered taxpayers and in 2014 just 900,000 of them paid what they owed. According to that same article, there are thousands of companies that have never paid income tax and tax avoidance/evasion seems to be legitimated by its weak tax administration. Reuters also report that Indonesia intended to crack down on corporate tax avoidance via transfer pricing in 2015. According to the tax department, there was approximately 200 trillion rupiah ($15.6 billion) in lost state income, mainly in the commodities sector. Sigit Priadi Pramudito, the country's director-general of taxes, said in an interview that many Indonesian companies, particularly in the coal, palm oil, cocoa and other commodities sectors, were avoiding corporate taxes by using transfer pricing.

There are warrants and administrative sanctions. Tax credits for over-taxation or overpayment are withheld until the subsequent year, as payouts are not issued within the same financial year.

**Description of Risk**

- Financial Times, 2016. *Indonesia to fall short on tax revenue targets.* Available online: [https://www.ft.com/content/fe3c8016-2c34-11e5-8613-e7aedbb7bdb7](https://www.ft.com/content/fe3c8016-2c34-11e5-8613-e7aedbb7bdb7), accessed 8 February 2017.
- Transparency International (2018). Corruption Perception Index 2017 -
- Mr Brodjonegoro estimates that there are just 27m registered taxpayers in the country out of a population of 255m, with 10m of those paying income tax in full every year. There is much room to improve compliance, he said, with widespread tax evasion across the spectrum from individual workers to big business.
- Other reports (e.g., Financial Times 2016) state that large companies have a poor record with payment of income taxes: That article quotes the Finance Minister: “Big companies with a big profile — their tax record is quite poor, meaning they are far from 100 per cent compliant.”
- The Economist (2016) also reports on significant issues with transfer pricing and tax avoidance. They state that official estimate is that as much as $900 billion in assets may have been sent abroad by Indonesians seeking to avoid taxation. Indonesia routinely has difficulty collecting the taxes it imposes; in 2015 only 82% of expected taxes were paid, and its ratio of tax revenue to Gross Domestic Product was near 10%. That ratio for most Southeast Asian nations is between 13% and 15% (Economist 2016, Library of Congress 2016).
- A review of literature specifically focused on the forestry sector (for example: Forest Trends 2015, EIA 2014, Anti Forest-Mafia Coalition 2014, Hukumonline, 2010. Human Rights Watch, 2009 and Overdevest & Zeitlin 2016) shows that underpayment of royalties has been a significant issue in the past in Indonesia, but they do not specifically address the issues of income taxes.
- Despite the strict penalties – the reporting of income is voluntary and minimally encouraged, certainly not controlled, which results in high levels of tax evasion.
- Income and profit taxes are not included in the Legality Definition (annex V) of the Indonesia/EU Voluntary Partnership agreement.
|---|

This means that payment of income tax is not verified as part of the SVLK certification process.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2): Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
### Timber harvesting activities

<table>
<thead>
<tr>
<th>1.8 Timber harvesting regulations</th>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non Timber -</td>
<td>• Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 - <a href="http://www.euflegt.efi.int/documents/101">http://www.euflegt.efi.int/documents/101</a></td>
<td>The Indonesian procedures are also part of the SVLK and have the following components:</td>
<td></td>
</tr>
</tbody>
</table>
| | | • Production planning  
  o Forest inventory, cruising reports  
  o Annual cutting plan, which has to be in line with the government AAC for that area.  |
| | | • Harvesting - Documented in Laporan Hasil Cruising—Indonesia cruising result report (LHC) and Laporan Hasil Penebangan (LHP) or the Indonesia timber felling report  |
| | | • Marking, Scaling and Grading. Recorded in the wood-processing and storage report (LKPO).  |
| | | • Loading and transporting  |
| | | • Processing  |
| | | • Reporting |
|---|---|
| | Minister Regulations No. 62 of 2008, No. 65 of 2009, and No. 60 of 2011 denote the system and legitimate logging procedures and work plans |
| | Minister Regulation No. 41 of 2014 outlines the administration of timber harvested from natural forests; |
| | Minister Regulation No. 42 in 2014 outlines the administration of timber harvested from planted forests. |
| For concessions within production forest zones (State owned) | Regulation of the Minister for Forestry P62/2008 |
| | Regulation of the Minister for Forestry P56/2009 |
| | Regulation of the Minister for Forestry P60/2011 |
| 80/196582/Record+of+Discussion+2nd+ID+EU+Joint+Implementation+Committee.pdf/b8eebb8e-8186-4319-94db-b66be9a82c | Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b |
| | Timber cruising (enumeration of trees) is conducted by the permit holder using tags. These tags are made up of three detachable sections, attached to the stump, harvested log, and the operator report. Each section contains the necessary information required for timber tracking, including the number of the tree and its location. The permit holder prepares a Timber Cruising Report, which contains information on the number, estimated volume, preliminary species identification and location of trees to be harvested, and a summary, using official Ministry of Forestry forms. The permit holder submits the Timber Cruising Report to the district forestry official. The official conducts both a document-based and field verification of the Timber Cruising Report on a sample basis. The official approves the Report if all is in order. |

For industrial roundwood production from large concessions within production forest zones of state-owned land (permanent forest domain), there are sustainable forest management (PHPL) requirements. These requirements must be complied with, within three years of an initial V-Legal certificate being issued (Indonesia-EU, Annex V).


- Regulation of the Minister for Forestry P.33/2014
  For community plantation forests and community forests within Production Forest Zones
- Regulation of the Minister for Forestry P62/2008
  For timber utilisation rights within non-forest zones or from convertible production forest
- Regulation of the Minister for Forestry P62/2008
- Regulation of the Minister for Forestry P53/2009

See also the legislation listed for the SVLK and VPA in 1.1.

Legal authority
- The Directorate General of Natural Forest Management (on behalf of the Minister of Forestry and Environment).
- The Government employs experts, called WASGANISPHPL (15 types) with the authority to

- EU FLEGT Facility briefing note on the EU-Indonesia VPA -

Non-Government sources
- Made Ali for mongabay.co.id, 2013. KPK Urged to Complete Actors Corruption Riau Forestry Licensing. Available online at
  [http://www.mongabay.co.id/2013/01/17/kpk-didesak-tuntaskan-aktor-aktor-korupsi-perizinan-kehutanan-riau/],
  accessed 25 January 17.
- Diana Parker for mongabay.com, 2014. Indonesia politician gets 14 years in jail for illegal permits, forest corruption. Available online at
  accessed 25 January 17.
- Environmental Investigation Agency (EIA), 2014: PERMITTING CRIME: How palm oil expansion drives illegal logging in Indonesia. Available online at
  accessed 25 January 17.

The above described legal requirements are verified as part of the SVLK certification process.
In addition, there are a number of silvicultural and related requirements applicable in Indonesia, these are:
- Requirements relating to Ministry of Forest technical standards of road construction through ground checks while travelling through the concession area (Dirjen Bina Produksi Kehutanan decree P.9/VI/BPHA/2009 concerning Implementation guidelines of Silvicuture system for Forest Concession on Forest Production).
- Requirements relating to minimum harvestable diameters, observable in LHP reports, LHC reports and tree position and contour map.
- Harvesting of authorised timber species in accordance with the forestry administration plans and LHP species list. Note that the protected species may vary from one province to the next.

The regulation covering these requirements (No P.11/Menhut/2009) is not included in the Legality Definition of the Indonesia/EU VPA (Annex V). This means that these silvicultural requirements are not verified as part of the SVLK Licensing process of production forests, except for industrial round wood production on state owned land, as the sustainable forest management principles apply to those areas.

Description of Risk
- According to Prasetyo et al. (2012, quoting Obidzinski et al. 2007), one of the most serious challenges for forest governance in Indonesia’s Kalimantan region is the illegal logging by licensed forestry operations that engage in gross over-harvesting.
supervise GANISPHPL personnel at the concessions.

- **GANISPHPL-NENHUT** is the officially trained person with the authorized capability on how to plan harvest (felling), set up control towers, bucking logs, debarking, and transport forest products, among other qualifications.

### Legally required documents or records

For concessions within production forest zones

- The approved master plan & attachments (drawn up based on a comprehensive forest inventory conducted by technically competent staff)
- The approved annual work plan (drawn up based on the master plan)
- Maps (drawn up by technically competent staff, which describe the layout and boundaries of the areas covered by the plan of work)
- Map indicating logging exclusion zones within the Annual Work
- **Ruslandi et al.** argue that the Indonesian Selective Cutting and Planting System (TPTI) implementation has been flawed (2014).
- Many historical reports exist which raise issues with overharvesting in Indonesia. The SVLK certification system has been put in place, in part to respond to these very issues.
- However, a press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management), stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement.

JPIK assessment to 296 Sustainable Production Forest Management (PHPL) IUIPHHK-HA (Logging Concession) and HT (Timber Concession) certificates found that 197 of permit holders had bad scored on production aspects. These findings generate a big question towards the sustainability of forest management practice and will impact to the slow problem solving of forest management nowadays, especially in social and ecological aspects”.

- Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: harvesting of under-sized logs, among others”.

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<table>
<thead>
<tr>
<th>Plan and evidence of implementation on the ground.</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Harvesting locations (blocks or compartments) on the map are clearly marked and verified on the ground.</td>
</tr>
<tr>
<td>• Timber forest product utilisation master plan document &amp; attachments (on going applications are acceptable).</td>
</tr>
<tr>
<td>• The location and extractable volumes of natural forest logs within areas to be harvested correspond with the work plan.</td>
</tr>
<tr>
<td>• Timber cruising report.</td>
</tr>
</tbody>
</table>

For community plantation forests and community forests within Production Forest Zones:

<table>
<thead>
<tr>
<th>Approved annual work plan document.</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Map indicating logging exclusion zones in the annual work plan and evidence of implementation on the ground.</td>
</tr>
<tr>
<td>• Harvesting block location are clearly marked and can be verified on the ground.</td>
</tr>
<tr>
<td>• Timber Forest Product Utilisation Master Plan document and</td>
</tr>
</tbody>
</table>

|---------------------|

As indicated in the *Overview of legal requirements*, certain timber harvesting requirements included in the Regulation No P.11/Menhut/2009 on Silvicultural Systems in the Area of License for Utilization of Timber Forest Products in Production Forests, are not included in the Legality Definition of the Indonesia/EU VPA. This means that these requirements are not verified as part of the SVLK certification process, thus the endorsement of the SVLK system cannot be considered as sufficient evidence for the assessment of this indicator.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
attachments (on-going applications are acceptable) online:
http://www.euflegt.efi.int/documents/10180/23308/Baseline+Study+7,2018Indonesia+-+Overview+of+Forest+Law+Enforcement,%20Governance+and+Trade/fbbef7de-eaad6-4238-b28b-7a3c57fb7979,
accessed 8 February 2017.


- Ruslandi, Klassen A, Romero C, Putz FE. Forest Stewardship Council certification of natural forest management in Indonesia: Required...


<table>
<thead>
<tr>
<th>1.9 Protected sites and species</th>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Government Regulation No 7 Year 1999 on Preservation of Plants and Animals -</td>
<td></td>
</tr>
</tbody>
</table>

**Overview of Legal Requirements**

In Indonesia, utilization of timber from conservation and protected forests is strictly prohibited. Endangered animals are protected by law. Fragile sites are identified during the forestry inventory according to regulations and guidelines of the forest authorities and other relevant agencies. In addition, nationally protected species of flora and fauna must be identified in the forest management plan. Forest regulations define riparian buffer zones, buffer zones for protection forest areas, and buffer zones for external boundaries. These buffer zones are excluded from harvesting. Forest regulations prohibit logging on slopes >40% (Note: This regulation is widely ignored by the MoF since it would make many concessions economically unviable.) Protected species are identified in regulations. Protected tree species can be cross-checked against the LHC and LHP reports.

The verification of the log tags as part of the SVLK certification process has been designed to exclude trees from fragile sites or protected species.

- Regulation No 5/1990 on Conservation of Bio-resources and Ecosystem
- President decree 32 Tahun 1990 concerning Management of Protection area
- Ministry of Forestry Regulation P.11/Menhut-II/2009 concerning Implementation guidelines of Silvicuture system for Forest Concession on Forest Production

**Legal authority**

- Minister and Ministry of Environment and Forestry (MoEF).
- The Government employs experts, called WASGANISPHPL (15 types) with the authority to supervise GANISPHPL personnel at the concessions.

**Description of Risk**

- A 2007 UNEP-UNESCO report documented illegal logging in 37 of 41 protected areas in Indonesia, including large-scale deforestation of a UNESCO World Heritage site and an endangered orangutan habitat (UNEP-UNESCO 2007 in INTERPOL 2012). According to that report, loggers, with armed guards, moved into parks and cut down the forests with unarmed rangers facing lethal risk, bribes or simply lack of resources to enforce the park boundaries (UNEP-UNESCO 2007).
- Discussing the Kutai National Park in eastern Kalimantan, Fehlabor-Brown (2013) states that 'despite the fact that the park is nominally a protected area, the trees have been logged for their hardwoods as well as to cultivate palms.' The author goes on to state that 'the small slivers of forest that are left [in Indonesian Borneo] (often designated as protected areas) continue to be invaded by loggers, poachers, and miners – whether poor artisanal ones who operate illegally or official companies with formal licenses obtained through bribery.'
- Margono et al., in their 2014 analysis of deforestation in Indonesia between 2000-2012, found that 40 per cent of the clearing was happening illegally, "in limited production, conservation and protection forests". Further, they state that "Sumatra is more advanced in the rate of clearing, Kalimantan is behind that, and Papua far behind."
- Reports of logging within protected areas are less frequent since the SVLK system has become fully operational.
- Experts consulted in the preparation of this report stated that protected sites are at risk in Indonesia, where logging in National Parks is still the case. In fact, a forest concessionaire takes the
- GANISPHPPL-BINHUT is the technician who has the qualification (trained by government authorities) to manage protected forests, manage protected and endangered flora & fauna and implement environmental impact analysis.

**Legally required documents or records**

For concessions within production forest zones

- The approved master plan & attachments (drawn up based on a comprehensive forest inventory conducted by technically competent staff).
- The approved annual work plan (drawn up based on the master plan)
- Maps (drawn up by technically competent staff, which describe the layout and boundaries of the areas covered by the plan of work)
- Map indicating logging exclusion zones within the Annual Work


**Non-Government sources**


Risk that they will be penalized if they do not harvest areas designated for logging in the Work Plans. Knowledge about the whole range of protected species is not consistently held by concession holders and communities. With the exception of flagship species, such as the tiger, most trade in protected animals is not controlled, with penalties not being consistently imposed.

In addition to national parks and protected forests, there are also protected areas in the concession area (HCV, steep slope, cultural site).

The SVLK system of certification is designed so that illegally harvested timber from protected areas cannot enter certified supply chains. It is theoretically possible that illegal harvesting in protected areas in Indonesia is continuing to some extent, but it would be very difficult for this timber to enter an SVLK certified supply chain. However, a press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management), stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement. JPIK monitoring resulted in 54 permits holder with SVLK certificates (PHPL and VLK) still found issues about boundary conflict, low basic rights recognition of the people, and weak forest protection efforts to the holder of IUPHHK-HA and HT”.

Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUKOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply

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Plan and evidence of implementation on the ground.
- Harvesting locations (blocks or compartments) on the map are clearly marked and verified on the ground.
- Timber forest product utilisation master plan document & attachments (on going applications are acceptable).
- The location and extractable volumes of natural forest logs within areas to be harvested correspond with the work plan.

For community plantation forests and community forests within Production Forest Zones
- Approved annual work plan document.
- Map indicating logging exclusion zones in the annual work plan and evidence of implementation on the ground.
- Harvesting block location are clearly marked and can be verified on the ground.
- Timber Forest Product Utilisation Master Plan document and


Risk Conclusion
This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
<p>| For timber utilisation rights within non-forest zones or from convertible production forest | • IPK/ILS work plan documents |</p>
<table>
<thead>
<tr>
<th>Year</th>
<th>Author/Source</th>
<th>Title/Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>JPIK</td>
<td>Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management. News published in</td>
</tr>
</tbody>
</table>
1.10 Environmental requirements

<table>
<thead>
<tr>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Ministry of Environment Regulation 11 Year 2006</td>
<td>• Indonesian Country Specific Guideline 2015</td>
</tr>
</tbody>
</table>

Overview of Legal Requirements

For concessions, community plantation forests and community forests within production forest zones, the permit holder must have an approved applicable environmental impact assessment (EIA) document and have implemented measures identified in it. The EIA documents must be approved by the competent authorities which cover the entire work area (see Legal Authority listed in the first column, the authority is dependent on the concession type). The Permit holder must also have an environmental management plan and...
concerning Types of Business Plan and / or activities that must be equipped with an Environmental Impact Assessment

For concessions within production forest zones and privately owned forests

- Government Regulation PP27/2012 - http://www.menlh.go.id/DATA/
- Regulation of the Minister for Environment 05/2012

For community plantation forests and community forests within Production Forest Zones

- Government Regulation PP27/2012 - http://www.menlh.go.id/DATA/
- Regulation of the Minister for Environment 05/2012

Legal authority

- Minister and Ministry of Environment and Forestry (MoEF).


- Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 - http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Committee+meeting.pdf/b8eebb8e-8f86-4319-94db-b66befa9282c

- Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Implementation+Committee+meeting.pdf/cd45f5ad-7b64-4a63-8992-37b9b3d202d3

environmental monitoring plan implementation reports indicating the actions taken to mitigate environmental impacts and provide social benefits.

For privately-owned forest the Land Cultivation Rights holder or private-forest owners must have an approved applicable environmental impact assessment (EIA) document and have implemented measures identified in it (if required by regulation). The EIA documents must be approved by the competent authorities which cover the entire work area. The Land Cultivation Rights holder or private-forest owners must also have an environmental management plan and environmental monitoring plan implementation reports.

Operating without a required Environmental Permit is a criminal offence under Law 32/2009 on Environmental Protection and Management (the Environmental Law).

The SVLK certification process includes verification of these requirements.

Description of Risk

According to some stakeholders consulted in the preparation of this report, not all of the legal requirements are enforced or can be subject to bribes. Penalties are not very high for violating environmental law. They stated that there are numerous cases of companies not conducting an Environmental Impact Assessment (AMDAL) – meaning the companies would not be able to obtain an Environmental License. But in practice these companies are managing the forest.

A review of recent literature published on the forest sector in Indonesia, and critical reviews of the SVLK system has not shown a lack of EIA or Environmental Licenses as a consistent issue
<table>
<thead>
<tr>
<th>Requirement</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>A Bupati or Mayor has the authority to approve the environmental license.</td>
<td></td>
</tr>
<tr>
<td>The Government employs experts, called WASGANISPHPL (15 types) with the</td>
<td>Annual report progress update April 2015-May 2016: Implementing the</td>
</tr>
<tr>
<td>authority to supervise GANISPHPL personnel at the concessions.</td>
<td>Indonesia – EU FLEGT Voluntary Partnership Agreement -</td>
</tr>
<tr>
<td>GANISPHPL-BINHUT is the technician who has the qualification (trained by</td>
<td><a href="http://www.euflegt.efi.int/documents/10180/296026/Indonesia-VPA+Annual+">http://www.euflegt.efi.int/documents/10180/296026/Indonesia-VPA+Annual+</a></td>
</tr>
<tr>
<td>government authorities) to manage protected forests, manage protected and</td>
<td>Report+progress+update+April+2015-May2016.pdf/f42aba21-55d7-49b7-a518-</td>
</tr>
<tr>
<td>endangered flora &amp; fauna and implement environmental impact analysis.</td>
<td>d3f646837db0</td>
</tr>
<tr>
<td>Legally required documents or records</td>
<td>Annual report May 2014-April 2015: Implementing the Indonesia – EU</td>
</tr>
<tr>
<td>For concessions within production forest zones and privately owned</td>
<td>FLEGT Voluntary Partnership Agreement -</td>
</tr>
<tr>
<td>forests</td>
<td><a href="http://www.euflegt.efi.int/documents/10180/211477/VA-P+Annual+Report+">http://www.euflegt.efi.int/documents/10180/211477/VA-P+Annual+Report+</a></td>
</tr>
<tr>
<td></td>
<td>Indonesia-EU+2014-2015.pdf/09c63a6a-377f-4b4e-99e1-cb3808a9a52c</td>
</tr>
<tr>
<td>Applicable EIA documents</td>
<td>EU FLEGT Facility briefing note on the EU-Indonesia VPA -</td>
</tr>
<tr>
<td>Environmental management plan and environmental monitoring plan documents</td>
<td><a href="http://www.euflegt.efi.int/files/attachment/euflegt/briefing_note_indo">http://www.euflegt.efi.int/files/attachment/euflegt/briefing_note_indo</a></td>
</tr>
<tr>
<td>Proof of implementation of the environmental management plan</td>
<td>esia%20en.pdf</td>
</tr>
</tbody>
</table>

**Non-Government sources**


According to the same article of JPIK (2018), “these ongoing violations are caused by poor oversight and enforcement of the violations that occur, especially oversight by local government and related agencies. The way that Certification Bodies handle complaints is still unsatisfactory, especially those regarding environmental pollution. Certification bodies tend to use data from license holders without conducting their own independent lab testing on evidence of pollution from the ground”.

Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in
<table>
<thead>
<tr>
<th>and monitoring of significant environmental and social impacts</th>
<th>Forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate to: clearing of river banks, and other environmental irregularities, among others*.</th>
</tr>
</thead>
<tbody>
<tr>
<td>For community plantation forests and community forests within Production Forest Zones</td>
<td>Taking into consideration that the recent findings on violation of environmental requirements have been focused only on certain regions of the country, precautionary approach has been applied due to limited data on the extent of these issues for the whole country, thus this indicator is considered specified risk for all timber sources.</td>
</tr>
<tr>
<td>- Applicable EIA documents</td>
<td></td>
</tr>
<tr>
<td>- Relevant environmental management and monitoring documents</td>
<td><strong>Risk Conclusion</strong></td>
</tr>
<tr>
<td>- Proof of implementation of environmental management and monitoring of significant environmental and social impacts.</td>
<td>This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Source</th>
<th>Reference</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11 Health and safety</td>
<td>Applicable laws and regulations</td>
</tr>
<tr>
<td>-----------------------</td>
<td>---------------------------------</td>
</tr>
</tbody>
</table>


Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A full list of experts consulted has been provided to FSC.

• Ministerial Regulation No. PER-01/MEN/1978 on safety and health in tree felling and log transportation (with instruction)

• Government Regulation PP50/2012

• Regulation of the Minister for Manpower & Transmigration 8/2010

• Regulation of the Minister for Manpower & Transmigration 609/2012

**Legal authority**

Directorate of OSH Standards of the Ministry of Manpower and Transmigration (DEPNAKER)

According to the Work Safety Act (Law No.1, 1970), DEPNAKER is responsible for setting-up the national OSH policy. The Directorate General of OSH Standards undertakes general monitoring of OSH regulations while labour inspectors and OSH experts, appointed by DEPNAKER, undertake direct inspection visits. Employment of 100 employees or more, or containing harmful potential issues due to process characteristic or production material which may cause occupational accidents such as explosion, fire, contamination and occupational disease is obligated to implement an occupational health and safety management system (OSH-MS). An agency, called PT Sucofindo, is authorized by the Directorate of OSH Standards of the Ministry of Manpower and Transmigration (DEPNAKER) for auditing and certifying the companies for OSH-MS.

The Manpower Act (Law No. 13, 2003) refers to OSH-MS (Articles 86 and 87). According to the Act “every worker has the right to receive protection against safety and health hazards, protection against immorality and indecency, and treatment that shows respect to human dignity and religious values; every enterprise must apply an OSH-MS, to be integrated into the enterprise’s general management system”.

All levels of government (Ministry, Provinces, Districts) are required to prepare annual budgeted labour inspection plans (prepared one year in advance). As such, the majority of inspection visits are planned visits (first inspections and periodic visits) with the remainder of visits taking place as the result of a complaint or accident notification (ILO 2015).

Different sanctions are foreseen for cases of violation of the labour laws. These include written warnings, economic fines, work stoppages and the withdrawal of operating licences or registration. Labour inspectors, in cases of non-compliance with the labour and OSH regulations, issue a minute/act/order to employers, and in case the situation is not corrected, the inspector may file a case with the court.

Fulfilment of occupational safety and health (OSH) requirements, demonstrated by the availability of OSH procedures and their
monitoring. OSH regulations are also included in laws such as the Health Act, as well as regulations related to mining, nuclear power, oil and gas, industry etc under the jurisdiction of such Government agencies as the Department of Health, the Department of Mining and Energy which is responsible for mining inspection, and the Department of Industry.

As a result of a reorganization of DEPNAKER in 2003, the Directorate General of OSH Standards was divided into two Directorates, namely, the Directorate of Occupational Safety Standards and the Directorate of Occupational Health Standards.

Legally required documents or records
For concessions, community plantation forests and community forests within production forest zones
- Implementation of OSH procedures
- OSH Equipment

Indonesia's timber legality assurance system: Public summary - [http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b](http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b)

Non-Government sources

implementation is a requirement verified through the SVLK certification system. This is done via field verification of:
- Implementation of OSH procedures
- OSH equipment; and
- Accident records

Description of Risk
- According to the ILO (2015), despite the decentralized government system, efforts have been made to improve coordination between the central level and the provinces/districts. Presidential Decree No. 21 of 2010 concerning Labour Inspection specifically addresses the need for stronger coordination and monitoring of labour inspection activities throughout the country. Under this Decree, district offices are responsible for delivering the latest data and information on inspection activities in their region to the provincial offices and the Ministry. Coordination with the higher LI authority (either the Province or Ministry as the case may be) is mandatory in the case of labour crimes prosecutions. The Decree provides a system to maintain the Ministry's overall central authority role. This same Decree No. 21 requires that all district offices maintain a unit responsible for labour inspection. Even so, in practice, not all district offices have labour inspectors. In such cases, these offices are required to coordinate with Labour Inspectors in neighbouring district offices, provincial offices, or the Ministry.
- Non-compliances with health and safety requirements are a common finding in FSC assessment reports for Indonesia. (See public summaries for details, for example: [http://www.rainforest-alliance.org/forestry/certification/transparency.](http://www.rainforest-alliance.org/forestry/certification/transparency.)
- Accident records *(NOTE: not required in community plantation and community forests)*

There should be a certificate from the independent institute documenting that staff has passed the training. Chemical usage must follow the National Policy.


- According to experts consulted in the preparation of this report, there has been a high risk in the past that safety requirements are not implemented. Use of safety equipment is not common in Indonesia, with safety equipment being seen by some workers as a complication to their work flow. Sometimes, therefore, employees do not use safety equipment even though the company has provided it. Supervisors and managers commonly do not wear safety equipment; with a reported lack of enforcement or incentives to use it.

- A review of recent literature published on the forest sector in Indonesia, and critical reviews of the SVLK system do not contain specific references to issues associated with occupational health and safety (Miteva et al. 2015, INTERPOL 2012, EIA 2014, Overdevest & Zeitlin 2016, UNODC undated, Prasetyo et al 2012, WWF 2012, Forest Trends 2015, Anti Forest Mafia Coalition 2014). A 2010 report published by the Blue Green Network states that ‘In addition, loggers and sawmill workers often operate dangerous machinery under poor conditions, with no health or safety safeguards’, however they are quoting a 2000 report (Scotman et al 2000).

However, a recent article of JPIK (7 years monitoring: Timber Processing Industries in East Java) in the 9th Edition of the Newsletter The Monitor (March, 2018), shows that violations against Occupational Health and Safety (OHS) standards have been found in East Java between 2011 and 2017. “These violations include the following:

1. There is low compliance with OHS regulations, especially in small-medium scale industries.


2. Fulfillment of OHS standards is carried out only during auditor visits to assess S-LK certificate. Once auditors leave the industry's premises, workers are reluctant to implement OHS regulations. These ongoing violations are caused by poor oversight and enforcement of the violations that occur, especially oversight by local government and related agencies”.

Also, a press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management), stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement. The holder of industrial license was still found issues regarding implementation of Work’s Safety and Health, among others”.

The first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), did not raise concerns regarding non-compliances specific to OHS regulations, only mentioned social irregularities.

Even though the first periodic evaluation of FLEGT VPA did not provide evidences of non-compliance with health and safety requirements, other sources like recent articles on SVLK implementation, and stakeholder consultation raised certain concerns on this regard. Based on the fact that there are contradicting evidences to assess law enforcement for this indicator, precautionary approach is applied, thus this indicator is considered specified risk.
<table>
<thead>
<tr>
<th>Evidence</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td><a href="https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2802659">https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2802659</a>, accessed 24 January 17.</td>
<td>This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</td>
</tr>
</tbody>
</table>
### 1.12 Legal employment

<table>
<thead>
<tr>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Act No. 13 of 2003 concerning Manpower [MA] Date: 25 Mar 2003        Act No. 2 of 2004 concerning Industrial Relations Disputes Settlements [IRDSA] Date: 14 Jan 2004</td>
<td>For concessions within production forest zones and privately owned forests workers' rights are enshrined in law, these include: freedom of association for workers and the existence of collective labour agreements. Employment of minors/underage workers is prohibited.</td>
<td></td>
</tr>
<tr>
<td>Act No. 23 of 1948 on Labour Inspection;</td>
<td>Indonesia-EU VPA Joint Implementation Committee. 2015. Summary of Indonesia-EU Action Plan on the Advancement of VPA Implementation - <a href="http://www.euflegt.efi.int/documents/10180/196582/Summary+IDN+EU+Action+Plan+on+the+advancement+of+VPA+implementation.pdf/d3381158-69b0-47d9-9c03-a7d1dba0a72">http://www.euflegt.efi.int/documents/10180/196582/Summary+IDN+EU+Action+Plan+on+the+advancement+of+VPA+implementation.pdf/d3381158-69b0-47d9-9c03-a7d1dba0a72</a></td>
<td>- Contracts of employment can include a probationary period which cannot exceed 3 months. However, fixed-term contracts cannot stipulate a probation period.</td>
</tr>
<tr>
<td>Act No. 3 of 1951 on the implementation of Act No. 23 of 1948 for all of Indonesia;</td>
<td>Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion</td>
<td>- Fixed term contracts can be used for objective and material reasons. For successive fixed-term contracts, the labour law limits their number to two and their maximum cumulative duration to 36 months.</td>
</tr>
<tr>
<td>Act No. 1 of 1970 on Occupational Safety;</td>
<td></td>
<td>- As a general rule, the law requires no express obligation to state the reasons for dismissal. However, the employer must negotiate termination with the worker or the trade union to which the latter belongs to. The law defines a list of valid grounds for dismissal.</td>
</tr>
<tr>
<td>Act No. 21 of 2003 on the ratification of ILO Convention No. 81;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Presidential Decree No. 21 of 2010 on Labour Inspection;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ministerial Decree No. PER. 03/MEN/1984 on Integrated Labour Inspection;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ministerial Decree No 02 of 2011 on Labour Inspection Implementation, Supervision, and Coordination;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ministerial Decree No.15 2011 on the Labour Inspection Information Network System;</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ministerial Decree No. 10 of 2012 on the Labour Inspection Committee.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

For concessions within production forest zones and privately owned forests
- Act 13/2003
- Regulation of the Minister for Manpower & Transmigration 16/2011
- Act 23/2002

For community plantation forests, community forests within Production

| Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - [http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b](http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b) |

Related to the worker's conduct, worker's capacity or economic reasons.

**Minimum wage:**
- The minimum wage is set at a regional level by the Governor, following recommendations from the Provincial and/or District Wage Council(s) and in accordance with the National Government's wage policy. The minimum wage is to be based on the needs for a decent living, taking into account productivity and economic growth.

**Child Labour:**
- The legal age for admission to employment is set at 15 years.
- General age for admission to employment: 15 years old (Art. 3 Ministerial Decree No. 235/MEN/2003).
- There is a prohibition for entrepreneurs to employ children.
- Children under 15 may engage in activities developing talents and interests (Art. 5 of Ministerial Decree No. 235/MEN/2003).
- This corresponds to the legal age of completion of 9 years of compulsory basic education in Indonesia.

Fulfilment of workers’ rights, including freedom of association for workers, the existence of collective labour agreements and obeying minimum age rules, is a requirement verified through the SVLK certification system. This is done via field verification of:
- Workers belong to worker’s unions or company policies allow workers to establish or get involved in union activities
- Collective labour agreement documents or company policy documents on labour rights
- There are no underage workers
Forest Zones and timber utilisation rights within non-forest zones or from convertible production forest

- Act 23/2002
- Act 13/2003

Indonesia has ratified 18 ILO Conventions, including all eight Fundamental Conventions:
- C.29 - Forced Labour Convention, 1930
- C.87 - Freedom of Association and Protection of the Right to Organise Convention, 1948
- C.98 - Right to Organise and Collective Bargaining Convention, 1949
- C.100 - Equal Remuneration Convention, 1951
- C.105 - Abolition of Forced Labour Convention, 1957
- C.111 - Discrimination (Employment and Occupation) Convention, 1958
- C.138 - Minimum Age Convention, 1973
- C.182 - Worst Forms of Child Labour Convention, 1999

<table>
<thead>
<tr>
<th>Reference</th>
<th>Description of Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>80/211477/VPA+Annual+Report+Indonesia-EU+2014-2015.pdf/09c63a6a-377f-4b4e-99e1-cb3808a9a52c</td>
<td>• According to the ILO (2015), there are 1.8 million children engaged in child labour in Indonesia, or 3.0 per cent of the child population aged 5 to 17 (BPS, 2010). This consists of 977,000 boys (3.2 per cent) and 778,000 girls (2.7 per cent). More than half of working children aged 5 to 17 years work in agriculture, forestry, hunting and fishery (57.2 per cent) (BPS, 2010). Almost half the child labour population (aged 5–17) is engaged in hazardous work and more than half of working children aged 13 to 14 years is engaged in work that does not constitute light work.</td>
</tr>
<tr>
<td>EU FLEGT Facility briefing note on the EU-Indonesia VPA - <a href="http://www.euflegt.efi.int/files/attachment%5Cs/euflegt/briefing_note_indonesia%20en.pdf">http://www.euflegt.efi.int/files/attachment\s/euflegt/briefing_note_indonesia%20en.pdf</a></td>
<td>• There are a number of historical reports which highlight issues with the labour sector, for example a 2010 report published by the Blue Green Network states that ‘populations in areas from which timber is extracted remain impoverished. Loggers receive little payment for their work and tend to be indebted to logging bosses,’ however they are quoting a 2000 study (Scotman et al 2000).</td>
</tr>
<tr>
<td>Non-Government sources</td>
<td>• Many recent reports highlight issues related to the labour market in Indonesia, but do not focus specifically on the forest sector. A 2016 Greenpeace study highlighted widespread exploitation of workers in the palm oil industry, and the use of child labour. Human Rights Watch’s 2017 World Report states that ‘thousands of children in Indonesia, some just 8 years old, are working in hazardous conditions on tobacco farms.’</td>
</tr>
</tbody>
</table>
On child labour:

- Ministerial Decree no. 235/MEN/2003, Art. 3, 5, 74, 69, 75
- Manpower Law no. 13/2003
- Presidential Decree no. 12/2001
- Ministerial Decree (MOHA) no. 5/2001
- Ministerial Decree No. 115/MEN/VII/
- Law No.39/004 on placement and protection of Indonesian workers in foreign countries
- Presidential Decree No. 59 of 2002 on the worst forms of child labour.
- A Law on anti-trafficking was adopted in 2007 (No 21).

Minimum wage:

- Law on placement and protection of Indonesian workers in foreign countries
- Law No.39/004 on placement and protection of Indonesian workers in foreign countries
- Presidential Decree No. 59 of 2002 on the worst forms of child labour.
- A Law on anti-trafficking was adopted in 2007 (No 21).


ILO, 2015. Indonesia: Labour administration and inspection. Available online:

ILO, 2015. Indonesia: Hiring and firing. Available online:

Better Work Indonesia, 2012. Indonesian Labour Law Guide. Available online:
file:///C:/Users/Alexandra%20Banks/Dow

Blue Green Alliance, 2010. Illegal Logging in Indonesia the Environmental, Economic and Social Costs. Available online:
https://www.bluegreenalliance.org/wp-
content/uploads/2016/07/BGA-
register all their employees, preventing these workers from getting a social security card and minimum medical coverage. However, experts stated that registration of employees is fairly well enforced in Indonesia. Public awareness about employee rights is high, but due to the remoteness of some of the timber companies, the actual enforcement can be inconsistent.


Furthermore, the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), did not raise concerns regarding non-compliances specific to legal employment requirements, only mentioned social irregularities.

As the review and endorsement of the SVLK system, undertaken over a number of years by the European Union has now been resolved and licenses are being issued. It is determined that the risks associated with this indicator are sufficiently controlled by the SVLK Certification system (see also the comprehensive...
| Government Regulation No. 8 of 1981 on the Protection of Wages, State Gazette No. 8 of 1981 |
| Decision of the Minister of Manpower and Transmigration concerning regulation on the structure and scale of wages, MOMT Decree No 49/MEN/IV/2004. Published by Ministry of Manpower and Transmigration and ILO Jakarta in Labour Regulations, 2005, |

| Forest Trends, 2015. Indonesia’s Legal Timber Supply Gap and Implications for Expansion of Milling Capacity: A Review discussion of the SVLK system in the Overview of the forest sector in Indonesia section of this report). |

Taking into consideration that no issues related to legal employment requirements have been raised in the evaluation of the FLEGT VPA by several sources, this indicator is considered low risk for state-owned forests with SLK or PHPL certificates. As already mentioned in the Note in the Overview of the forest sector in Indonesia section of this category, in the case of private tree plantations, it is not possible to consider the endorsement of SVLK system as sufficient, as there is no data available on the use of DKPs, according to the First Periodic Evaluation developed by SUKOFINDO. Furthermore, based on the fact that there are forests that remain without SVLK certification, and taking into account the reports of ILO (2015) and US Department of Labour (2017) that show that child labour can be found in the forest sector, precautionary approach has been applied, thus specified risk is considered for the rest of the country.

**Risk Conclusion**

This indicator has been evaluated as low risk for state forest with SLK or PHPL certificates. Threshold (1) is met: Identified laws are upheld. Cases where law/regulations are violated are efficiently followed up via preventive actions taken by the authorities and/or by the relevant entities.

This indicator has been evaluated as specified risk for the rest of the country. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
Legal authority

The institution responsible for labour affairs is the Ministry of Manpower and Transmigration (MOMT).

Act No. 13 of 2003 on Labour Law establishes the Ministry of Manpower and Transmigration (MOMT) as the only government institutional responsible for labour matters.

There were 1,468 active labour inspectors by the end of 2010 at provincial and district/city levels, with an additional 124 inspectors at the national level for a total of labour inspectors 1,592 persons. The labour inspectors were divided into 1,275 general inspectors and 317 specialists.

Legally required documents or records

For concessions within production forest zones and privately owned forests

- Workers belong to workers’ unions or company policies allow
| Collective labour agreement documents or company policy documents on labour rights |  |
| For community plantation forests and community forests within Production Forest Zones and timber utilisation rights within non-forest zones or from convertible production forest | EFI EU FLEGT Facility, 2016. Q&A - Indonesia-EU Voluntary Partnership Agreement. Available online: http://www.euflegt.efi.int/publications/indonesia-eu-voluntary-partnership-agreement, accessed 7 February 2017. |
### 1.13 Customary rights

**Applicable laws and regulations**
- Ministerial Regulation 1999 - Guidelines to Solving Problem of Adat Communities.

See also laws on SVLK and VPA in 1.1.

**Legal authority**
Minister and Ministry of Environment and Forestry (MoEF).

**Legally required documents or records**

**Government sources**
- Customary and indigenous rights are not distinct in Indonesia. Access to land and tenure for local communities living in forest concession areas is recognized as one mechanism to promote their economic development. Local people can also access smaller volume timber allocations through personal use cutting permits. Local communities may utilize forest resources to provide materials for shelter and cultural activities (CSG 2015). When local communities wish to manage such forest land, they may implement a community plantation forest, community forest and village forest. The Ministry of Forestry has issued a policy on community forestry through several schemes, namely Hutan Tanaman Rakyat (HTR), Hutan Kemasyarakatan (HKm), and Hutan Desa (HD) (CSG 2015).

On 6 May 2013 Indonesia’s Constitutional Court ruled that the customary forests of Indigenous Peoples should not be classed as falling within ‘state forest areas’, thereby paving the way for wider recognition of the rights of Indigenous Peoples in the Archipelago (European Parliament, 2013). The decision modified the 1999 Law by placing millions of hectares previously controlled by the government back into the hands of indigenous peoples. The ruling separated state and public forests and divided the latter into customary and individual
There are many customary rights, called "adat" that are recognized without legal documents.

- Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia’s timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b
- According to the judge, the ruling will ‘give indigenous peoples the right to use their land to fulfill their personal and family needs’ (First Peoples Worldwide, 2013).
- Legal questions are ongoing about how effective the Constitutional Court’s ruling will be in enabling indigenous communities to enforce their traditional rights over natural resources (Butt, 2014 in Overdevest et al., 2016), which the Ministry of Forestry has sought to exploit through a series of new regulations creating administrative barriers to the transfer of control over customary forest land.
- The overwhelming majority of forested land in Indonesia is classified as state forest and is therefore controlled by the state. Although the BAL recognizes the customary land rights – called hak ulayat – of traditional adat communities, including communities living in forests, the recognition applies only to communities that —still exist, and only if the interests of the community do not violate interests of the Indonesian state.
- According to Overdevest et al. (2016), at one point during the multistakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’. But these criteria were deleted from the final version included in the VPA). Under the SVLK system, changes in the procedures for utilization and/or administration of timber from customary forests, to address implementation of Constitutional Court Decision (MK) No. 35/PUU-X/2012, shall be introduced after the

Non-Government sources
• Adoption of related implementing legislation (VPA Agreement, Annex V).

Description of Risk
• Lack of consultation has been identified as an issue in some FSC FM audits (NEPCon 2016).
• Historically, according to the ARD, there were five core factors that motivate and sustain forest-related conflicts are: direct and indirect involvement of the Indonesian formal security and military forces in timber conflict; (2) fragmentation of natural resource management authority due to rapid devolution of political power from the central government to kabupaten authorities; (3) kabupatens’ abuse of their newly evolved political powers; (4) selective and inconsistent law enforcement; and (5) ambiguous land and resource tenure (ARD 2004 in USAID 2014).
• According to USAID (2010), conflicts are common between forest-dwelling adat communities and timber companies and others who want to harvest trees, and such conflicts often turn violent. The basis of all such conflicts is disagreement over the state’s authority to harvest the trees or grant harvesting rights to corporations.
• Since the SVLK was launched, civil society organizations have been closely tracking its implementation in order to expose performance gaps and hold the Indonesian government and the EU accountable for meeting the VPA’s stated goals. These organizations interview local communities to investigate the implementation and auditing of SVLK legality standards, while combining this information with analyses of forest cover changes using internationally sourced satellite data. NGOs such as Forest Watch Indonesia (FWI) and the Indonesia Centre for Environmental Law (ICEL) have submitted strategic requests to


Christine Overdevest & Jonathan Zeitlin, 2016. Experimentalism in Transnational Forest Governance: Implementing EU Forest Law Enforcement Governance and Trade (FLEGT) Voluntary Partnership Agreements in Indonesia and Ghana. The Amsterdam Centre for test the new public information laws, seeking in particular to obtain sensitive documents on the permit allocation process which are not formally covered by the VPA itself.

The 2014 report SVLK in the Eyes of the Monitor, published by JPIK, was based on detailed monitoring of 31 companies which had applied for SVLK certification between 2011 and 2013. The report highlighted numerous shortcomings in the auditing process, including failure to consult local communities and follow up on non-compliances and complaints raised by the independent monitors, together with a host of other violations of the legality standards, including efforts to intimidate the IMs themselves.

The JPIK report built on the findings of the Human RightsWatch 2013 report The Dark Side of Green Growth in Indonesia, which also focused on violent conflicts arising from the government’s failure to safeguard the rights of local communities in awarding concessions to companies for the exploitation and conversion of forest land.

Responding to criticisms of the SVLK raised by Human RightsWatch (and the Anti-Forest Mafia Coalition), the European Parliament resolution calls upon the European Commission to ensure that these concerns are satisfactorily addressed before approving the Indonesian FLEGT licensing system. The resolution reaffirms that ‘in order to issue FLEGT licences’, the SVLK ‘must be operational with a view to achieving the goals of the VPA.’ (Overdevest et al., 2016).

Setyowati et al. (2017) reports on the ongoing debates on the extent to which forest tenure clarification needs to be addressed in the timber legality assurance system, especially considering widespread overlapping tenure claims over forest areas. […] Currently, the VLK standards merely require documentation


- showing clarity on the origin of the timber, permits for timber harvesting (if on state forests), proof of land ownership (if on privately owned forest), transport permits, and any other legal documentation required.

- Setyowati et al. (2017) also state that the “focus on official documentation of ownership, harvest, and transport rights is ill suited to address tenure-related corruption and conflicting resource rights. Furthermore, the Indonesian stakeholders interviewed did not view SVLK certification as a promising tool to address these issues in the future either, belying predictions that legality verification is likely to “ratchet up” forest standards (Cashore and Stone 2012) in ways that enhance community rights (Bartley 2014) or contribute to the formalization of local rights as advocated by Obidzinski and Kusters (2015).

- A press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management), stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement. […] Almost 50% or 11,2 million hectare of land in North Sumatera, East Kalimantan, and North Maluku were controlled by permit holders corporates (Logging, timber, palm oil, and mining), Only 4% or 812.000 hectare of land were allocated for people in many forms of social forestry (Community Forestry, People’s Plantation Forest, Partnership Forestry, Forest Village, and customary Forest). “Beside as direct cause of deforestation, inequality of land tenure in the three provinces also impacted on social conflict happened between the company and the people.” Agung continued.
Delima Silalahi, Coordinator of Advocacy and Studies Division KSPPM added, “Forest logging which also include incense plantation belongs to the people is still happening at concession area of PT. Toba Pulp Lestari (TPL) at Pollung Sub-District, Humbang Hasundutan District. All this time, concession area of TPL overlapped with customary territories of the indigenous people. Despite being rejected by the indigenous people in the area, the company still tried to enter their customary land”. Similar matter also stated by Fathur Roziqin, Executive Director of Walhi in East Kalimantan, “Tenurial conflicts between Lebak Cilong villagers and PT. ITCI Hutani Manunggal (IHM) happened after IHM claimed their right to manage the land which had been managed by the people after getting concession permit from Ministry of Environment and Forestry, whereas the land had been managed by the people from generation to generation”. […] JPIK monitoring resulted in 54 permits holder with SVLK certificates (PHPL and VLK) still found issues about boundary conflict, low basic rights recognition of the people, and weak forest protection efforts to the holder of IUPHHK-HA and HT.”

Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: conflict with local communities and social irregularities, among others”.


- It is important to highlight the concerns raised by Bartley (2014) and EU-Indonesia (2014) (cited by Christine Overdevest & Jonathan Zeitlin, 2016, which can also be found above in the Overview of the forest sector in Indonesia section of this category): “One longstanding point of contention concerns the status of indigenous peoples’ rights to their traditional lands. The dispute goes back to a 1999 law. At one point during the multi-stakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’. But these criteria were deleted from the final version included in the VPA, though NGOs were hopeful that these issues would be addressed to some extent in the environmental and social impact assessment required by law and included in the legality”, and also the concerns raised by Setyowati et al. (2017) in relation to the same topic, mentioned above.

In this context, it is relevant to mention that the assessment of this indicator focuses on legislation covering customary rights relevant to forest harvesting activities. Therefore, the endorsement of the SVLK cannot be considered as sufficient evidence for the assessment of this indicator.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
<table>
<thead>
<tr>
<th>1.14</th>
<th>Free, Prior and Applicable laws and regulations</th>
<th>Non-Government sources</th>
<th>Overview of Legal Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>FPIC is not mentioned or required as such, in Act No 41 Year 1999 on forestry.</td>
<td>Court ruling: Constitutional Court Verdict No 45 Year 2011 - <a href="http://www.mahkamahkonstitusi.go.id/put">http://www.mahkamahkonstitusi.go.id/put</a></td>
<td>For companies doing business in Indonesia, it is common practice to communicate with the village and establish community development</td>
</tr>
</tbody>
</table>


Informed Consent

**Legal authority**
Minister and Ministry of Environment and Forestry (MoEF).

**Legally required documents or records**
Not applicable

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1.15 Indigenous peoples’ rights

**Applicable laws and regulations**
- Government Regulation No 89 Year 2014 on Indigenous Forest - [http://www.dephut.go.id/uploads/files/e3ca3a4fcb8ca92fb60773df2d560d0c.pdf](http://www.dephut.go.id/uploads/files/e3ca3a4fcb8ca92fb60773df2d560d0c.pdf)
- Act No 41 Year 1999 on Forestry
- Constitutional Court Verdict No 35 Year 2012.

See also laws on VPA and SVLK in 1.1.

**Legal authority**

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**Government sources**
- Timber Legality Information System *Sistem Informasi Legalitas Kayu (SILK)*, (2016) Online portal related to V-legal document publishing. [online] Sub Directorate of Information Timber Legality Verification, Directorate General programs. Companies have to pay a contribution to the community, but there is no guarantee of Free, Prior and Informed Consent (FPIC).

There has been a recent court ruling that indicated FPIC may be gaining status in Indonesia. For now, FPIC is not a legal requirement and not widely practiced, although there are examples where FPIC was voluntarily implemented. Generally, the absence of conflict, transparency of processes as well as public sharing of information are valuable verifiers to identify the degree of FPIC in practice.

**Risk Conclusion**
Not applicable

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**Overview of Legal Requirements**

The question of customary land law in Indonesia is especially complicated. Article 5 of the Basic Agrarian Law (BAL or UUPA), Law No. 5 of 1960, states that Indonesia’s agrarian law is adat law, or Indonesian customary law, as long as it does not conflict with national interests or other regulations set out in the BAL. However, adat is essentially a communal approach to regulating land rights, including land rights exercised by individuals with the consent of the community, and adat varies widely across the archipelago, sometimes even over short distances. Article 3 of the BAL gives weak recognition to continuing communal adat land rights, known as hak ulayat, but only so long as the rights — evidently still exist and only if the rights are — in line with the national and the state’s interest based on the unity of the nation. In addition, adat land can only be registered, and hence certified, after having been rendered into one of seven private law land rights recognized in Article 16 of the BAL (Bakker 2008). Thus while adat is declared a primary source of land law, it is simultaneously...
Minister and Ministry of Environment and Forestry (MoEF).

Legally required documents or records

- Permit Letter from MoEF
- Annual report provided to the Bupati or Mayor.
- To reach legal status, an Indigenous community claim has to be successfully filed in accordance to Constitutional Court Verdict No 35 of Year 2012.

Indonesian Country Specific Guideline 2015


Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 - http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Committee.pdf/b8eeb8e-8f86-4319-94db-b66be9282c


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Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion of the second Joint Implementation Committee meeting, 12 February 2015 - http://www.euflegt.efi.int/documents/10180/196582/Record+of+Discussion+2nd+IDN+EU+Joint+Implementation+Committee.pdf/b8eeb8e-8f86-4319-94db-b66be9282c

Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of submitted to all restrictions contained in the BAL. This ambiguity remains problematic (Bakker 2008).

Customary and indigenous rights are not distinct in Indonesia. Access to land and tenure for local communities living in forest concession areas is recognized as one mechanism to promote their economic development. Local people can also access smaller volume timber allocations through personal use cutting permits. Local communities may utilize forest resources to provide materials for shelter and cultural activities (CSG 2015). When local communities wish to manage such forest land, they may implement a community plantation forest, community forest and village forest. The Ministry of Forestry has issued a policy on community forestry through several schemes, namely Hutan Tanaman Rakyat (HTR), Hutan Kemasyarakatan (HKm), and Hutan Desa (HD) (CSG 2015).

On 6 May 2013 Indonesia’s Constitutional Court ruled that the customary forests of Indigenous Peoples should not be classed as falling within ‘state forest areas’, thereby paving the way for wider recognition of the rights of Indigenous Peoples in the Archipelago (European Parliament, 2013). The decision modified the 1999 Law by placing millions of hectares previously controlled by the government back into the hands of indigenous peoples. The ruling separated state and public forests and divided the latter into customary and individual forests, thereby removing customary forests from state control. According to the judge, the ruling will ‘give indigenous peoples the right to use their land to fulfill their personal and family needs’ (First Peoples Worldwide, 2013).

Legal questions are ongoing about how effective the Constitutional Court’s ruling will be in enabling indigenous communities to enforce their traditional rights over natural resources (Butt, 2014 in Overdevest et al, 2016), which the Ministry of Forestry has sought to exploit through a series of new regulations creating administrative barriers to the transfer of control over customary forest land.
| Description of Risk                                                                 | Indonesia's timber legality assurance system: Public summary - [http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b](http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b) |
| holdsANI                                                  | The overwhelming majority of forested land in Indonesia is classified as state forest and is therefore controlled by the state. Although the BAL recognizes the customary land rights – called hak ulayat – of traditional adat communities, including communities living in forests, the recognition applies only to communities that —still exist, and only if the interests of the community do not violate interests of the Indonesian state. |
| Lack of consultation has been identified as an issue in some FSC FM audits (NEPCon 2016). | According to Overdevest et al. (2016), at one point during the multi-stakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’.
|          | Under the SVLK system, changes in the procedures for utilization and/or administration of timber from customary forests, to address implementation of Constitutional Court Decision (MK) No. 35/PUU-X/2012, shall be introduced after the adoption of related implementing legislation (VPA Agreement, Annex V). |
|          | Description of Risk                                                                 | |
|          | Lack of consultation has been identified as an issue in some FSC FM audits (NEPCon 2016). | |
|          | Historically, according to the ARD, there were five core factors that motivate and sustain forest-related conflicts are: direct and indirect involvement of the Indonesian formal security and military forces in timber conflict; (2) fragmentation of natural resource management authority due to rapid devolution of political power from the central government to kabupaten authorities; (3) kabupatens’ abuse of their newly evolved political powers; (4) selective and inconsistent law enforcement; and (5) ambiguous land and resource tenure (ARD 2004 in USAID 2014). |

Non-Government sources

- First Peoples Worldwide, 2013. *Indonesian court ruling gives land rights back to millions of indigenous people.* Available:
- According to USAID (2010), conflicts are common between forest-dwelling adat communities and timber companies and others who want to harvest trees, and such conflicts often turn violent. The basis of all such conflicts is disagreement over the state’s authority to harvest the trees or grant harvesting rights to corporations.
- Since the SVLK was launched, civil society organizations have been closely tracking its implementation in order to expose performance gaps and hold the Indonesian government and the EU accountable for meeting the VPA’s stated goals. These organizations interview local communities to investigate the implementation and auditing of SVLK legality standards, while combining this information with analyses of forest cover changes using internationally sourced satellite data. NGOs such as Forest Watch Indonesia (FWI) and the Indonesia Centre for Environmental Law (ICEL) have submitted strategic requests to test the new public information laws, seeking in particular to obtain sensitive documents on the permit allocation process which are not formally covered by the VPA itself.
- The 2014 report SVLK in the Eyes of the Monitor, published by JPIK, was based on detailed monitoring of 31 companies which had applied for SVLK certification between 2011 and 2013. The report highlighted numerous shortcomings in the auditing process, including failure to consult local communities and follow up on non-compliances and complaints raised by the independent monitors, together with a host of other violations of the legality standards, including efforts to intimidate the IMs themselves.
- The JPIK report built on the findings of the Human RightsWatch 2013 report *The Dark Side of Green Growth in Indonesia*, which also focused on violent conflicts arising from the government’s failure to safeguard the rights of local communities in awarding concessions to companies for the exploitation and conversion of forest land.
- Responding to criticisms of the SVLK raised by Human RightsWatch (and the Anti-Forest Mafia Coalition, the European
Parliament resolution calls upon the European Commission to ensure that these concerns are satisfactorily addressed before approving the Indonesian FLEGT licensing system. The resolution reaffirms that ‘in order to issue FLEGT licences’, the SVLK ‘must be operational with a view to achieving the goals of the VPA.’ (Overdevest et al, 2016).

Setyowati et al. (2017) reports on the ongoing debates on the extent to which forest tenure clarification needs to be addressed in the timber legality assurance system, especially considering widespread overlapping tenure claims over forest areas. […] Currently, the SVLK standards merely require documentation showing clarity on the origin of the timber, permits for timber harvesting (if on state forests), proof of land ownership (if on privately owned forest), transport permits, and any other legal documentation required.

Setyowati et al. (2017) also state that the ‘focus on official documentation of ownership, harvest, and transport rights is ill suited to address tenure-related corruption and conflicting resource rights. Furthermore, the Indonesian stakeholders interviewed did not view SVLK certification as a promising tool to address these issues in the future either, belying predictions that legality verification is likely to “ratchet up” forest standards (Cashore and Stone 2012) in ways that enhance community rights (Bartley 2014) or contribute to the formalization of local rights as advocated by Obidzinski and Kusters (2015).

A press release by JPIK in March 2018 (Deforestation and Social Conflict Keep Happening, Indonesian Government has to Strengthen Sustainability System of Forest Management) stated that “during monitoring developed between 2014-2017, several weaknesses in SVLK practice were found, especially in supervision and law enforcement. […] Almost 50% or 11.2 million hectare of land in North Sumatera, East Kalimantan, and North Maluku were controlled by permit holders who are not fulfilling their obligations to the SVLK system.”


holders corporates (Logging, timber, palm oil, and mining). Only 4% or 812,000 hectare of land were allocated for people in many forms of social forestry (Community Forestry, People’s Plantation Forest, Partnership Forestry, Forest Village, and customary Forest). “Beside as direct cause of deforestation, inequality of land tenure in the three provinces also impacted on social conflict happened between the company and the people.” Agung continued.

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Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details
<table>
<thead>
<tr>
<th>Source</th>
<th>Description</th>
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</table>

In the information provided above in the Overview of the forest sector in Indonesia section of this category, indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: conflict with local communities and social irregularities, among others”.

It is important to highlight the concerns raised by Bartley (2014) and EU-Indonesia (2014) (cited by Christine Overdevest & Jonathan Zeitlin, 2016, which can also be found above in the Overview of the forest sector in Indonesia section of this category): “One longstanding point of contention concerns the status of indigenous peoples’ rights to their traditional lands. The dispute goes back to a 1999 law,21 At one point during the multi-stakeholder negotiations over the SVLK, it appeared as if the legality standard for timber harvested on state-owned lands would include an instruction to auditors ‘to look at community documentation of traditional/customary rights, agreements between companies and communities, and documentation of how land conflicts have been resolved’. But these criteria were deleted from the final version included in the VPA, though NGOs were hopeful that these issues would be addressed to some extent in the environmental and social impact assessment required by law and included in the legality”, and also the concerns raised by Setyowati et al. (2017) in relation to the same topic, mentioned above.

In this context, it is relevant to mention that the assessment of this indicator focuses on legislation that regulates the rights of indigenous peoples related to forestry activities. Therefore, the
<table>
<thead>
<tr>
<th><strong>Committee</strong></th>
<th><strong>Sources</strong></th>
<th><strong>Risk Conclusion</strong></th>
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<tbody>
<tr>
<td></td>
<td><em>Abidah Setyowati &amp; Constance L. McDermott (2017) Comodifying Legality? Who and What Counts as Legal in the Indonesian Wood Trade, Society &amp; Natural Resources, 30:6, 750-764, DOI: 10.1080/08941920.2016.1239295.</em></td>
<td>The endorsement of the SVLK cannot be considered as sufficient evidence for the assessment of this indicator. <strong>Risk Conclusion</strong> This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.</td>
</tr>
<tr>
<td>1.16 Classification of species, quantities, qualities</td>
<td>Applicable laws and regulations</td>
<td>Government sources</td>
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<td></td>
<td>• MoEF Regulation No. P41/Menhut-II/2014 Management of Timber Forest Product From Natural Forest - <a href="http://www.dephut.go.id/uploads/files/eaca23fd3ce906a848b5c0c72d5eaf6.pdf">http://www.dephut.go.id/uploads/files/eaca23fd3ce906a848b5c0c72d5eaf6.pdf</a></td>
<td>• Timber Legality Information System <em>Sistem Informasi Legalitas Kayu (SILK)</em>, (2016) Online portal related to V-legal document publishing. [online] Sub Directorate of Information Timber Legality Verification, Directorate General of Forest Utilization. Available at: <a href="http://silk.dephut.go.id/index.php">http://silk.dephut.go.id/index.php</a>. [Accessed 13 September 2016].</td>
</tr>
</tbody>
</table>
Legal authority

- Minister and Ministry of Environment and Forestry (MoEF).
- P2LHP (the authorized inspector of production reports).
- The Government employs experts, called WASGANISPHPL (15 types) with the authority to supervise GANISPHPL personnel at the concessions.
- GANISPHPL-PKB is the technician who has the qualification (trained by government authorities) to measure roundwood and specify quality and related requirements.

Legally required documents or records

- Production report approved by the P2LHP after the company has paid the PSDH-DR.
- A company's GANISPHPL-PKB expert has to complete a production report with information about the type and volume of policies/illegal-logging/indonesia-country-specific-guideline.pdf
- Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b
- logs have been verified by the official they must be stacked separately from any non-verified logs. The Log Production Report is used to calculate the required payment of the Forest Resources Fee and to the Reforestation Fund (as applicable).

The below requirements apply to specific forest types:

FOR TIMBER FROM STATE-OWNED FORESTS (covers Company managed Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights), the following log-Landing Site legality verification activities are carried out:

1. Cross cutting (where necessary) and marking of logs to ensure consistency with the Log Production Report – carried out by the permit holder. Marking consists of the original tree ID number and other marks enabling the log to be linked to the approved felling site. Not applicable for plantation forest concessions for pulp or chip purposes.
2. Scaling (measurement) and grading of logs by the permit holder. The permit holder records the information on the logs in a log-list using an official Ministry of Forestry Form. Grading is not applied for plantation forest concessions (for pulp or chip purposes).
3. Preparation of a log-list by the permit holder. The permit holder uploads the log-list data in the national online tracking system. Unique barcodes issued via the online tracking system must be tagged on the corresponding logs and strains, and labelled in the related transport document (only applied for natural forest concessions).
4. Submission of Proposed Log Production Report by the permit holder; The permit holder periodically submits the Log Production
produced timber, according to allowed standard. This report will then be checked by P2LHP (the authorized inspector of production reports). The P2LHP will give final approval of the production report after the company has paid the PSDH-DR.


5. Approval of the Log Production Report by the Wasganis.
   a. The Wasganis carries out sample-based physical verification of the reports. The result of the physical verification is summarised in a log-verification-list using an official Ministry of Forestry Form;
   b. Subject to a positive outcome of the sample-based physical verification, the Wasganis approves the Log Production Reports;
   c. In case of 48 hours are exceeded since the report submission, the designated technical company staff (Ganis) of the permit holder can self-approve and issue the Log Production Reports on its own responsibility (not applied for IPK);
   d. Once logs have been verified by the Wasganis, they must be stacked separately from any non-verified logs;
   e. The Log Production Report is used to calculate the required payment of the Forest Resources Fee and to the Reforestation Fund (as applicable);
   f. The permit holder monthly submits the approved Log Production Reports and the related summaries to the district forestry office.

6. Data reconciliation
   a. For natural forest concessions or ecosystem restoration concessions or community forests concessions or village forest concessions or IPK - The district forestry official checks the number of logs, the tags and the total cumulative volume of logs extracted and declared in the
Non-Government sources


FOR PRIVATELY OWNED FORESTS/LANDS

Felling/Log-Landing Site legality verification activities

**General steps:**

1. Recognition of the property right;
2. Where necessary, cross-cutting;
3. Scaling (measurement);
4. Preparation of a log-list;
5. Invoicing by the district forestry office and payment of the invoiced amount by the owner of the Forest Resources Fee and/or to the Reforestation Fund;
6. Issuance or preparation of the transport document.


- SUCOFINDO, 2018. First Annual Overview of the TLAS Operationality in Indonesia, Implementation Report as

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**In the case of logs harvested from trees present on a site before the granting of the land title:**

1. The owner submits a log-list and a request to settle the Forest Resources Fee, Reforestation Fund and stumpage fee payment to the district forestry official;

2. The official conducts document checks and physical verification of the logs (dimensions, species identification, and number of logs);

3. Subject to a positive outcome of the document checks and physical verification, the district forestry official issues a Forest Resources Fee and Reforestation Fund Invoice for settlement by the owner;

4. The landowner submits the receipt for payment of the Forest Resources Fee and to the Reforestation Fund to the district forestry official, together with a request for issuance of a Log Transport Document;

5. The district forestry official conducts document checks and physical verification of the logs (dimensions, species identification, and number of logs);

6. Based on the above, the district forestry official issues the Log Transport Document

**In the case of logs harvested from trees established after granting of the land title:**

1. For Species listed in Article 5(1) of the Regulation:
   a. The owner marks the logs and identifies the species;

b. The owner prepares a log-list;
c. Based on the above, the owner prepares an invoice following the format provided by the Ministry of Forestry, which also serves as the transport document.

2. Other species not listed in Article 5(1) of the Regulation:
   a. The owner marks the logs and identifies the species;
   b. The owner prepares a log-list;
   c. The owner submits the log-list and a request for issuance of a Log Transport Document to the head of village or appointed official

3. The head of village or appointed official conducts document checks and physical verification of the logs (species identification, number of logs, marks/number on each log, location of harvest);

4. Based on the above, the head of village or appointed official issues the Log Transport Document following the format provided by the Ministry of Forestry.

For all timber harvested from planted trees, if not SVLK certified, the owner issues an SDoC using the format provided by the Ministry of Forestry.

1. Issuance or preparation of the transport document.
2. Issuance or preparation of the Supplier’s Declaration of Conformity (SDoC), unless the operator is engaged into SVLK certification.
3. Data reconciliation: The head of village or an official appointed by the district forestry official, or the district forestry official (in case of timber from naturally grown trees) compares the volume of harvested logs with the log-list. In case the operator
engaged into SVLK certification, the CAB also checks the consistency between the volume of harvested logs with the log-list during initial and surveillance audits. The CAB also organizes field inspections on an ad-hoc basis when needed. In case of any inconsistencies detected, the head of village or appointed official or the district forestry official (in case of timber from naturally grown trees) informs the CAB in charge of verifying the operator's compliance and vice-versa.

**Description of Risk**

- Historically, reports of incorrect classification used to avoid paying royalties; e.g. by classifying veneer logs as firewood were common. The risk was also present for many types of round log. There are opportunities to missclassify logs (for example by log ID, species, or dimension) to avoid paying royalties. For example, with group species classification (meranti, fancy, and MTH) there is a greater opportunity to exchange group species to reduce or even avoid paying royalties. Consistent issues with bribery and corruption, specifically associated with transportation documents have also been reported (Walters, 2010).

- The classification of timber is verified as part of the SVLK certification process. SVLK certification is mandatory for any operator in the forest sector, and SVLK license (V-Legal document/FLEGT License) mandatory for all exports. Timber from forest concessions that are not certified themselves under the SVLK system for forest certification still become part of SVLK supply chains through the SDoC system described above. This means that all timber grown in Indonesia becomes part of an SVLK certified supply chain. The SVLK legality certificate ensures that all legal requirements associated with the relevant permit type (legality grid)
has been verified as met by a professional auditor. However, a recent article of JPIK (7 years monitoring: Timber Processing Industries in East Java) in the 9th Edition of the Newsletter The Monitor (March, 2018), shows that among the violations of raw material legality, export declarations falsification and timber size/measurements that do not conform to sizes for Indian Rosewood (Dalbergia latifolia) export to China in 2014 in East Java Province have been found.

Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “despite comprehensive procedures in place to ensure the robust issuance of V-Legal Documents, this Periodic Evaluation found indications of problems associated particularly with the export of furniture and other household utility items. Lesser extent problems were also detected on other export products. As of September 2017, the LIU has received queries from FLEGT competent authorities of the EU Member States seeking clarifications on:
- Inconsistencies in product quantities between V-Legal Documents and invoices and packing lists.
- Appearance variations in the V-Legal Documents (paper quality, paper colour, logo, signature attributes) in part related to decentralised printing practices.
- Inconsistencies in HS codes between export and import declarations.

The LIU is currently implementing an action plan to address the identified problems. The action plan covers: (i) exploring feasible means to minimise the practice of making changes to export
documents after V-Legal Documents/FLEGT licences have been issued; (ii) harmonising the use of HS codes; (iii) providing LAs with additional instructions and guidance for appropriate issuance of V-Legal Documents/FLEGT licences; and iv) improving the communication between the LIU and competent authorities on the identified problems.

In order to improve the exchange of information between the LIU and the competent authorities, the LIU is developing a standard query/response form that is expected to make communication on V-Legal Documents/ FLEGT licences more efficient. The LIU also plans to host visitors from competent authorities to solve these issues through direct communication“.

Even though, certain measures are being taken to improve the issues explained above in relation to this indicator, there is limited data to assess the outcomes of the implementation of these measures. Based on this factor, precautionary approach has been applied for this indicator, thus specified risk is considered for all timber sources.

**Risk Conclusion**

This indicator has been evaluated as specified risk risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

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<th>1.17 Trade and transport</th>
<th>Applicable Legislation</th>
<th>Government sources</th>
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<tr>
<td>For concessions within production forest zones:</td>
<td>- Regulation of the Minister for Forestry P41/2014</td>
<td>- Timber Legality Information System Sistem Informasi Legalitas Kayu (SILK), (2016) Online portal related to V-legal document publishing. [online] Sub Directorate of Information Timber</td>
<td>All consignments in a supply chain must be accompanied by relevant transport documents indicating whether the material is covered by a valid SVLK certificate, or declared legal by use of Suppliers' Declaration of Conformity (SDoC), or originates from impounded sources.</td>
</tr>
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</table>
Re Regulation of the Minister for Forestry P42/2014
Inter-island transportation and trade
  o Regulation of the Minister for Industry and Trade 68/2003
  o Joint Regulation of the Minister for Forestry, Minister for Transportation, and Minister for Industry and Trade 22/2003
V-Legal marking requirements:
  o Regulation of the Minister for Forestry P43/2014

For community plantation forests and community forests within Production Forest Zones:
  o Regulation of the Minister for Forestry P41/2014
  o Regulation of the Minister for Forestry P42/2014

For Privately-owned forests:
  o Regulation of the Minister for Forestry P30/2012


Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second

The owner or custodian of any consignment of timber or timber products at each point in a supply chain must record whether that consignment is SVLK certified, declared legal by use of Suppliers' Declaration of Conformity, or from an impounded source.

If a consignment includes any impounded timber, the owner or custodian of that consignment must apply an effective system to segregate timber or timber products from verified legal sources, from impounded timber or timber products, and maintain records that distinguish between these sources.

Operators in the supply chain are required to keep complete records on received, stored, processed and delivered timber and timber products. These records must be sufficient to enable subsequent reconciliation of quantitative data between and within nodes of the supply chain. Such data shall be made available for provincial and district forestry officials to carry out reconciliation.

For TIMBER FROM STATE-OWNED FORESTS (covers Company managed Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights), the following Log-Yard legality verification activities are carried out:

Logs are transported from the log-landing site to log yards and then either directly transported to a processing mill, to an intermediate log-yard or to a registered timber depot.

Where the Log Production Report has not yet been approved at the Log-Landing Site:
  o Preparation of a log-list by the permit holder; Submission of Proposed Log Production Report by the permit holder;
  o Approval of the Log Production Report by the Wasganis;
• Regulation of the Minister for Forestry P43/2014
  For timber utilisation rights within non-forest zones or from convertible production forest
• Regulation of the Minister for Forestry P41/2014
• Regulation of the Minister for Forestry P43/2014
See also laws on VPA and SVLK in 1.1.

Legal authority
• Minister and Ministry of Environment and Forestry (MoEF).
  The Government employs experts, called WASGANISPHEL (15 types) with the authority to supervise GANISPHEL personnel at the concessions.
• GANISPHEL-NENHUT is the technician who has the qualification (trained by government authorities) to conduct the transportation of forest products.
• GANISPHEL-PKB is the technician who has the

stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b


• If using the national online log tracking system, the permit holder may submit the Log Production Reports and the related summary report to the Wasganis for approval;
  the Wasganis carries out sample-based physical verification of the reports, if not already approved at the log-landing site. The result of the field inspection is summarised in a log-verification-list using an official form established by the Ministry of Forestry;
• subject to a positive outcome of the field inspection, the official approves the reports; in case 48h is exceeded after the submission of the Log Production Reports and the related summary report, the Ganis self-approves the reports on its own responsibility (not applied for IPK);

• Invoicing by the district forest office and payment of relevant amount for the Forest Resources Fee and to the Reforestation Fund by the permit holder.
  calculated based on the approved Log Production Reports;
  the permit holder submits a request to settle the relevant fees to the district forestry official in charge of billing, based on the log-list, which is attached to the request;
  the district forestry official issues an invoice or invoices for settlement by the permit holder;
  in case 48 hours are exceeded after the submission of the request, the permit holder can issue the related invoice or invoices engaging its own responsibility;
  the permit holder pays the amount set out in the Forest Resources Fee and/or Reforestation Fund Invoice(s) and/or stumpage value and the district forestry official issues a receipt or receipts for this payment.
| qualification to measure roundwood and specify quality and related requirements. |
| Legally required documents or records |
| Issuance a Log Transport Document by the Ganis, to which is annexed a log-list. |
| For concessions within production forest zones: |
| Approved Timber Production Report documents |
| Valid transport documents and attachments accompany logs from the log yard to primary forest products industry or registered log trader, including via intermediate log yards |
| Timber administration marks/barcode (PUHH) on logs |
| The application of the timber administration marks/barcode. |
| Valid transport document |
| For Inter-island transportation and trade: |
| PKAPT documents |
| Registration documents which show the identity of the vessel and valid permit. |
| Non-Government sources |
| Data reconciliation |
| Issuance a Log Transport Document by the Ganis, to which is annexed a log-list. |
| The permit holder submits a request for the issuance of Log Transportation Documents, accompanied by the payment receipt, log-list, and Log Balance-Sheet Report; |
| The Ganis issues the Log Transport Documents to accompany the log-list; |
| Preparation of a Log Balance-Sheet Report by the permit holder. |
| The permit holder prepares/updates the Log Balance-Sheet Report to record the quantity of incoming, stored and outgoing logs at the log-yard. |
| The permit holder monthly submits the Log Balance-Sheet Report to the district forestry office. |
| In case of any inconsistencies detected, the district forestry official informs the CAB in charge of verifying the compliance of the operator, and vice-versa. |
### V-Legal marking is applied accordingly

For community plantation forests and community forests within Production Forest Zones:

- Approved Timber Production Report documents
- Legal transport documents and relevant attachments from the Log Yard to the Intermediate Log Yard and from Intermediate Log Yard to primary industry and/or registered log trader.
- Timber administration marks/barcode (PUHH) on logs.
- Permit holder applies timber marking consistently.
- Log Transport Document to which is attached a log list document.

V-Legal marking is applied accordingly

For Privately-owned forests:

- Log Transport Document
- V-Legal marking is applied accordingly

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### For TIMBER FROM STATE-OWNED FORESTS (covers Company managed Concessions, Forests Harvested by a State Company, Community or privately managed forests and Timber utilisation rights), the following Intermediate Log-Yard legality verification activities are carried out:

- Intermediate log-yards are used if logs are not transported from the concession area directly to the mill yard. Intermediate log-yards are used in particular for inter-island transportation of logs or if the transport mode is changed. The permit for establishment of an intermediate log-yard located in state forests is granted by the district forestry official based on a proposal submitted by the permit holder. An intermediate log-yard permit is valid for three years, but can be extended following review and approval by the forestry official. The establishment of an intermediate log-yard located outside state forests does not require any specific permit and is determined by the permit holder.

- Termination of the validity of the Log Transport Document for timber from natural forests by a district forestry official:
  - The Wasganis physically verifies the number, species, and dimensions of incoming logs by counting them (census) or on a sample basis if the number of logs exceeds 100; Subject to a positive outcome of the verification, the Wasganis terminates the validity of the Log Transport Document for the incoming logs and records the logs in the Log Balance-Sheet Report
  - Where 48 hours have passed after the Log Transport Document was submitted, this verification can be done by the Ganis. In addition, termination of the validity of the Log Transport Document can be done by the Ganis only in the case of:

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### Additional Sources

- Non-Government sources
For timber utilisation rights within non-forest zones or from convertible production forest:

- Logs Transportation Invoice (FAKB) and log list for small diameter logs
- Log Legality Document (SKSKB) and log list for large diameter logs
- V-Legal marking is applied accordingly

Society & Natural Resources, 30:6, 750-764, DOI: 10.1080/08941920.2016.1239295


- SUCOFINDO, 2018. First Annual Overview of the TLAS Operationality in Indonesia, Implementation Report as part of the Periodic Evaluation FLEGT VPA. Available online at: https://silk.dephut.go.id/app/Upload/hukum/20180406/86399d9d6774beddd9373b8

- an operator using timber from natural forests declaring its production through the online log tracking system, or
- an operator using timber from plantation forests (only applied for plantation forest concessions for pulp or chip purposes);

- Preparation of Log Balance-Sheet Report by the permit holder;
- Preparation of log-list by the Ganis for the outgoing logs, this is linked to the previous Log Transport Documents
- The Ganis completes the Log Transport Document following the format provided by the Ministry of Forestry.
- The permit holder updates the Log Balance-Sheet Report, which records inflows, outflows and storage of logs at the intermediate log-yard, based on the relevant Log Transport Documents. The permit holder monthly submits the Log Balance-Sheet Report to the district forestry office.

- Data reconciliation.
  - The district forestry official checks the Log Balance-Sheet report to assess the consistency between the logs transported from the log-yard and the logs entering the intermediate log-yard.
  - When needed, the district forestry official also carries out field inspections to assess the consistency between stocked logs, the balance-sheet report and relevant transport documents.
  - The Log Balance-Sheet report is also checked by CABs during initial and surveillance audits.
  - CABs also organize field inspections on an ad-hoc basis when needed as described in the TLAS Guidelines.
For PRIVATELY OWNED FORESTS/LANDS, the following activities (amongst others) occur at the felling/Log-Landing Site that are relevant to transport: legality verification activities.

**General steps:**

- Issuance or preparation of the transport document.
- Issuance or preparation of the Supplier's Declaration of Conformity (SDoC), unless the operator is engaged into SVLK certification.

**In the case of logs harvested from trees present on a site before the granting of the land title:**

- The landowner submits the receipt for payment of the Forest Resources Fee and to the Reforestation Fund to the district forestry official, together with a request for issuance of a Log Transport Document;
- The district forestry official conducts document checks and physical verification of the logs (dimensions, species identification, and number of logs);
- Based on the above, the district forestry official issues the Log Transport Document.

**In the case of logs harvested from trees established after granting of the land title:**

- For Species listed in Article 5(1) of the Regulation (such as Rubber, Sengon, and fruit trees):
  - The owner marks the logs and identifies the species;
  - The owner prepares a log-list;
  - Based on the above, the owner prepares an invoice following the format provided by the Ministry of Forestry, which also serves as the transport document.
- for species listed in Article 5(1) of the Regulation, the owner prepares an invoice, following the format provided by the Ministry of Forestry which serves as the Transport document.
  - for other species the trained and appointed head of the village or appointed official issues the Transport document.
- Other species not listed in Article 5(1) of the Regulation (such as Teak, Mahogany, Pine):  
  - The owner marks the logs and identifies the species;  
  - The owner prepares a log-list;  
  - The owner submits the log-list and a request for issuance of a Log Transport Document to the head of village or appointed official.
- The head of village or appointed official conducts document checks and physical verification of the logs (species identification, number of logs, marks/number on each log, location of harvest);
- Based on the above, the head of village or appointed official issues the Log Transport Document following the format provided by the Ministry of Forestry.

For all timber harvested from planted trees, if not SVLK certified, the owner issues an SDoC using the format provided by the Ministry of Forestry.

- Issuance or preparation of the transport document.
- Issuance or preparation of the Supplier's Declaration of Conformity (SDoC), unless the operator is engaged into SVLK certification.
- Data reconciliation: The head of village or an official appointed by the district forestry official, or the district forestry official (in case of timber from naturally grown trees) compares the volume of harvested logs with the log-list. In case the operator engaged into SVLK certification, the CAB also checks the consistency between...
the volume of harvested logs with the log-list during initial and surveillance audits. The CAB also organizes field inspections on an ad-hoc basis when needed. In case of any inconsistencies detected, the head of village or appointed official or the district forestry official (in case of timber from naturally grown trees) informs the CAB in charge of verifying the operator's compliance and vice-versa.

**Description of Risk**

- Historically, there has been reported risks of inaccurate transportation letters and invalid legalization documents, because bribes may be paid to the authorized person from the Ministry of Forestry and the Indonesian Customs agency. Bribes might be paid to speed up the process of obtaining these documents.
- According to Setyowati et al. (2017), much of [the] corruption comes from irregularities in the issuance of permits and associated documents for log transports (KPK 2014; Rasad and Febismanto 2015), involving the bribing of government officials. The signing of a VPA agreement with the European Union and the establishment of SVLK hence form part of the Indonesian government's efforts to curb corruption in the forest sector, and especially corruption embedded in the permitting systems (Obidzinski and Kusters 2015).
- Setyowati et al. (2017) also reports on a key informant working for an association of logging companies who suggested that corruption remains deeply entrenched in Indonesia’s forest sector. Even when the company has obtained the permits and V-legal documents to transport the logs legally, there is no guarantee that it will not be stopped by the oknum, the government officers who
demand bribes, when the company transports the logs (2017, p 755).

- The transport of timber is verified as part of the SVLK certification process. SVLK certification is mandatory for any operator in the forest sector, and SVLK license (V-Legal document/FLEGT License) mandatory for all exports. Timber from forest concessions that are not certified themselves under the SVLK system for forest certification still become part of SVLK supply chains through the SDOC system described above. This means that all timber grown in Indonesia becomes part of an SVLK certified supply chain. The SVLK legality certificate ensures that all legal requirements associated with the relevant permit type (legality grid) has been verified as met by a professional auditor. However, a recent article of JPIK (7 years monitoring: Timber Processing Industries in East Java) in the 9th Edition of the Newsletter The Monitor (March, 2018), shows that among the violations of raw material legality, illegal processed timber laundering using Invoice of Processed Timber Transportation (FAKO) documents by Labora Sitoru’s company in 2013, and Timber Legality Certificate (SLK) falsification in Jombang in 2014 because of lack of raw material validation from receiving company, in East Java Province have been found.

Also, according to the news published by AURIGA in November, 2017 in their website (SVLK Violation: The Anti Forest-Mafia Coalition Files a Report on 7 Sawmill Companies in Papua), “the Anti Forest-Mafia Coalition filed a report on seven sawmill companies operating in the province of Papua for allegedly violating both the regulations of SVLK (Timber Legality Assurance System) and international timber trade. Despite having obtained timber legality certification (SLK), those companies were found
illegally collecting processed wood from natural forest areas […] In September and October 2017, the Anti Forest-Mafia Coalition undertook field monitoring in Papua Province and found indications of violations by companies located in Jayapura Regency. Trees were cut down in the forest of Sarmi Regency, then processed into wooden beams in the cutting area. After being processed, the wooden beams were transported via wooden rail from the cutting area to the connecting road between Jayapura and Sarmi. Timber was stacked on both sides of the road, and later picked up by trucks to be taken to sawmills owned by companies mentioned in the report.

Besides direct observation, the Coalition also conducted a series of interviews that support its findings from the field. Various sources ranging from the loggers, truck drivers and their conductors (kernet), as well as government officials in Sarmi Regency, were interviewed. The information from these sources strengthen the findings that the timber harvested and processed into wooden beams in Papua’s natural forest was transferred to sawmills in Jayapura Regency, Papua Province. The sawmill companies record that the timber was harvested from community-owned forest areas (kayu masyarakat). From the sawmills, the timber is packed into containers and shipped from Jayapura Harbor. […] The location of the logging occurred in HPH (selective logging concession) areas within the logged over area. Logging in these areas by other parties or even by the HPH company itself is prohibited without permit from RKT […] The volume of timber, particularly merbau wood from the forest of Sarmi Regency, is quite significant. Field monitoring found that at least 50 trucks contains timber leaving Sarmi Regency every day, heading to Jayapura".
• The first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), did not raise concerns regarding non-compliances specific to trade and transport requirements.

• Furthermore, it is important to highlight the concerns raised by JPIK (2014) and Setyowati & McDermott (2017) (detailed information is provided above in the Overview of the forest sector in Indonesia section of this category), that as part of the SVLK system, CABs are required to consider only the existence of a transport permit document, without examining the process of the issuance of the permit, which might have implications on detecting transport permits that have been issued through corruption.

In this context, it is relevant to mention that the assessment of this indicator focuses on the procedures for issuing trading and transport permits required for the transport of wood from forest operations. Therefore, the endorsement of the SVLK cannot be considered as sufficient evidence for the assessment of this indicator.

Most of the evidences of non-compliance with trade and transport requirements are for certain areas of the country. But as indicated by Setyowati et al. (2017) there is a risk in the country that corruption and bribery happens in the issuance of trade and transport permits. Based on these factors, precautionary approach has been applied, thus this indicator is considered specified risk for all timber sources.
**1.18 Offshore trading and transfer pricing**

**Applicable laws and regulations**
- Directorate General of Tax Regulation No 22/PJ/2013 on Guidelines For The Examination of a Taxpayer Who Has a Special Relationship - [https://triyan.files.wordpress.com/2013/06/per-22pj2013-petunjuk-pemeriksaan-affiliasi.pdf](https://triyan.files.wordpress.com/2013/06/per-22pj2013-petunjuk-pemeriksaan-affiliasi.pdf)

**Government sources**
- Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion [Overview of Legal Requirements](http://www.euflegt.efi.int/documents/10180/196582/Summary+IDN+EU+Action+Plan+on+the+advancement+of+VPA+implementation.pdf)
- Indonesia-EU VPA Joint Implementation Committee. 2015. Record of discussion

**Legal authority**
- Ministry of Finance.
- Directorate General of Tax.

**Legally required documents or records**
- Government sources
- Overview of Legal Requirements

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**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

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**Overview of Legal Requirements**

Indonesia has 'exchange of information' relationships with 110 jurisdictions through 69 DTCs, five TIEAs and one multilateral mechanism, Convention on Mutual Administrative Assistance in Tax Matters.

In Indonesia, taxpayers are allowed to calculate, pay and report the amount of the tax on their own. For income tax purposes, the legislation dealing with transfer pricing is found in Article 18 of the 1983 Income Tax Law, as revised by the 1991, 1994 and 2000 Income Tax Laws and further by Income Tax Law No. 36/2008. As the tax system is based on self-assessment, the burden of proof lies with the taxpayer, not with the tax authorities (PWC p. 496). The OECD notes that "... notwithstanding that monitoring and enforcement of the obligation to submit a tax return covers all incoming tax returns, the overall compliance with this obligation is low" (OECD p. 8). According to PWC, "... so far, the tax authorities have not undertaken any audits specifically relating to transfer pricing..." (PWC p. 498). According to Human Rights Watch: "In 2006 the Indonesian government lost over US$2 billion from untaxed illegal logging ($1.3 billion USD), artificially low forest royalties ($563 million), and illegal transfer pricing ($138 million)".
Transfer pricing documentation to prove market price-based transactions.

The amount of the tax would change if a representative of the Directorate General of Tax (Fiskus) were to audit each company and check tax-related documentation.

**Description of Risk**

- There is a risk in the self-assessment that Indonesia’s Fiskus does not have access to the database of information, or does not understand how to use this information in order to identify transfer pricing (Refer www.kemenkeu.go.id.)
- Regarding the ‘exchange of information’ agreements to which Indonesia is a party, the OECD notes that, during the period 1 January 2010 to 3 December 2012, “Indonesia received a total of 48 requests from 14 partner jurisdictions. Indonesia has provided a final response within 90 days in 15% of the cases, with another 20% processed in 180 days.” Discussing the reasons for these delays, the OECD notes that “… the lack of staff at the Indonesian competent authority, combined with a lack of awareness at the level of local tax offices ... are the main factors contributing to the delays” (OECD p. 9).
- There is a widespread lack of government capacity to monitor transfer pricing, and a lack of enforcement allow for practices of transfer pricing, which results in lower taxes.
- According to Human Rights Watch (2009), the Indonesian government lost US$2 billion in 2006 due to illegal logging, corruption and mismanagement. This amount included […] losses from tax evasion by exporters practicing ‘transfer pricing’.
- Reuters state that the issues with tax evasion are exacerbated by a shortage of employees in the Tax Department, (currently around 36,000 tax officials compared to the population of 255 million) exacerbated by difficulties in executing its powers, granted by the
<table>
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<th><strong>Non-Government sources</strong></th>
<th><strong>EU FLEGT Facility briefing note on the EU-Indonesia VPA</strong></th>
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**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
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<tr>
<td>Anti Forest-Mafia Coalition, 2014</td>
<td>SVLK flawed: An independent evaluation of</td>
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Indonesia’s timber legality certification system. Available online: http://eyesontheforest.or.id/attach/Anti%20Forest%20Mafia%20Coalition%20%28818Mar14%29%20SVLK%20Flawed%20FINAL.pdf, accessed 7 February 2017.


- Exchange of Tax Information Portal: http://www.eoi-tax.org/jurisdictions/ID#default


### 1.19 Custom regulations

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<tr>
<th>Applicable laws and regulations</th>
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The Indonesian export licence for legal timber products is known as the “V-Legal Document”. This is an export licence that provides evidence that the timber products exported meet the requirements of the Indonesian legality standard as set out in Annex II and were sourced from a supply chain with adequate controls against the inflow of timber from sources not verified as legal. The V-Legal Document is issued by the LVs who act as Licensing Authorities (LA) and will be used as a FLEGT licence for shipments to the Union once the parties have agreed to start the FLEGT licensing scheme (VPA 2015).
• Forestry Minister's Regulation P.38/Men hut-II/2009
• Regulation No 7/2004 on Trade.
• Surat Edaran No. SE.2/PPHH/NEIP/HPL.3/1/2017 tentang Penambahan Tujuan Negara Pengguna FLEGT)
• Minister of Trade Regulation of The Republic of Indonesia Number 25/M-DAG/PER/4/2016 Concerning Amendments of The Minister of Trade Regulation Number 89/M-DAG/PER/10/2015 On Export Provisions of Forest Industry Products -

The V-Legal Document/FLEG Document is issued at the point at which the consignment is consolidated prior to export. The procedure is as follows (Extracted from Annex V of the VPA 2015):

• The V-Legal Document/FLEG licence is issued by the LA, which holds a contract with the exporter, for the consignment of timber products to be exported.
• The exporter's internal traceability system shall provide evidence on the legality of timber for export licensing. The previous stage of the supply chain shall be included in the exporter's internal traceability system.
• For a V-Legal Document/FLEG licence to be issued, all suppliers in the exporter's supply chain that make up the consignment must have been covered by a valid legality or SFM certificate or a SDoC.
• To obtain a V-Legal Document/FLEG licence, an operator must be a registered exporter (an ETPIK holder) who possesses a valid legality certificate. The ETPIK holder submits a letter of application to the LA and attaches the following documents to demonstrate that the timber raw materials in the product originate only from verified legal sources (SVLK certified or SDoC declared):
  o A summary of the transport documents for all timber/raw materials received by the factory since the last audit (up to max 12 months); and
  o Summaries of Timber/Raw Material Balance-Sheet Reports and Processed Timber Balance-Sheet Reports since the last audit (up to max 12 months).
• The LA then carries out the following verification steps:
• Ministerial Regulation of Trade Of Republic Of Indonesia Number 89/M-DAG/PER/10/2015 On Eksport Provisions Of Industry Forestry Product - http://silk.dephut.go.id/app/Uploaded/hukum/20160419/7e70e21827da36b08220f0ba6a2a8a5.pdf

• Trade Regulation No. 89/2015, confirms that the SVLK applies to furniture products, in line with the product scope of the VPA.


Non-Government sources

• Abidah Setyowati & Constance L. McDermott (2017) Commodifying Legality? Who and What Counts as Legal in the Indonesian Wood Trade, Society & Natural Resources, 30:6, 750-

• Verification of the validity of the operator's legality certificate and ETPIK registration, using LA's own database as well as SILK.


• Control of the recovery rate(s) for each type of product (primary industry only), based on analysis of the Timber/Raw Material Balance-Sheet Report and Processed Timber Balance-Sheet Report.

• Where necessary, a field visit may be conducted by the LA after data reconciliation so as to ensure consistency consignments sample checking and inspecting the factory operation or timber depot, and record-keeping.

• Result of verification:
  ○ If an ETPIK holder complies with legality and supply chain requirements, the LA issues a V-Legal Document/ FLEGT licence in the format presented in Annex IV;
  ○ An ETPIK holder meeting the above mentioned requirements may use conformity marking (V-Legal Label) on the products and/or packaging. National Guidelines on the use of conformity marking are described in the TLAS Guidelines.
  ○ If an ETPIK holder does not comply with the legality and supply chain requirements, LA will issue a non-compliance report instead of V-Legal Document/FLEGT licence. The non-compliance report halts the movement of the related timber and/or timber products. 15.7.2015 L 187/71 Official Journal of the European Union EN
<table>
<thead>
<tr>
<th>Legal authority</th>
<th>Minister of Finance</th>
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<tbody>
<tr>
<td>Legally required documents or records</td>
<td></td>
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<tr>
<td>• Export license</td>
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<tr>
<td>• Export Declaration</td>
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<tr>
<td>• Customs clearance documents</td>
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<tr>
<td>• V-Legal certificate for all products exported under the codes listed in Annex 1 of the VPA.</td>
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764, DOI: 10.1080/08941920.2016.1239295


- In case a shipment changes configuration before leaving the port of export (e.g. change of destination, volume, species as defined in the TLAS Guidelines), the exporter must request the Licensing Authority to cancel the initial export license and issue new licence(s). The Licensing Authority must inform LIU of all cancelled export licences.

- In case of misuse or falsification of legality certificates and/or export licences by an operator, a sanction shall be imposed by the Ministry of Forestry as defined in applicable regulations.

- The LA shall:
  - Forward a copy of a V-Legal Document/FLEGT licence or non-compliance report to the Ministry of Forestry within twenty four hours from the time the decision was taken;
  - Submit a comprehensive report and a public summary report outlining the number of V-Legal Documents/ FLEGT licence issued as well as the number and type of non-compliances detected to the Ministry of Forestry once every three months with copies to the Ministry of Trade and Ministry of Industry.

Companies are required to have a permit letter from Indonesian Customs to export of goods. Exports from Indonesia require a V-Legal Document for almost all timber products. Such a document can only be issued for a registered exporter holding SVLK certification (there is however a transition period for the furniture industry). The process to issue a V-Legal Document is consignment-based and requires checks on

- validity of the SVLK certificate,
- monthly production reports,
### Description of Risk

- According to experts consulted in the preparation of this report, there is a risk that a company is exporting without the required permit and is exporting in violation of export requirements. While Indonesia's Customs has the right to check and verify goods that pass Indonesia's borders, there is a lack of enforcement. There is a risk that the parties involved are corrupt.
- There are regional and industry sector differentiations to be made. Law enforcement in the far east of Indonesia (Papua) for example is weak, but the same can be said for provinces where illegal conversion of forests has taken place for palm oil expansion.

### Notes

5. Recovery rates (if primary industry) and, possibly, field visits by the licensing authority. The process is the same for FLEGT licensing.

There are seven authorised copies of the V-Legal Document. Importers of Indonesian timber will be provided with the third copy of the V-Legal Document (indicated by the number 3 on the left hand side of the document). In addition, each V-Legal Document has a unique number and barcode.

Those entities exporting products covered under the SVLK are required to present a valid V-legal document. Failure to do so could result in the rejection of export licensing and prosecution (Ministry of Trade Decree, Art. 21). It is these V-legal licenses, that have been recognised by the EU as FLEGT licenses, signifying that all licensed Indonesian timber can be legally imported into the EU. In other words, the potential market incentives for SVLK verification lie solely in the issuance of V-legal documents, and associated V-legal label, for export (Setyowati et al., 2017).


The export of roundwood is illegal, but in those locations of Indonesia where law enforcement is weak (for example Papua), export of roundwood can still take place. There is a risk of inaccurate transportation letters and invalid legalization documents, because bribes may be paid to the representative from the Ministry of Forestry and Indonesian Customs. Bribes might be paid to speed up the process of obtaining these documents.

A recent study suggests that several loopholes in SVLK have enabled companies to misuse their export declaration documents to be used by other enterprises (JPIK 2016). The study found strong indication of illegality in which active wood exports continue to be carried out by companies that have not operated for more than a year and those that are not registered in the Trade and Industry Agency, as well as companies forging signatures for export documents (JPIK 2016).

The export of timber is verified as part of the SVLK certification process. SVLK certification is mandatory for any operator in the forest sector, and SVLK license (V-Legal document/FLEGT License) mandatory for all exports. The SVLK legality certificate ensures that all legal requirements associated with the relevant permit type (legality grid) has been verified as met by a professional auditor. However, a recent article of JPIK (7 years monitoring: Timber Processing Industries in East Java) in the 9th Edition of the Newsletter The Monitor (March, 2018), shows that violations of raw material legality have been found in East Java. “These violations include the following:


• Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A full list of experts consulted has been provided to FSC.

2. Export Declarations falsification and timber size/measurements that do not conform to sizes for Indian Rosewood (Dalbergia latifolia) export to China in 2014.

3. Illegal processed timber laundering using Invoice of Processed Timber Transportation (FAKO) documents by Labora Sitorus’ company in 2013.

4. Timber Legality Certificate (SLK) falsification in Jombang in 2014 because there is lack of raw material validation from the receiving company.

5. Lack of barcode and V-legal logo use on logs shipped from Gresik Port.”

Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the Overview of the forest sector in Indonesia section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: logs not marked with V-Legal Logo, among others […]

Despite comprehensive procedures in place to ensure the robust issuance of V-Legal Documents, this Periodic Evaluation found indications of problems associated particularly with the export of furniture and other household utility items. Lesser extent problems were also detected on other export products. As of September 2017, the LIU has received queries from FLEGT competent authorities of the EU Member States seeking clarifications on:
| Inconsistences in product quantities between V-Legal Documents and invoices and packing lists. |
| Appearance variations in the V-Legal Documents (paper quality, paper colour, logo, signature attributes) in part related to decentralised printing practices. |
| Inconsistences in HS codes between export and import declarations. |

The LIU is currently implementing an action plan to address the identified problems. The action plan covers: (i) exploring feasible means to minimise the practice of making changes to export documents after V-Legal Documents/FLEGT licences have been issued; (ii) harmonising the use of HS codes; (iii) providing LAs with additional instructions and guidance for appropriate issuance of V-Legal Documents/FLEGT licences; and iv) improving the communication between the LIU and competent authorities on the identified problems.

In order to improve the exchange of information between the LIU and the competent authorities, the LIU is developing a standard query/response form that is expected to make communication on V-Legal Documents/FLEGT licences more efficient. The LIU also plans to host visitors from competent authorities to solve these issues through direct communication.

Even though, certain measures are being taken to improve the issues explained above in relation to this indicator, there is limited data to assess the outcomes of the implementation of these measures. Based on this factor, precautionary approach has been applied for this indicator, thus specified risk is considered for all timber sources.
### 1.20 CITES

<table>
<thead>
<tr>
<th>Applicable laws and regulations</th>
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</thead>
<tbody>
<tr>
<td>- President of the Republic of Indonesia decree No 1 Year 1987 on For Ratification of CITES. <a href="http://hukum.unsrat.ac.id/pres/kepres1987_1.pdf">http://hukum.unsrat.ac.id/pres/kepres1987_1.pdf</a></td>
</tr>
<tr>
<td>- President Regulation No.43/1978 on Ratification of CITES</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>1.20.2. Legal authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Conservation of Natural Resources Agency (BKSDA/Balai Konservasi Sumber Daya Alam)</td>
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<tr>
<td>- The Government employs experts, called WASGANISPHERE (15 types) with the authority to</td>
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</table>

<table>
<thead>
<tr>
<th>Non-Government sources</th>
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</table>

### Risk Conclusion

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

### Overview of Legal Requirements

Indonesia ratified the Convention in 1978. Indonesian Government Regulation No 7/1999 concerning Prevision of Plant and Animal species pertains to Indonesia’s obligations under CITES. The law requires government officials to ensure all species that are exported/imported do so legally and authorized by the appropriate agency (FLA 2015).

There are no Appendix I plant species listed in Indonesia. However, there are several CITES listed species in Appendix II and III, which are traded commercially in Indonesia. These include:

- **Aquilaria spp.** This tree species produces timber that can supply agarwood, a fragrant wood extremely valuable for incense, perfume and traditional medicine. Overharvesting has led to the listing of Aquilaria species in CITES. Some of these species such as Aquilaria malaccensis are found across Southeast Asia, including Indonesia, of which Indonesia is one of the largest suppliers to the international market. Harvesting of the Aquilaria spp. is regulated by Indonesian forest law, but Indonesia is one of few countries to have set quotas for harvesting and trading the species. There are also recorded plantations of the Aquilaria spp. in Indonesia. The CITES listing for Aquilaria spp. applies to all parts and derivatives, except seeds; seedling or tissue cultures.
supervise GANISPHPL personnel at the concessions.
- GANISPHPL-BINHUT is the technician who has the qualification (trained by government authorities) to deal with protected endangered flora and fauna. Qualification in CITES may not be relevant.
- LIPI/Lembaga Ilmu Pengetahuan Indonesia (Indonesian Institute of Science) is the entity who has the legal authority to measure populations and group species and feeds the information into the CITES Appendices.

1.20.3. Legally required documents or records

- CITES Permit
- Report on Protected Forest Species and Animals (this report is usually only done on a voluntary basis by a company)
- Expert consultation conducted by NEPCon in the preparation of this report. Experts elected to remain anonymous. A description of the risk.

**Description of Risk**

Even though there is a regulation that relates to CITES, the law enforcement in Indonesia is not strong enough to ensure full implementation by concession license holders. Government inspectors (WASGANISPHPL) might check documents and inventory results in relation to CITES. There is a theoretical risk that these inspectors are obtained in vitro, in solid or liquid media, transported in sterile containers; and cut flowers of artificially propagated plants.
- **Gonystylus spp.** Commonly known as ramin, this species is highly prized and popular as a decorative timber for furniture and interior accessories, but also for veneer and plywood. Deforestation in natural forests are associated with excessive harvest of ramin through illegal logging for international trade. Concerns regarding the illegal harvesting of ramin in Indonesia, with illegal trade between Indonesia and Malaysia, led to the CITES listing for Gonystylus spp. in Indonesia. It applies to all parts and derivatives of the tree, except seeds; seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers; and cut flowers of artificially propagated plants.
- **Gyrinops spp.** Gyrinops spp. is another timber species that can produce agarwood. The CITES listing for Gyrinops spp. applies to all parts and derivatives, except seeds; seedling or tissue cultures obtained in vitro, in solid or liquid media, transported in sterile containers; and cut flowers of artificially propagated plants.
- **Taxus sumatrana** Sometimes known as Chinese yew, this tree is used for furniture and joinery. The CITES listing for Taxus sumatrana applies to logs, sawn wood, veneer sheets, plywood and essential oil (excluding finished products packaged and ready for retail trade).
The full list of experts consulted has been provided to FSC. However, not qualified enough for CITES or do not allocate enough time to check carefully for CITES violations, however, no information to this effect has been found during the research for this report.

In Indonesia, misunderstanding and violations of the trade restrictions is commonplace (Expert consultation, 2015). Only selected species (for example tiger) receive strict law enforcement.

CITES permits are not included in the Legality Definition (Annex V) of the Indonesia/EU Voluntary Partnership agreement and are not treated as part of the SVLK system.

**Risk Conclusion**

This indicator has been evaluated as specified risk. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.

### Diligence/due care procedures

<table>
<thead>
<tr>
<th>1.21 Legislation requiring due diligence/due care procedures</th>
<th>Applicable laws and regulations</th>
<th>Government sources</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>FILING PROCEDURES FOR ISSUING IMPORT IMPORT DECLARATION AND RECOMMENDATIONS - <a href="http://silk.dephut.go.id/app/Upload/hukum/2015/006/4956d06d049df5cd4db10f9507dab47.pdf">http://silk.dephut.go.id/app/Upload/hukum/2015/006/4956d06d049df5cd4db10f9507dab47.pdf</a></td>
<td>Overview of Legal Requirements</td>
</tr>
</tbody>
</table>

Minister for Trade regulation 78/M-DAG/PER/10/2014 states that imported timber and timber products require proof of legality in the country of harvest. In this context, the SDoC template is also used for imports. Only registered importers (traders) and processing operators can import timber and/or timber products into Indonesia. These operators must exercise due diligence on imported timber and/or timber products to minimize the risk of illegal timber entering the Indonesian supply chain. They are required to provide information such as HS codes of products, Bill of Lading, countries of harvest, country of origin, proof of timber legality, and port of export in the declaration template. The due diligence procedures encompass data...


The Ministry of Trade and the Ministry of Environment and Forestry have developed regulations and procedures for verifying the legality of timber imports, with the participation of Ministry of Industry. The new legal requirements are reflected in the VPA, in its annex on the timber legality assurance system. See the SILK website’s page on import regulations.

Only designated importers (traders) and processing operators can import timber and/or timber products into Indonesia. They must hold information on due diligence procedures they apply to their imports to minimise the risk of illegal timber entering the Indonesian supply chain. The information on due diligence procedures encompasses data collection, risk analysis and risk mitigation. Procedures are carried out using the SILK online system of the Ministry of Environment and Forestry.

The Ministry of Environment and Forestry issues an import recommendation to the Ministry of Trade after assessing each operators’ information on the due diligence process prior to import. The operators must complete a declaration to provide information such as HS codes of products, bill of lading, countries of harvest, country of origin, proof of timber legality, and port of export.

Legal authority
- Directorate General of Ministry of Environment and Forestry (MoEF).
- The central Government is the authority to require the Indonesian Timber Verification Legality System, called SVLK
- Indonesia-EU VPA Joint Implementation Committee. 2014. Results of the second stage of the joint assessment of Indonesia's timber legality assurance system: Public summary - http://www.euflegt.efi.int/documents/10180/196582/Public+Summary+Stage+II+Joint+Assessment/e73662da-6b7b-4c82-b4ca-d7e629d3b60b
- EU FLEGT Facility briefing note on the EU-Indonesia VPA - http://www.euflegt.efi.int/files/attachment

Conformity Assessment Bodies carry out a document review of the due diligence system applied when conducting audits of the importing operator.

Detailed procedures for the due diligence system and related checks are provided in import regulations by the Ministry of Trade such as the regulation of Director General of Sustainable Production Forest Management P7/PHPL-SET/2015.

Description of Risk
- The due diligence requirements are verified as part of the SVLK certification process. SVLK certification is mandatory for any operator in the forest sector, and SVLK license (V-Legal document/FLEGT License) mandatory for all exports. The SVLK legality certificate ensures that all legal requirements associated with the relevant permit type (legality grid) has been verified as met by a professional auditor. In all 5 legality grids in the VPA annex II (legality definition) the due diligence requirements must be verified through the use of listed verifiers.
- However, a recent article of JPIK (7 years monitoring: Timber Processing Industries in East Java) in the 9th Edition of the Newsletter The Monitor (March, 2018), shows that violations of raw material legality have been found in East Java. "These violations include the following:
  2. Export Declarations falsification and timber size/measurements that do not conform to sizes for Indian Rosewood (Dalbergia latifolia) export to China in 2014.
<table>
<thead>
<tr>
<th><strong>Legally required documents or records</strong></th>
<th>s/euflegt/briefing_note_indonesia%20en.pdf</th>
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</table>

**Non-Government sources**


**Notes**

3. Illegal processed timber laundering using Invoice of Processed Timber Transportation (FAKO) documents by Labora Sitorus’ company in 2013.
4. Timber Legality Certificate (SLK) falsification in Jombang in 2014 because there is lack of raw material validation from the receiving company.
5. Lack of barcode and V-legal logo use on logs shipped from Gresik Port.”

- Furthermore, the findings of the first Periodic Evaluation of the FLEGT VPA, developed by SUCOFINDO (2018) (see more details in the information provided above in the *Overview of the forest sector in Indonesia* section of this category), indicate that “at least 56 cases of suspected non-compliance were found in forest concessions, forest conversion areas and associated supply chains, filed by IM organisations, of which 28 cases were of a more serious nature and thus also reported to the MOEF. The non-compliant observations relate, for example, to: logs not marked with V-Legal Logo, among others […]

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Even though, certain measures are being taken to improve the issues explained above in relation to this indicator, there is limited data to assess the outcomes of the implementation of these measures. Based on this factor, precautionary approach has been applied for this indicator, thus specified risk is considered for all timber sources.

**Risk Conclusion**

This indicator has been evaluated as specified. Threshold (2) is met: Identified laws are not upheld consistently by all entities and/or are often ignored, and/or are not enforced by relevant authorities.
**Recommended control measures**

The recommended control measures here are only indicative in nature, and are not mandatory. Organizations shall evaluate and devise appropriate control measures to mitigate the risks identified in this risk assessment as applicable.

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Recommended control measures</th>
</tr>
</thead>
</table>
| 1.1 Land tenure and management rights | Country Specific Verifiers:  
- A concession license has to be in place.  
- The boundaries of the concession shall be confirmed to match the license area.  
- There shall be no open case against the company with the KPK.  

The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.  

Generic  
- Land registry shall confirm ownership and validity of property deed.  
- Tax authorities shall confirm valid tax registration.  
- The business register shall confirm valid business licenses to operate within the jurisdiction.  
- In areas with land ownership conflicts, consultation with neighbours, local communities and others shall confirm that land tenure rights are clear.  
- Stakeholder consultation shall confirm that registration of FME has been granted following legally prescribed processes.  
- Stakeholder consultation shall confirm that legal status of the operation or rights for conducting the established activities are not subject to court orders or other legally established decisions to cease operations.  
- The management contract or other agreements with the owner shall indicate clear management rights.  
- Valid business registration documents shall exist.  
- The issuance of legal rights and registration shall be subject to public disclosure prior to commencement of any activities within FMUs. |
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<th>Indicator</th>
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<tr>
<td>- Inspections of harvesting site shall confirm that harvesting takes place within property limits (including felling, transport and log landings).</td>
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1.2 Concession licenses

Country Specific Verifiers:

The date of a concession license is a first indication of legality: licenses with a date after 2011 are illegal. For older licenses the KPK is a credible control measure in Indonesia, as described under 1.1 above. The Forest Planning Agency provides public information on the location of concessions. The actual location of forest operations can be verified via satellite images and field surveys. The Corruption Eradication Commission or Komisi Pemberantasan Korupsi (abbreviated KPK) is another credible entity providing a control measure in Indonesia.

Confirmation of the following:

- There are no open cases of a given company with the KPK.
- A concession license has to be in place.
- The date of issue of the concession license shall not be after 2011. Note that the moratorium for new licenses does not apply for all forest area. There are specific areas that the moratorium does not apply to, called PIPIB (Peta indicatif Penundaan Ijin Baru/Indicatif map for new license). This map is updated every 6 months (visit this site http://webgis.dephut.go.id:8080/kemenhut/index.php?id=peta/pippiblicenses. So it is not the case that all new license after 2011 are illegal.
- The boundaries of the concession shall be confirmed to match the license area.

The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.

Generic Verifiers:

- Proper legal procedures for obtaining concession licenses shall be followed.
- Valid concession license agreements shall exist.
- The process of obtaining concession shall follow an open and transparent process based on clear criteria and be confined to eligible organisations.
- Independent stakeholder consultation shall confirm that legal procedures for obtaining concession licenses have been followed.
<table>
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<th>Indicator</th>
<th>Recommended control measures</th>
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| 1.3 Management and harvesting planning | **Country specific verifiers:**  
- Ten Year and Annual Work Plans must be in place and should be confirmed.  
- Government auditor reports on harvesting are in place. The findings of the reports can be cross-referenced with the plans and any inconsistencies noted. In addition, independent data, such as satellite data from 'Global Forest Watch can give a first indication if logging is occurring outside approved areas.  
- Government auditor reports and remote sensing data (e.g. Global Forest Watch) are free of inconsistencies.  
- Satellite data showing deforestation over time can give a rough indication if sustainable volumes have been harvested.  
- Independently collected field data can be used as a verifier as to whether data in management plans are accurate.  
- Actual logging volumes compared to planned logging volumes are another verifier as to whether management plans are being correctly implemented.  

The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.  

**Generic verifiers:**  
- Maps showing harvesting areas (in compliance with the harvesting plan)  
- Document review: approved harvesting plan and management plan  
- Field visits to verify that the contractors have a Timber Extraction Contract.  
- Approved forest management plans shall exist for the FMU where the harvesting is taking place.  
- Forest management plans shall contain all legally required information and procedures.  
- Annual operating or harvesting plans shall be in place and approved by legally competent authorities.  
- Annual operating or harvesting plans shall contain information and procedures, according to all legal requirements.  
- The contents of the operating and harvesting plans shall be consistent with approved forest management plans. |
<table>
<thead>
<tr>
<th>Indicator</th>
<th>Recommended control measures</th>
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</table>
| - Plans for carrying out harvesting operations shall be subject to public disclosure and objections prior to commencement if legally required.  
- Harvesting restrictions shall be identified in management plan and maps if legally required.  
- Harvesting inventories shall be conducted according to legal requirements.  
- Field verifications shall indicate that the contents of the harvesting plans are adhered to in the field.  
- Stakeholder consultation shall indicate that the forest management plan has been approved according to legally prescribed process. |

1.4 Harvesting permits

**Country specific verifiers:**

- Compare volumes detailed in the approved permit with actual harvesting volumes and species.  
- Isotope classification can identify if there is mixed tropical hardwood harvested, instead of the one species of timber that is claimed to be harvested according to the harvesting permit.  
- There are Government supervisors and auditors in place (WASGANISPHPL) whose reports are an indication that harvesting permits have undergone government approval.

The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.

**Generic verifiers:**

- Field visits to verify that maps are in compliance with reality.  
- Harvesting permits (license or similar legal document governing the harvesting of forest resources) shall exist.  
- Harvesting limits shall be clearly defined based on maps and quantities.  
- Authorities shall confirm the validity of harvesting permits.
<table>
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<th>Indicator</th>
<th>Recommended control measures</th>
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</table>
| - Stakeholder consultation shall confirm that the harvesting permit has been issued according to the relevant laws and regulations by the legally designated competent authority.  
- Field inspection shall confirm that harvesting takes place within limits given in the harvesting permit.  
- Field inspection shall confirm that information regarding area, species, volumes and other details given in the harvesting permit are correct and within limits prescribed in the legislation. |

| 1.5 Payment of royalties and harvesting fees | Country specific verifiers:  
- The evidence of the SPP invoice from the Government and corresponding cash or transfer payments made by the company.  

The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.  

Generic verifiers:  
- Receipts shall exist for payments of harvesting related royalties, taxes, harvesting fees and other charges.  
- Volumes, species and qualities given in sales and transport documents shall match the paid fees.  
- Classification of species, volumes and qualities shall match the royalties and fees paid. |

| 1.6 Value added taxes and other sales taxes | Country specific verifiers:  
- The representative of the Directorate General of Tax can cross-check the report from the exporting company with the factual data in the possession of the company. As a verifier the report from the Directorate should be requested.  
- Receipts for payment of taxes shall exist. |
<table>
<thead>
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<th>Indicator</th>
<th>Recommended control measures</th>
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<tbody>
<tr>
<td></td>
<td>- Volumes, species and qualities given in harvesting, transport and export documents shall match the fees paid.</td>
</tr>
<tr>
<td></td>
<td>- Sales prices shall be in line with market prices.</td>
</tr>
<tr>
<td></td>
<td>- Harvested species, volume and qualities shall match the sales documents.</td>
</tr>
<tr>
<td></td>
<td>- Authorities shall confirm that operation is up-to-date in payment of applicable taxes.</td>
</tr>
<tr>
<td></td>
<td>- Consultation with the financial authority to verify that all required taxes have been paid.</td>
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<tr>
<td></td>
<td>The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.</td>
</tr>
<tr>
<td></td>
<td>Generic verifiers:</td>
</tr>
<tr>
<td></td>
<td>- Sales documents shall include applicable sales taxes.</td>
</tr>
<tr>
<td></td>
<td>- Receipts for payment sales taxes shall exist.</td>
</tr>
<tr>
<td></td>
<td>- Volumes, species and qualities given in sales and transport documents shall match the fees paid.</td>
</tr>
<tr>
<td></td>
<td>- Sales prices shall be in line with market prices.</td>
</tr>
<tr>
<td></td>
<td>- Harvested species, volume and qualities shall match the sales documents.</td>
</tr>
<tr>
<td></td>
<td>- Authorities shall confirm that operation is up to date in payment of applicable taxes.</td>
</tr>
<tr>
<td></td>
<td>- Consultation with financial authority to verify that all required taxes have been paid.</td>
</tr>
<tr>
<td>1.7 Income and profit taxes</td>
<td>Country specific verifiers:</td>
</tr>
<tr>
<td></td>
<td>- Obtain copies of the monthly withholding tax reports from the company.</td>
</tr>
<tr>
<td>Indicator</td>
<td>Recommended control measures</td>
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<tr>
<td></td>
<td>- The representative of the Directorate General of Tax will be able to cross-check the report from the company to the factual data in the company's possession. As a verifier the report from the Directorate should be requested.</td>
</tr>
<tr>
<td></td>
<td>The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.</td>
</tr>
<tr>
<td>Generic verifiers:</td>
<td>- Consultation with the financial authority to verify that all required income and profit taxes have been paid.</td>
</tr>
<tr>
<td>1.8 Timber harvesting regulations</td>
<td>Country specific verifiers:</td>
</tr>
<tr>
<td></td>
<td>- The Government employs experts (WASGANISPHEL) who have the authority to ensure that harvesting is carried out according to the approved Work Plans. Their reports can be compared to actual practices on the ground as a verifier of the risk of illegal logging.</td>
</tr>
<tr>
<td></td>
<td>- Reports of illegal logging can be made to the police, and these reports are a helpful verifier. However, there is no guarantee that the police will follow up on reports of illegal logging.</td>
</tr>
<tr>
<td></td>
<td>- On a larger scale, the satellite data from Global Forest Watch can give a first indication if harvesting is approved areas.</td>
</tr>
<tr>
<td></td>
<td>The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.</td>
</tr>
<tr>
<td>Generic verifiers:</td>
<td>- Harvesting shall be conducted within the authorised boundaries of the FMU.</td>
</tr>
<tr>
<td></td>
<td>- Harvesting shall not take place in areas where harvesting is legally prohibited.</td>
</tr>
<tr>
<td></td>
<td>- Tree species or selected trees found within the FMU for which felling is prohibited shall be listed in operational plans.</td>
</tr>
<tr>
<td>Indicator</td>
<td>Recommended control measures</td>
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</tr>
<tr>
<td>- Harvesting restrictions shall be observed in the field.</td>
<td></td>
</tr>
<tr>
<td>- Tree species or selected trees found within the FMU for which felling is prohibited shall be marked in the field.</td>
<td></td>
</tr>
<tr>
<td><strong>1.9 Protected sites and species</strong></td>
<td>Country specific verifiers:</td>
</tr>
<tr>
<td>- Confirm that all legally protected areas (including species habitats) are included in the management plan.</td>
<td></td>
</tr>
<tr>
<td>- Confirm that all legally established procedures for surveying, managing and protecting endangered or threatened species within the management unit have been followed.</td>
<td></td>
</tr>
<tr>
<td>- The satellite data from Global Forest Watch can give a first indication if harvesting is encroaching on protected areas.</td>
<td></td>
</tr>
<tr>
<td>- WWF, UNEP and other institutions provide guidance on biodiversity hotspots, the locations of which should be referenced with concession location data.</td>
<td></td>
</tr>
<tr>
<td>- A press review can also help to identify if a company has been involved in hunting of protected species or destruction of protected areas.</td>
<td></td>
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<tr>
<td>The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.</td>
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</tr>
<tr>
<td><strong>1.10 Environmental requirements</strong></td>
<td>Generic verifiers:</td>
</tr>
<tr>
<td>- All legally protected areas (including species habitats) shall be included in the management plan or related documentation if required by the legislation.</td>
<td></td>
</tr>
<tr>
<td>- Legally established procedures for surveying, managing and protecting endangered or threatened species within the management unit shall be followed.</td>
<td></td>
</tr>
<tr>
<td>- Nature protection regulations relating to protected areas, set-aside areas, protected species and hunting restrictions shall be followed.</td>
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</tr>
<tr>
<td>- The Government employs experts (WASGANISPPL) who have the authority to ensure that harvesting is done according to the approved Work Plans and environmental plans. Their reports can be compared to actual practices on the ground as a verifier of the risk of environmental damage.</td>
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<td></td>
<td>- Check that the EIA was carried out, verify that the content fulfils all the legal requirements.</td>
</tr>
<tr>
<td></td>
<td>- Check that the company has an Environmental License.</td>
</tr>
<tr>
<td></td>
<td>- Verify that environmental controls are followed in the field.</td>
</tr>
<tr>
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<tr>
<td>Generic:</td>
<td>- Environmental and/or Social Impact Assessments shall be in place and approved by the legally competent authority if legally required.</td>
</tr>
<tr>
<td></td>
<td>- Requirements for environmental monitoring shall be observed.</td>
</tr>
<tr>
<td></td>
<td>- Environmental restrictions shall be followed in the field, such as requirements related to soil damage, buffer zones, retention trees, seasonal restrictions etc.</td>
</tr>
<tr>
<td>1.11 Health and safety</td>
<td>Country specific verifiers:</td>
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<tr>
<td></td>
<td>- Verify that the company has an occupational safety and health (OSH) management system, and that the system is used in practice.</td>
</tr>
<tr>
<td></td>
<td>- Verify that the employees of the company have been trained about work safety by an independent institute with international recognition. There should be a certificate from the independent institute documenting that staff have passed the training.</td>
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<td>- Obtain records of reports of workplace deaths. Deaths in the workplace must be recorded.</td>
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<td><strong>Generic:</strong></td>
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<td>- All safety and health regulations shall be followed and all required safety equipment shall be used.</td>
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<tr>
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<td>- Occupational health and safety requirements shall be observed by all personnel involved in harvesting activities.</td>
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<tr>
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<td>- Interviews with staff and contractors shall confirm that legally required protection equipment is required/provided by the organisation.</td>
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<td>- All requirements on prevention of air and water pollution shall be followed and are verified through reports monitoring pollution (when applicable).</td>
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<td>1.12 Legal employment</td>
<td><strong>Country specific verifiers:</strong></td>
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<td>- Verify that the company has an occupational safety and health (OSH) management system, and that the system is used in practice.</td>
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</tbody>
</table>
| 1.13 Customary rights | Country specific verifiers:  
  - The absence of conflicts over customary rights is a good verifier to determine how well customary rights are respected in a given case.  
  - Newspaper reviews and interviews can be part of the set of verifiers to assess the situation.  
  - Stakeholder consultation shall confirm that customary rights are observed during harvesting activities.  
  
  The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.  
  
  Generic  
  - Stakeholder consultation shall confirm that customary rights are observed during harvesting activities. |
| 1.14 Free prior and informed consent | N/A |
| 1.15 Indigenous peoples rights | Country specific verifiers:  
  - Stakeholder consultation shall confirm that Indigenous Peoples’ established rights are not being violated.  
  - Absence of conflict and practice of self-determination is a first verifier of established Indigenous Peoples’ rights.  
  - AMAN has launched an indicative map of Indigenous Territories in Indonesia (refer www.aman.or.id).  
  
  Generic verifiers: |
<table>
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<th>Recommended control measures</th>
</tr>
</thead>
</table>
| 1.16 Classification of species, quantities, qualities | Country specific verifiers:  
- While it should be assumed that Government control through WASGANISPHPL-PKB staff is sufficient to ensure correct classification of species, quantities and qualities, it is recommended as an additional verifier to cross-check production reports with concession licenses and Work Plans.  
- Fully map the wood movement from the forest to the end process, including the required documents.  
The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.  
Generic verifiers:  
- Requirements related to transport means (e.g. trucks) shall always be followed.  
- Species and product types shall be legally traded.  
- Required trade permits shall exist and be documented.  
- All required transport documents shall exist and be documented.  
- Volume, species and qualities shall be classified according to legal requirements.  
- Documents related to transportation, trade or export shall be clearly linked to the specific material in question. |
| 1.17 Trade and transport | Country specific verifiers:  
- Government controls through WASGANISPHPL-PKB staff are intended to ensure correct classification of species, quantities and qualities. |
<table>
<thead>
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<td>- All required transport documents shall exist and be documented.</td>
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<td>- Volume, species and qualities shall be classified according to legal requirements.</td>
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<td></td>
<td>- Documents related to transportation, trade or export shall be clearly linked to the specific material in question.</td>
</tr>
<tr>
<td>1.18 Offshore trading and transfer pricing</td>
<td>Country specific verifiers:</td>
</tr>
<tr>
<td></td>
<td>- Determine if the company has any subsidiary operating in a known tax haven.</td>
</tr>
<tr>
<td></td>
<td>- Review internal invoicing to determine whether the prices used were comparable to market prices.</td>
</tr>
<tr>
<td></td>
<td>- Review transfer pricing documentation to prove market price-based transactions.</td>
</tr>
<tr>
<td></td>
<td>The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk.</td>
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<tr>
<td></td>
<td>Generic</td>
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<tr>
<td></td>
<td>- If illegal in the country of the supplier or sub-supplier, the products shall not have been traded through countries known as ‘tax havens’.</td>
</tr>
<tr>
<td></td>
<td>- There shall be no illegal manipulation in relation to the transfer pricing.</td>
</tr>
</tbody>
</table>
| 1.19 Custom regulations | Country specific verifiers:  
- While Indonesia’s Customs does check and verify goods, it should be verified that this was implemented for the shipment in question.  
- Review Customs reports, note that there are risks associated with the issuing of export permits.                                                                 |
|               | The SVLK system and associated legitimate certification (LP-PHPL at forest level, LVLK throughout the supply chain and V-Legal at the point of export) can be a strong control measure for risk. |
|               | Generic verifiers  
- Products shall be correctly classified (type, Customs code, species, quantities, qualities, etc.).  
- All required import and exports permits shall be in place.                                                                                          |
| 1.20 CITES    | Country specific verifiers:  
- Verify that the CITES permit obtained relates directly to the product.  
- Concession location, logging permits, Work Plans, transport documents and inspection results can give an indication of the presence of CITES species.  
Independent verification of wood samples can give assurance of CITES-free shipments.                                                          |
<p>|               | Generic                                                                                                                                                    |</p>
<table>
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<tr>
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<th>Recommended control measures</th>
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</thead>
<tbody>
<tr>
<td>-</td>
<td>- All cross-border trade of CITES-listed species shall be documented and accompanied by required export, import and re-export certificates issued by competent authorities (CITES Management Authorities).</td>
</tr>
</tbody>
</table>
| 1.21 Legislation requiring due diligence/due care procedures | Country specific verifiers:  
- Ensure the importer has a due diligence system which complies with the requirements of the regulation. |
### Stakeholder feedback on the assessment obtained during the consultation

**Controlled Wood Category 1**

<table>
<thead>
<tr>
<th>Indicator</th>
<th>Stakeholder</th>
<th>Feedback received</th>
<th>Did this comment result in an amendment to the draft CNRA</th>
<th>NEPCon comment and justification</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.4</td>
<td><strong>National Partner / Working Group</strong></td>
<td>Timber from palm oil establishment should not always be considered as illegal harvesting, if the license is legal and clear. Illegal harvesting means when the area, species and volume is not match with the license. In regards timber from palm oil plantation, it should be more appropriate with conversion of category 4.</td>
<td>Yes.</td>
<td>Additional text has been added to the justification to further clarify this issue.</td>
</tr>
<tr>
<td>1.5</td>
<td><strong>National Partner / Working Group</strong></td>
<td>Just to clarify on report of royalties’ payment that submitted every 5 months: Payment of all royalties done immediately after harvesting (log landing) and reported every 15 days to MoEF (not to Taxation DG) for HPH/HTI. And for Perhutani the payment reported after LHP is issued.</td>
<td>Yes</td>
<td>Additional text has been added to the justification to further clarify this issue.</td>
</tr>
<tr>
<td>1.6</td>
<td><strong>National Partner / Working Group</strong></td>
<td>Log export ban still valid, so description and conclusion in regards export tax is not relevant for forest context (but relevant for manufacturing). VAT is not legal requirement only for round log, but if there any processing become processed wood product, VAT will raise. Because there is any additional value of product with its process. Agree still specified, since tax cheating still common practises.</td>
<td>Yes</td>
<td>Additional text has been added to the justification to further clarify this issue.</td>
</tr>
<tr>
<td></td>
<td>National Partner / Working Group</td>
<td>Protected sites, in addition to national park and protected forest, there is also protected area in the concession area (HCV, Steep slope, cultural site). And timber from protected area in the concession more easily hidden by mixing legal timber other than the timber of np and protected area. Except for concession that located adjacent to NP or protected forest.</td>
<td>Yes</td>
<td>Additional text has been added to the justification to further clarify this issue.</td>
</tr>
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</tr>
<tr>
<td>1.16</td>
<td>National Partner / Working Group</td>
<td>Need clarify; why the example on description of risk more explain about processed timber instead of round log. Actually for round log transport document, there are any many possibilities to cheat in term of log ID, species, and dimension to avoid paying royalties. E.g. with group species classification (meranti, fancy, and MTH) make a bigger chance to exchange group species to get reduced or even avoid paying royalties.</td>
<td>Yes</td>
<td>Additional text has been added to the justification to further clarify this issue.</td>
</tr>
</tbody>
</table>
| 1.17 | National Partner / Working Group | SKAU =SKSHH  
What is SDoC Document? | Yes | Additional text added, acronyms spelled out. |
| 1.17 | National Partner / Working Group | There are new Minister Regulation for wood transport document from natural forest P 42/2015 ([http://silk.dephut.go.id/app/Upload/hukum/20151215/7fb0005d5855a8e583e0ee3590dbcb.pdf](http://silk.dephut.go.id/app/Upload/hukum/20151215/7fb0005d5855a8e583e0ee3590dbcb.pdf)) and plantation forest P43/2015 ([http://silk.dephut.go.id/app/Upload/hukum/20151215/f3367ebbe8f0b774087b6d34266e7a6c.pdf](http://silk.dephut.go.id/app/Upload/hukum/20151215/f3367ebbe8f0b774087b6d34266e7a6c.pdf)). | Yes | Additional text has been added to the justification to further clarify this issue. Reference to this new regulation has been added. |
| 1.20 | National Partner / Working Group | Common understanding: there is no timber species in Indonesia that included in CITES I, and only few timber species that included in CITES II and III. While in Indonesia (particular in natural forest), there are much more timber species that not included in CITES I, II, III. So, in general in term of CITES, the risk for forest in Indonesia is likey "low risk" instead of specified risk. Moreover for local people, Agarwood is not classified as timber product but part of NTFP. And many people already domesticated and cultivated it outside the forest area. | No | Based on the information we have available to us, we do consider the risk specified for this category. We don't believe the information provided by the NP to be sufficient to reduce this risk finding too low. |
Recommend that the risk conclusions be changed from specified risk to low risk.

| 1.21 | National Partner / Working Group | There is any amendment of P43 with P95/2014. P5?VI- BPPHH/14 is not valid and already changed with P14/VI- BPPHH/14 and addendum P1/15; that allow self-declaration, which is reduce the level of confidence of SVLK | Yes | Additional text has been added to the justification to further clarify this issue |