



# Collecting Evidence of FLEGT-VPA Impacts for Improved FLEGT Communication

## Desk Review-Indonesia

**Note:** A preliminary version of this desk review version has been sent mid-April 2019 to FAO/EFI technical committee. Content has been revised in June and July 2019 with the integration of comments received and suggested further readings. This desk review is a living document which can be regularly updated with new references and information.



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Cover photo:

Tatiana Goetghebuer (ADE), Legal wood in Indonesia

CIFOR

Jl. CIFOR, Situ Gede

Bogor Barat 16115

Indonesia

T +62 (251) 8622-622

F +62 (251) 8622-100

E [cifor@cgiar.org](mailto:cifor@cgiar.org)

**[cifor.org](http://cifor.org)**

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## Introduction

We structured the desk review around the four selected thematic areas: (1) sustainable forest management and forest conditions, (2) relation and development of the formal and informal forest sector, (3) jobs and employment, and (4) governance, law enforcement and compliance. The three first themes were pre-selected during discussions with FLEGT FAO-EFI, and the last theme was selected after having received the highest level of interest from sector experts during the online “Thematic Area Survey” (conducted through SurveyMonkey between February 17<sup>th</sup> and March 1<sup>st</sup>). This survey also informed the creation of sub-themes within each theme.

The online survey was an opportunity to receive further recommended reading **related to the VPA impacts in Indonesia**, which along with those received from FLEGT FAO-EFI and found through research were read and then analysed using **NVivo** software<sup>1</sup>. This software enables to extract the most relevant information (related to VPA impact within the 4 themes and sub-themes) from each document so as to group it per theme / sub-theme. We then use this extracted information to write the main findings for this desk report.

**This desk review was used to** understand the local context and situation within the four thematic areas at the time of VPA signature/ratification and today (when available). It was also used to design a questionnaire to be implemented within a group of forest sector experts in Indonesia having institutional knowledge of the VPA process and impacts.

**Bibliography** is provided at the end of this document.

Indonesia’s VPA was signed on September 30<sup>th</sup>, 2013 and ratified in April 2014. The country started issuing FLEGT licensing on November 15<sup>th</sup>, 2016 and more than 39,000 licenses were issued by 2017.

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<sup>1</sup> A detailed explanation of the methodology is described in the methodological note.

## **THEME 1: (Sustainable) forest management and forest conditions**

### **1.1 Traceability**

This section is based essentially on Susilawati *et al.*'s academic paper (2019) and Evaluation of the EU FLEGT Action Plan (TEREA, 2016). As most of the documents refer to the **SVLK** (*Sistem Verifikasi Legalitas Kayu*) as a whole, a corner stone of the Indonesian traceability system. Though there was little information directly focusing on the traceability system itself.

#### **1.1.1 Implementation of the traceability system**

Indonesia started to develop SVLK, the national legality assurance system, **in 2003 before the beginning of VPA negotiations in 2007 and independently of the FLEGT Action Plan** (TEREA, 2016). It is **implemented since September 2010** (Fern, May 2012) and is Indonesia's TLAS. After the **VPA was signed in 2013**, a revised SVLK was progressively implemented. The system applies to all wood production in Indonesia, from large-scale forest concessionaires and timber processing industries to smallholders and small-scale timber enterprises. It is a mandatory hybrid system managing both regulation and certification, and under which timber is considered legal only when all stages in the value chain (harvesting, processing, transport, and trade) are verified as complying with all applicable laws and regulations (Susilawati *et al.*, 2019).

**Opinions diverge on SVLK's robustness.** On the one hand, some stakeholders regard SVLK as robust but are concerned that the system is not being well implemented and that the work of the independent monitor is handicapped both by lack of transparency and personal security (TEREA, 2016). On the other hand, Maryudi (2016) questions the robustness of the SVLK standards, particularly regarding local communities and their rights.

#### **1.1.2 Enabling implementation factors**

The **strong sense of national ownership**, the **good coordination between ministries** (TEREA, 2016) and the **gradual implementation** of the SVLK in order to give small producers more time to comply (Susilawati *et al.*, 2019) can be considered as success factors for the implementation of SVLK.

#### **1.1.3 Inhibiting implementation factors**

In 2014, the European Parliament raised concerns regarding deficiencies within the VPA. They claimed that **SVLK was leading to "timber operations being certified as legal while land-use rights claims by indigenous peoples and local communities have not been settled and/or proper compensation has not been paid"** (Fern, June 2014).

There are also **weaknesses in the SVLK architecture in relation to smallholder value chains, variation in compliance practices and points of illegalization** within the timber value chain (Susilawati *et al.*, 2019). The **Supplier's Declaration of Conformity (SDoC or Deklarasi Kesesuaian Pemasok – DKP)**, which has been introduced in 2014 as an alternative to SVLK for small-scale producers<sup>2</sup>, is being abused by some market brokers and SVLK-verified large-scale timber industries (Susilawati *et al.*, 2019). Some brokers falsified a required transport document (Nota Angkutan) by mixing the logs from both SVLK-verified and unverified farmers and then provide a single Nota Angkutan, even though the logs originated from many growers. Some industries falsified the transport document if the sawmills that were not SVLK-certified paid an additional fee. As a result, the system of **self-declarations cannot be viewed as a « credible proof of legality »** and it suggests the EU was correct in not accepting self-declaration as FLEGT compliant.

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<sup>2</sup> See more information related to DKP in 1.3 Certification and permits.

Moreover, as mentioned earlier, the work of the independent monitor is handicapped both by **lack of transparency and personal security** (also see section 4.2.2).

#### **1.1.4 Environmental impacts**

No information.

#### **1.1.5 Economic impacts**

No information.

### **1.2. Forest conversion and deforestation**

This section is essentially based on the Evaluation of the EU FLEGT Action Plan (TEREA, 2016), Fern VPA Updates (June 2014; Dec. 2018) and various relatively recent academic papers (Maryudi *et al.*, 2015; Nurrochmat *et al.*, 2016; Wibowo *et al.*, 2018; Setyowati and McDermott, 2017).

#### **1.2.1 Deforestation**

**By the end of the last century Indonesia was characterized by rampant (legal and illegal) deforestation and illegal logging**, causing significant environmental damage. Much of the country's forests have been either cleared or very heavily over-exploited during recent decades (TEREA, 2016). In 2011, more than 40 million ha of state forests had been deforested and a large part of them were not properly managed (Nurrochmat *et al.*, 2016).

**With support of the FLEGT AP, efforts to map forest** in Indonesia by remote sensing are taking place. (TEREA, 2016). However, it seems that **little progress has been made to curb deforestation**, which can be explained by economic growth (TEREA, 2016) but also by the limited potential of the Indonesian VPA to address palm oil production, which is one of the main drivers of deforestation in the country. The increased forest management costs due to VPA could even increase incentives for forest conversion to palm oil (Lesniewska & McDermott, 2014). The same concerns were raised a few years ago by the European Parliament and a coalition of Indonesian NGOs arguing that the SVLK had been weakened and might encourage deforestation (Fern, June 2014). This situation is however not surprising as reducing forest loss is not a stated goal of the VPA. Nevertheless, regard **deforestation is regarded as an important indicator for VPA's stated sustainability goal** According to them, improved legislation will support sustainable land use, there are four indicators of sustainability: forest loss reduction, CSO participation, benefit sharing and legal reforms.

**Contrary to this trend however, forest area in Java is increasing as result of the central government's "regreening" programs in 1970s-80s, but more importantly thanks to smallholder tree planting (*ibid.*)**. The importance of this practice is increasingly acknowledged in Java and is often regarded as Indonesia's success stories of reforestation activities. Smallholder tree planting transforms degraded land into green areas that eventually provide ecological services, reduce pressures on natural forests, support livelihoods and even supply timber for processing industries. Smallholder tree growing tends to focus on multiple use management and is even said to be particularly associated with ecological considerations (Maryudi *et al.*, 2015; Nurrochmat *et al.*, 2016).

Finally, it has been emphasized that the impact assessment of the FLEGT AP on deforestation depends on the definition of forest (i.e. the purpose of the assessment). Indeed, Indonesia seems to consider forest and tree plantations as equivalent, despite being very different in terms of ecology and local livelihoods. **Statistics of forest cover give no indication of the nature of forests** (biodiversity, potential to emit or sequester greenhouse gases, management, or contribution to local livelihoods) and can thus be very misleading (TEREA, 2016).

### 1.2.2 Conversion

The conversion of forest into **palm oil plantations** is considered the bigger driver of deforestation and illegal logging in Indonesia (TEREA, 2016). Many farmers, even those who had obtained VLK certification, have converted their privately-owned forests to oil plantation (Setyowati and McDermott, 2017). **Forest clearance for mining** is also mentioned as a deforestation factor (TEREA, 2016). While it is forbidden under FSC certification, the **conversion of high conservation-value forests is allowed** under certain circumstances under SVLK/PHPL (Wibowo *et al.*, 2018). As a result, timber is being logged in national parks and there is systematic and extensive encroachment of agriculture on protected areas (Fern, Dec. 2018).

### 1.2.3 Environmental impacts

The degradation of forest areas in Indonesia leads to **erosion, leaching, oxidation and diminished soil fertility** (Maryudi *et al.*, 2015). National parks' **biodiversity and endangered species** such as Ramin and the Orang Utan **are threatened** by deforestation (Maryudi, 2016). Forest clearance also threatens peat lands, which are essential to maintain the region's hydrological cycle and act as a carbon sink (TEREA, 2016).

### 1.2.4 Economic impacts

In Indonesia, forests revenues can be divided into tax and non-tax revenues. Based on 2011 data, it is estimated that forest tax revenues accounted at the time for about USD 1.5 billion (including revenues from agriculture) and non-tax revenues contributed to about USD 362 million (Mumbunan & Wahyudi, 2016).

Deforestation and illegal logging have caused significant **losses in tax revenues**. In 2003, the Ministry of Forestry estimated financial loss due to illegal logging of three billion USD (TEREA, 2016). We could thus also expect deforestation to have an economic **impact on the non-tax revenues** mentioned by Mumbunan & Wahyudi (2016) such as reforestation fund fee, forest resource rent provision, forest utilization business permit fee and stumpage value compensation, forest area use, levy for entry to natural tourism spot, fee for transporting wild animals/plants, penalty fee for violations in forest exploitation.

Moreover, although plantations and other industries generate paid employment, **forest-dependent people displaced by those industries tend to not gain employment**. It has also been argued that problems of dependency might arise (including smallholder depending on palm oil mills) (TEREA, 2016).

Meanwhile, the increasing demand of timber encouraged tree plantation on farmland, increasing off-farm income for farmers (Maryudi *et al.*, 2015). **Trees are usually used by smallholder tree growers as savings or safety net**, while daily livelihoods come from the agricultural crops and other earnings from off-farm jobs.

## 1.3 Certification and permits

This section is based on many recent academic papers (Erbaugh *et al.*, 2017; Maryudi, 2016; Susilawati *et al.*, 2019; Wibowo *et al.*, 2018...) as well as the Evaluation of the EU FLEGT Action Plan (TEREA, 2016).

### 1.3.1 Types of certification (voluntary or compulsory) and criteria to get certification

#### *Mandatory timber legality certification*

The **SVLK (Sistem Verifikasi Legalitas Kayu)** is a mandatory certification scheme that is overseen by the Ministry of Environment and Forestry (MoEF) (Erbaugh *et al.*, 2017). It has been developed in 2002 (Lubis *et al.* 2018) and enforcement started in 2009. Indonesia's TLAS (SVLK) has been designed, developed and regularly strengthened through a multi-stakeholder process since 2009 (EFI, 2018). It is

imposed to all types of forest management<sup>3</sup> and industries in the country (Maryudi, 2016; EFI, 2018). The **price for certification** can range from IDR 30-114 million (USD \$3000–\$11 000), depending on the type of business being certified, its size, and location (Erbaugh *et al.* 2017). **Today, most large forest and plantation areas are SVLK-certified, whereas a large share of small enterprises and small-scale producers are not and rather opt for DKP.** In 2015, it was estimated that approximately 2,000 SMEs were certified (TEREA, 2016). In 2016, **Indonesia became the first VPA country to issue a FLEGT license** (Maryudi and Myers, 2018). And by 2017, more than 39,000 licenses were issued (Sucofindo, 2018).

There are **two main types of certificates under SVLK.** The **Timber Legality Verification** (Verifikasi Legalitas Kayu – **VLK**) certificate is mandatory for all operators dealing with timber in natural forest and plantation forest. For all forest concessions on state-owned land (plantations or natural forests), **Sustainable Forest Management** (Pengelolaan Hutan Produksi Lestari – **PHPL**) certification is mandatory and requires to comply with some additional sustainability criteria (TEREA, 2016).

The MoEF has full authority for creating and developing rules but the rules are enforced by outside parties (Maryudi, 2016). The independent verification of compliance against these governmental standards is provided by the **Conformity Assessment Bodies (CABs)** accredited by the **National Accreditation Body (KAN)** (Susilawati *et al.*, 2019). Once accredited by KAN, CABs are endorsed by the MoEF and serve as the Licensing Authorities to issue the **FLEGT license** for export to the EU or a **V-Legal document**<sup>4</sup> for all other export destinations (Susilawati *et al.*, 2019; Sucofindo, 2018).

**There are two general exceptions within SVLK for small producers operating on the domestic market.** The **Supplier's Declaration of Conformity (SDoC or Deklarasi Kesesuaian Pemasok – DKP)** was introduced in 2014 as an alternative to SVLK for small-scale producers (Susilawati *et al.*, 2019). This procedure is only open for operators dealing exclusively with low-risk timber from privately owned land or forest, and/or SVLK-certified plantation timber from state-owned company in order to enter SVLK supply chains.<sup>5</sup> The **group verification** of SVLK compliance requires assessment of the compliance of all members of the group. This system aims to allow group members to share the verification costs, and receive financial assistance with the application costs from MoEF, Provincial Forestry Services and/or NGOs (Susilawati *et al.*, 2019).

#### ***Voluntary forest certification (private scheme)***

There are three voluntary private forest-certification schemes in Indonesia: Forest Stewardship Council (**FSC**), the Programme for the Endorsement of Forest Certification (**PEFC**) and Lembaga Ekolabel Indonesia (**LEI**). **Operators that hold voluntary certification are subject to the same SVLK requirements as non-certified operators.**<sup>6</sup>

- **FSC:** The first initiative under the FSC scheme was conducted in 1998. It successfully certified ten Forest Management Units (FMUs) in the next two years. However, all certificates were suspended and withdrawn in 2003 due to unsatisfactory management and non-compliance. FSC-certification started again in 2008, and in 2015 more than 1,300 FMUs were certified. The number of FSC Chain of Custody (CoC) certificates in Indonesia grew to 211 by July 2015 (FSC, 2015; in Wibowo *et al.*, 2018). However, the interest in **FSC certification declined in 2015 due to the expected imminent start of FLEGT licensing and the fact that prices for FSC-certified products were similar to those of SVLK-certified products** (TEREA, 2016).

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<sup>3</sup> Natural forests, planted forests, community forests and indigenous forests (Wibowo *et al.*, 2018)

<sup>4</sup> This V-legal document is a requirement on exporting companies since January 2013 (Fern, May 2013)

<sup>5</sup> <http://www.euflegt.efi.int/q-and-a-indonesia>

<sup>6</sup> <http://www.euflegt.efi.int/q-and-a-indonesia>

- **PEFC:** Currently, 727.078 ha area are forest certified by PEFC/ IFCC, and only 22 CoC certificates were awarded by PEFC in Indonesia (PEFC, 2015, in Wibowo *et al.*, 2018).
- **LEI:** The first certification process using the LEI standard was conducted in 1998. By 2013, almost 2 million ha of forest areas and 6 CoCs were certified (Wibowo *et al.*, 2018).

Forest certification schemes like FSC and PEFC clearly follow international standards and criteria, which result in broader market acceptance worldwide, whereas this is lacking on timber-legality verification system which follows local rules and guidance hence gains fewer market acceptance. Wibowo *et al.*'s paper (2018) shows that **the ideal scheme for improving forest governance and enhancing business practice is not automatically chosen by firms**. Indeed, while FSC is considered the best scheme for sustainability by the authors' respondents using the Forest Certification Assessment Guide, 48-57% of respondents from **logging companies and the wood-processing industry prefer to be certified under the SVLK** (due namely to the mandatory nature of the SVLK, government subsidy, and market acceptance).

### 1.3.2 Verification criteria fulfilment after obtaining certificates

A company has to be re-audited every one or two years depending on its size (at approximately IDR 30 – 40 M per company) (TEREA, 2016).

According to Maryudi *et al.* (2017), seventy-eight concessions were audited until December 2015 and most of them were eventually granted a PHPL certificate. The standards to obtain that certificate are divided into four main aspects: main preconditions; production; social and ecological aspects, which are further detailed as indicators and verifiers. Whether a concessionaire is granted the PHPL certificate or not depends on the aggregate scores from all indicators. The authors found that grades across indicators varied over time, either improving or worsening and that **grades related to social and ecology forest practices declined over time despite the fact that the concessions were able to keep their certification**. In other words, even though some aspects worsen over time, this may not affect the granting of PHPL certificates, so long as they are balanced with improvements in other aspects. They thereby argue that **impact analysis of certification initiatives should go beyond the simple measure of its uptake**, i.e. certified areas and numbers of chain-of-custody certificates.

### 1.3.3 Enabling implementation factors

SVLK is considered a **"hybrid" forest governance mechanism with smart regulation and collaborative environmental governance** by using multiple rather than single policy instruments and by involving a broad range of regulatory actors (Susilawati *et al.* 2019).

Over the past few years, the MoF with the Ministry of Industry and the Ministry of Trade worked together to **simplify the requirements of the SVLK**, especially for small and medium companies via the two abovementioned exceptions to SVLK implementation: the **self-declaration** and the **group verification**. Self-reporting is considered more favourable for small-scale actors than complying with a set of complex regulations and thanks to the group verification system, group members can share the verification cost and receive **financial support** with the application costs from MoEF, Provincial Forestry Services and/or NGOs (Susilawati *et al.*, 2019). **Support and training** was also provided to SMEs by the EU as well as by the Indonesian government and the UK's Multi-stakeholder Forest Programme (TEREA, 2016).<sup>7</sup> Finally, **the deadlines for obtaining legality certificates were also extended** to the end of 2017 in order to give SMEs more time to integrate the system (Setyowati and McDermott, 2017; Erbaugh *et al.*, 2017). These mechanisms are expected to make the SVLK more accessible and cost-effective to those who require this certification (Wibowo *et al.*, 2018).

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<sup>7</sup> E.g. Affiliation with an agro-forestry program, when providing seedling resources, is said to have increased the extent to which smallholders engaged with official governance (Erbaugh *et al.*, 2017).

SVLK drew on **multi-stakeholder processes** to establish a set of legality standards (Setyowati and McDermott, 2017) and civil societies are encouraged to play an important role in overseeing the credibility, legitimacy and transparency of the system through **independent monitoring (IM) processes**, which are regulated and formally integrated within SVLK system (Maryudi, 2016).

**Third-party verification of legality** was supported by the EU and other stakeholders based on the argument that it would reduce the risk of corruption in the auditing process and enhance the credibility of Indonesia's forest industry internationally (Setyowati and McDermott, 2017).

**Economic motives**, which include fulfilling demands from business partner, marketing aspects, and improving product image and credibility, are considered **stronger motives for joining forest-certification and legality-verification processes than preserving the environment** (Wibowo *et al.*, 2018).

#### **1.3.4 Inhibiting implementation factors**

**SMEs' compliance to SVLK is considered a major challenge** in many academic papers as far fewer SMEs are SVLK certified, especially those only operating in the domestic market. Two major causes of SMEs non-compliance include **complex administrative requirements** and **certification and verification costs** (TEREA 2016; Erbaugh *et al.*, 2017; Maryudi and Myers, 2018; Setyowati and McDermott, 2017, etc.). Other challenges to SVLK implementation include lack of incentives, and conflicting regulation from the Ministries of Trade and MoEF (Erbaugh *et al.*, 2017).

These issues have led to illegal practices such as **issuance of false permits and lax or corrupted enforcement or oversight** (Maryudi and Myers, 2018; Setyowati and McDermott, 2017; Susilawati *et al.*, 2019). Examples include the falsification by market brokers of the Nota Angkutan or DKP; industries mixing legal timber with illegal timber (Susilawati *et al.*, 2019); or SMEs borrowing V-Legal and/or FLEGT license legality certificates from larger firms in order to avoid costs and complicated procedures and to be able to export their products (Maryudi and Myers, 2018).

There are also **land tenure issues** such as the widespread overlapping tenure claims over forest areas (Setyowati and McDermott, 2017) and the fact that many smallholder forest owners do not hold formal land title (Maryudi *et al.*, 2015), hence hindering their ability to obtain timber legality certification (Setyowati and McDermott, 2017).

**The self-verification system is subject to controversy.** According to the EU, self-verification for V-legal documents as proof of legality was not viewed as credible proof of legality and hence might appear to allow the leakage of illegal timber into the EU (Setyowati and McDermott, 2017). Moreover, third-party verification and V-legal documents are not economically feasible for smallholders, even if they are allowed to certify as a group (Setyowati and McDermott, 2017; Maryudi *et al.*, 2015; Erbaugh *et al.*, 2017). Group verification also suffers from several issues such as the fact that in 2017, it was argued that if one member was found non-compliant, the entire group could lose certification (Erbaugh *et al.*, 2017) or the fact that many farmers do not approve of a group management system because they grow and harvest trees as a financial safety net, selling timber when they need cash (Nurrochmat *et al.*, 2016). More recently, it seems nevertheless the former issue has been solved as it is explained that there is now scope in the SVLK regulations for any non-compliant members to be excluded from the group in order to allow the rest of the group to obtain timber legality certification (Susilawati *et al.*, 2019).

**Because of its greater costs, the SVLK has low legitimation and its sustainability is questioned.** Indeed, subsidies from international donors and government are required to make SVLK feasible for timber products bought and sold in local markets (*ibid.*). Finally, proliferation of certification schemes could create confusion on the market and cause consumer apathy for certified products and this distracts preferences of environmentally concerned consumers from wood products (Wibowo *et al.*, 2018).

### 1.3.5 Environmental impacts

As the main goals of the VPA are to ensure legal timber supply and improvement in governance, the VPA is also expected to have positive environmental impacts such as **better catchment capacity, carbon storage, the prevention of soil erosion** (Maryudi *et al.*, 2015) and **improved sustainability** of Indonesia's forests (Lubis *et al.*, 2018). Indeed, the regulatory frameworks, particularly SVLK and certification, provide opportunities for smallholders to increase their understanding of the requirements for managing their forests sustainably. For example, improving their knowledge of improved silvicultural practices as well as estimating the volume of harvested wood and associated prices (Maryudi *et al.*, 2015).

However, according to Wibowo *et al.* (2018) success in timber-legality verification in Indonesia could result in forest certification, especially for firms that want to reach a broader market or improve their brand image, but **this may not increase the quality of forest management**. Indeed, as explained above, the ideal scheme for improving forest governance is not automatically the one chosen by firms.

### 1.3.6 Economic impacts

**The implementation of FLEGT has increased the Indonesian timber products competitiveness for the EU** and other regulated markets by improving their image as environmentally friendly industry products. Indeed, according to IMM (2018a), wood and paper EU imports from Indonesia increased since FLEGT licencing. **However, after 13 months of FLEGT implementation, there has been no increase in Indonesian wooden furniture imports in EU market**. The Indonesian wooden furniture imports gradually decreased for the first three quarter of 2017 and stayed stable at the lower end during the last quarter of 2017 (Lubis *et al.*, 2018) -See section 2.1.4 Exportation opportunities for further information-.

In TERA (2016), it is argued that there were no expectations of a price bonus for SVLK or FLEGT licensed timber, whereas in Lubis *et al.* (2018) and Maryudi *et al.* (2015), it is explained that one of the expectations related to VPA is that certification could increase the selling price. It is thus not clear whether it was or not a "real" expectation among stakeholders. It is argued anyway that the implementation of **SVLK has little influence on the selling price of timber within the local market and is thus not profitable in community forests**<sup>8</sup>. The premium price for other certified timber in the local market is also (almost) non-existent (Nurrochmat *et al.*, 2016; Maryudi *et al.* 2015).

## 1.4 Social conflicts and forest communities' livelihood

This section is based essentially on Fern's VPA Updates and various recent academic papers (Maryudi, 2016; Wibowo *et al.*, 2018; Erbaugh *et al.*, 2017; Setyowati and McDermott, 2017; Nurrochmat *et al.*, 2016).

### 1.4.1 Livelihood conditions of forest communities

**There is debate on the extent to which the legality assurance system incorporated in Indonesia's VPA strengthens or ignores community land rights** (Fern, Nov. 2016; Maryudi, 2016). According to Fern (November 2016), respect and recognition of customary rights in Indonesia remain weak and undermined by corruption and weak governance.

In 2011, the SVLK standard was revised in order to allow group certification and support the small enterprises and community forestry, namely through the **free prior and informed consent (FPIC)** principle (Wibowo *et al.*, 2018; Fern, Nov. 2012). The FPIC requirements apply only to those operators

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<sup>8</sup> In local markets, the price of timber is determined only by volume and quality. Most traders do not want to pay more for timber of same quality, regardless of company image (Nurrochmat *et al.*, 2016).

that undergo PHPL<sup>9</sup> certification, whereas VLK legality certification does not include criteria or verifiers that provide protection against licenses issued on indigenous lands or lands with overlapping claims (Setyowati and McDermott, 2017).

**Despite this revision, the European Parliament and Indonesian NGOs claimed in 2013 that SVLK was leading to human rights abuses.** Timber operations were being certified as legal even when land-use rights claims by indigenous peoples and local communities had not been settled and/or proper compensation had not been paid. The Parliament therefore called on the European Commission to ensure FPIC of indigenous peoples and local communities is obtained before operations in all cases, and fair compensation is paid, where appropriate, for loss of access to forest lands critical to their livelihoods, as a non-negotiable condition of any FLEGT license and to ensure that the SVLK is revised to reflect Indonesia constitutional court ruling on customary ownership of forest land (Fern, June 2014).

#### **1.4.2 Social conflicts due to land use rights allocation**

According to the European Council, FLEGT aims to “strengthen land tenure and access rights especially for marginalized, rural communities and indigenous peoples ... strengthen effective participation of all stakeholders, notably of non-state actors and indigenous peoples, in policymaking and implementation ... increase transparency ... [and] reduce corruption.” (Nurrochmat *et al.*, 2016). **A number of donors, including from the EU, implicitly under the FLEGT AP, are thus contributing to efforts to map and gazette indigenous people’s land across Indonesia** (TEREA, 2016).

However, **forest tenure clarification** still needs to be addressed, especially considering widespread **overlapping tenure claims** over forest areas. Many communities still struggle to have their **rights over customary forests** recognized by the state and **many smallholder forest owners do not hold formal land title**, thereby hindering their ability to obtain timber legality certification. SVLK needs to include measures to ensure forest tenure clarification and mitigate forest-based conflicts (Setyowati and McDermott, 2017).

#### **1.4.3 Balanced distribution of benefits for forest communities**

No information.

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<sup>9</sup> Sustainable forest management.

## **THEME 2: Relation and development of the formal and informal forest sector**

### **2.1 Impact on small producers**

Smallholder tree growers and small-scale forest industries are important in some parts of Indonesia, particularly the island of Java (Susilawati *et al.*, 2019). The Ministry of Environment and Forestry and the Forestry Industry Revitalization Agency (BRIK) estimate that there are 4,000 small-scale timber enterprises in Indonesia. However, the actual figure is likely to be much higher because **many of them are unregistered** (Obidzinski *et al.*, 2014 in Setyowati and McDermott, 2017). In this section we focus on the small producers as they **play an important role in the forest sector and face multiple challenges related to regulatory mechanisms and the VPA process because of their numbers, the diversity and modes of their activities, and limited regulatory resources** (Susilawati *et al.*, 2019).

In this section we mostly rely on recent academic papers, EFI reports, and on the Evaluation of the EU FLEGT Action Plan published by TEREА (2016).

#### **2.1.1 Proportion of formal and informal small producers**

**SVLK requires all timber producers across Indonesia to be certified.** It applies to the domestic market and export markets and is mandatory for small and large enterprises alike. This means that all timber suppliers must register and undergo audits to prove that their timber is sourced legally.

According to TEREА (2016), while an important part of the forest resources has been depleted, **illegal logging has significantly declined since 2003**. It has been estimated that ten years ago more than 80% of the timber was illegal compared to 30% in 2015 (TEREA, 2016). According to TEREА (2016), all large industrial timber plantations were SVLK-certified in 2014. However, far fewer small companies are SVLK-certified, especially those which only operate on the domestic market (TEREA, 2016). Indeed, **most of small timber companies are still unregistered** (Maryudi and Myers, 2018; Susilawati *et al.*, 2019). For instance, in the region of Yogyakarta, unregistered manufacturers (who may operate under the DKP) make up approximately 75% of the total furniture enterprises (Obidzinski *et al.*, 2014 in Maryudi and Myers, 2018).

#### **2.1.2 Enabling and inhibiting factors to formalization**

According to Nurrochmat *et al.* (2016), smallholders who accept SVLK usually argue that, “as good citizens, they have to obey government rules”. Moreover, they explain that participation in SVLK provides benefits such as **increased income, knowledge improvement and network strengthening**. It provides opportunities for smallholders to increase their understanding of the requirements for managing their forests sustainably (Nurrochmat *et al.*, 2016). Yet, **the low number of legally verified small forest operators highlights the enormous challenges faced by Indonesian small producers** (EFI, 2018). Moreover, formalization might have negative impacts on small forest operators and artisanal timber manufacturers who largely depend on the forest for their livelihood. Some SMEs see the SVLK as threatening for their business.

In developing countries, local and traditional systems of land resource governance often coexist informally along with state-based legal frameworks. In theory, formalization can strengthen the rights of less powerful actors by integrating informal rights into formal law. However, **in practice, such actors may lack the needed social and economic capital** to claim their rights (Setyowati and McDermott, 2017). Laws governing timber harvest are particularly complex in many developing countries, and small-scale and community-based operators often lack the capacity and influence needed to obtain required permits. Moreover, the focus of legality verification at state level risks to threaten existing local rules

governing resource use (Setyowati and McDermott, 2017). According to Maryudi and Myers (2018), **several operators resigned and accepted that legality verification surpassed their capacities and decided to focus on the domestic market or even closed down their business.**

**The main challenge faced by smallholders are the disproportionate costs of SVLK verification.** In order to meet legality verification requirements, some small manufacturers interviewed by Maryudi and Myers (2018) rely on expensive ‘legality consultants’ (USD 7,000 – USD 11,000), who offer their services to ensure their clients comply with legality requirements. Even when the legality certificate is obtained, it must be maintained through monitoring, which adds costs every two years (Maryudi and Myers, 2018). Moreover, according to Maryudi and Myers (2018), small manufacturers can avoid paying taxes by keeping their business unregistered, since exposure to taxation is perceived as a significant threat to profit margins. Furthermore, the premium price offered for the SVLK certified timber is not tempting enough for small producers, who do **not see any significant benefits in complying with SVLK, especially those operating on the domestic market** (Nurrochmat *et al.*, 2016; Maryudi and Myers 2018; Susilawati *et al.*, 2019). **Costs of SVLK compliance seem to outweigh its benefits.** Some financial support for SVLK-certification is offered to SMEs from both government and larger companies which procure from SMEs (TEREA, 2016). Yet, according to Susilawati *et al.* (2019), **current levels of financial assistance are insufficient** to support small producers who wish to become and remain SVLK-verified.

**Smallholder tree plantation on private land has been practiced by rural farmers** in order to optimize the expected utility of land and labour, and was seen as a way to reduce pressure on natural forest. The increasing demand in the timber sector has incentivized commercialization of smallholder forestry. Although smallholders only harvest a limited number of trees, the aggregate sum of timber traded is very important (Maryudi *et al.*, 2015). **Farmers usually regard their trees as savings or safety net**, and sell their trees for an emergency or a necessary expense (Maryudi *et al.*, 2015). Smallholders only reap a small fraction of benefits from tree plantations, and the complex regulatory frameworks reduces even more their benefits and disincentivizes them to plant trees. **The costs of the legality requirements are too high to be borne individually as farmers usually sell a limited number of trees.** Furthermore, by using SVLK, certified farmers will collaborate directly with the industry, whereas previously timber traders served as intermediaries between farmers and industry. This **shortened supply chain** makes certain local businesses that facilitated the distribution of timber from farmers to industries unnecessary. Farmers are also reluctant to trade with industries as it requires more time for payment, while intermediate traders usually give them cash immediately (Nurrochmat *et al.*, 2016). Moreover, SVLK requires group approval of a forest management system. Yet, as timber harvesting is often used as a financial safety net by farmers, **the number of trees that a farmer will sell often depends on the amount of money he needs, and not on management decisions** made by the forest farmer group (*ibid.*).

**Small producers are used to conducting informal harvesting and trading** and are not accustomed to recording the details of wood harvesting and trading (Susilawati *et al.*, 2019). For many SMEs, the design and craft are more important than the source of timber (TEREA, 2016). Moreover, the requirements are often too complicated, and small producers lack knowledge of the requirements for SVLK compliance, or awareness of how to achieve compliance. It has been shown that farmers who receive technical assistance from government, universities and NGOs are more likely to adopt SVLK than are non-participants (Susilawati *et al.*, 2019).

**In recognition to these challenges, the Indonesian government introduced the group verification and self-declaration systems.** As explained in section 1.3., group verification of SVLK compliance enables group members to share the verification cost and to receive financial assistance. Group verification requires assessment of the compliance of all members of the group and a non-compliant member can be excluded from the group to allow the other member to obtain legality certification (Susilawati *et al.*,

2019). **However, if a member is found to be non-compliant, the group might lack financial resource to finance SVLK and might lose certification** (Erbaugh et al., 2017). Moreover, according to Maryudi *et al.* (2015), while groups of private forest owners and SMEs get a free first period of certification and initial audit, the required time and money to comply may remain too costly for smallholders.

If an SME does not export, it can **demonstrate legality for wood harvested from their private forest by a Supplier's Declaration of Conformity (SDoC or DKP)**, instead of being verified under SVLK (Susilawati *et al.*, 2019). The DKP mechanism is more flexible, less complicated and much less costly compared to the SVLK. Yet, according to Susilawati *et al.* (2019), the **DKP mechanism is being abused** by some market brokers and SVLK-verified large-scale timber industries. Even if SVLK standards for private smallholder tree growing have been made simpler, smallholders remain ill-prepared to comply with SVLK requirements since **land in rural areas is rarely registered and as a result most smallholders do not hold land certificates** (Maryudi et al., 2015).

**Law enforcement seems not to be strict enough** to make small producers comply with the requirements. Some producers even consider that SVLK is not mandatory on the local market (TEREA, 2016). Because the area of SVLK-verified private forests and number of SVLK-verified sawmills are so small, there is **little social or sector pressure for farmers or sawmills to comply with SVLK**. Furthermore, as these small producers lack of awareness of SVLK requirements, it also means that they **lack information about the risks associated with non-compliance** (Susilawati et al., 2019). According to Erbaugh *et al.* (2017), overall procedural compliance remains the domain of locally elected officials or forestry employees which risk permitting lax or corrupted legality verification.

According to Maryudi and Myers (2018), in response to the multiple burdens presented by legality requirements, the **practice of renting V-Legal and/or FLEGT-License legality certificates has arisen**. A company representative explained that it is “much simpler relying on larger companies as they will deal with the required processes” (Maryudi and Myers, 2018). Limited access to financing encourages SMEs to borrow the legality certificate for the exports of their products. Although the practice implies potential risks, such as fines, large companies seem to find the risk worthwhile, as it produces financial gain but also a new form of control over the market (see section 2.1.5.).

### 2.1.3 Business environment

According to the farmers interviewed by Nurrochmat *et al.* (2016), **participating in SVLK strengthen their networks and improves knowledge**. One informant claimed that applying for group SVLK certification motivated him and other farmers to **establish a forest farmers association and develop a long-term forest management plan** (Setyowati and McDermott, 2017). He also suggested that SVLK gave him **better access to markets by securing agreements** with furniture companies seeking VLK certified wood. However, according to Setyowati and McDermott (2017), this positive experience for smallholders related to the SVLK seems to be **an exception**.

### 2.1.4 Export opportunities

The VPA **increases the Indonesian legitimacy on the international timber market** (Erbaugh *et al.*, 2017), **and the competitiveness of Indonesian furniture in facilitating entry into the EU market** (Lubis *et al.*, 2018).

These statements are consistent with respondents' perceptions in the IMM 2017 European trade survey. 126 timber sector operators and traders were asked about their own experience with VPA implementing partner country competitiveness. Indonesia was ranked the most competitive by far

among the FLEGT licensing or VPA-implementing countries<sup>10</sup>. Moreover, 47 timber industry players exporting a wide range of products from Indonesia to the European Union and world-wide were interviewed as part of an Indonesian trade survey. 85% fully (55%) or partially (30%) agreed that exporting wood has become easier as a result of FLEGT licensing. And 76% of respondents fully (24%) or partially (52%) agreed that their exports to the EU had increased since the beginning of FLEGT licensing (IMM, 2018b).

For decades Indonesia has suffered from a rather negative reputation of corruption and mismanagement of forest resources but the mandatory implementation of the SVLK gives confidence to the EU (and other countries) that all timber products from Indonesia are legal. **The VPA seemed necessary to restore the credibility of Indonesia's forest industry to the rest of the world** (Setyowati and McDermott, 2017). Moreover, despite other supply side factors also playing a role, it is argued that **the EUTR may now be favouring Indonesia in the EU market**. The better implementation of the EUTR has restricted opportunities for tropical exporters to enter the EU market and Indonesia is the only country exporting products with FLEGT licenses, which are not subject to EUTR risk mitigation measures. The EU's total imports of tropical wood products from Indonesia increased to 7% in the first 6 months of 2018, and Indonesia's share of total EU tropical imports increased from 15.7% to 16.6% in the same period (ITTO, 2018).

It is however argued that **the position of Indonesia in global timber trade has dropped significantly between 2000 and 2015** (Maryudi and Myers, 2018). Most timber products exports are destined to Asia (85%), particularly China, which is becoming more interested in Indonesian timber thanks to the VPA, probably in order to provide market (especially the EU) additional assurance that the wood used in China is coming from legal sources (TEREA, 2016; EFI, 2018).

**The VPA seems to hinder smallholders' engagement in the global market.** As mentioned earlier, small operators and artisanal producers that still aspire to global markets face disproportionate challenges to engage in legality. Moreover, they report to experience fierce competition in the global markets from cheaper products in other exporting countries, which do not impose a similar legality policy (Maryudi and Myers 2018). Up to end 2015, SMEs could issue an export declaration without a V-Legal document. However, this was not accepted by the EU as an alternative to the V-Legal document **and this option was thus withdrawn for export products before that the EU granted the FLEGT license in 2016** (Susilawati *et al.*, 2019).

### 2.1.5 Market competition

According to Setyowati and McDermott (2017), **legality verification levels the playing field by removing market competition from illegal wood.**

**However**, Maryudi and Myers (2018) claim that **"legality verification perpetuates the hegemony of large manufacturers and exporters by utilizing their know-how capacities and capitalizing on the inability of their smaller competitors to engage in legality verification"**. A number of studies have concluded that, with the SVLK implementation, **small-scale operators face more challenges while receiving fewer benefits than large scale operators** (Susilawati *et al.*, 2019; Lesniewska & McDermott, 2014; McDermott, Hirons, Setyowati, 2018; etc.). As mentioned earlier, SVLK requires new knowledge and additional costs that are often beyond the capacity of smallholders while larger firms have organisational and financial

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<sup>10</sup> 90% of respondents rated Indonesia's overall competitiveness very good to satisfactory; 58% rated Indonesia's competitiveness "good" or "very good". The survey also included questions about the perceived competitiveness against a range of indicators including and shows that Indonesia performed particularly well in "legality assurance" (76% "competitive" or "very competitive"), "technical performance" (58% "competitive" or "very competitive") and "assurance of sustainability" (54% "competitive" or "very competitive").

capacities to engage in legality verification. Moreover, since only a very small fraction of wood is destined for an EU market that rewards verified legality, there is a little change of market benefits for smallholders (Setyowati and McDermott, 2017). It has been frequently mentioned that the **implementation of legality policy was one of the main drivers of business closures in the timber industry** (Maryudi and Myers, 2018). SVLK might reduce the number of industries and lead to oligopsony or monopsony, which **weakens the bargaining position of smallholders** (Nurrochmat et al., 2016).

Some informants interviewed by Maryudi and Myers (2018) indicated that the implementation of legality verification reduces the dependency of small producers to large companies and exporters by linking them directly with buyers on the international market. However, some small producers are 'renting certificates' in order to face the financial burdens and administrative complexities of legality verification, and, by doing so, they allow large companies to capture more benefits and to strengthen their power and control. Some small producers explain that under SVLK, they are still disconnected from international buyers as through certification renting puts an intermediary firm in the transaction. Moreover, **as contacts with and information about international buyers are usually under the control of large firms, smallholders are dependent of those big companies** (*ibid.*). **The unequal distribution of power** is exacerbated by the way small manufacturers find strategic advantages or are forced to partner with their larger competitors. This change in network structure furthers the disintegration of smaller producers from the global economy.

## 2.2 Value chain improvement

The timber value chains involve various actors such as sawmillers, small or large manufacturers, traders, wholesalers and retailers (Maryudi and Myers, 2018) and follows four main activities: **harvesting, processing, transport, and trade** (Susilawati et al., 2019). Sawmillers are responsible for milling wood into more manageable cuts whereas manufactures are responsible for the design of furniture. According to Susilawati *et al.* (2019), the value chains of blockboard and plywood include farmer tree growers, natural forest concessionaires, market brokers, sawmill industries, and wood panel industries. They study two different types of value chains: one short chain in which wood panel industries sourced wood relatively directly from growers and one long chain in which market brokers were involved. **Market brokers are common in the timber value chains in Indonesia and play an important role** for smallholder tree growers by providing knowledge, skills and financial resources to harvest, sell and transport wood. Farmers favour brokers to wood industries, as they pay them cash immediately and buy all wood, without any quality grading (Susilawati *et al.*, 2019).

In this section we mostly rely on recent academic papers and Fern's VPA updates.

### 2.1.1 Traceability along the value chain

As mentioned earlier, the **SVLK applies to all wood production and all value chain actors in Indonesia in order to ensure that all wood in the value chain is harvested, transported, processed and traded in accordance with national laws**. There are specific SVLK requirements for each value chain actor (Susilawati et al., 2019). Timber is considered legal only when all stages in the value chain are verified as complying with the Indonesian laws and regulation.

The case study of Susilawati *et al.* (2019) reveals that there are **some limitations in the SVLK architecture, variable compliance, and points of illegalization within the value chain**. Each of the four value chains they studied claimed compliance while none of them are actually SVLK-compliant. The authors explain that there are two ways of timber illegalization within the value chains. First, some brokers falsify the Nota Angkutan as they mix the logs from both SVLK-verified and unverified farmers and then provide a single Nota Angkutan, even though the logs originated from many growers. Second, some industries falsify the Nota Angkutan Lanjutan if the sawmills that were not SVLK-certified paid an additional fee.

### **2.2.2 Transparency, access to information and communication**

The VPA process has improved transparency and access to information in Indonesia (Fern, November 2016; Fern, June 2017). However, different value chain actors have variable level of knowledge of SVLK. Some of the brokers and the farmers interviewed by Susilawati et al. (2019) claimed that they had never heard of SVLK. **Some educational and awareness raising campaigns are necessary to reach the small-scale actors who are less informed and often completely ignorant of SVLK** (Susilawati *et al.*, 2019). Moreover, according to Maryudi and Myers (2017), small producers remain constrained by the poor documentation on some crucial requirements in legality verification. According to Wibowo *et al.* (2018), **there is still a lack of transparency in SVLK for providing publicly available reports on their certification and legality verification processes**. JPIK, the independent forest monitoring network in Indonesia, claims that much of the data to be published is still unavailable (Fern, June 2018). Log tracking information and export and import data are difficult and time-consuming to obtain (Fern, December 2018).

### **2.2.3 Technology improvement (equipment, production mechanisms...)**

No information.

### **2.2.4 Benefit sharing along the value chain (revenues and taxes)**

As mentioned earlier, **smallholder reap a small fraction of the commercial benefits in the timber sector** (Maryudi et al., 2015). Indeed, small producers are less economic efficient than larger forestry enterprises, do not often have the capacity to comply with SVLK requirements and have weak power in the sector. Some small producers are 'renting certificates' in order to face the financial burdens and administrative complexities of legality verification, and, by doing so, they allow **large companies to capture more benefits and to strengthen their power and control** (Maryudi and Myers, 2018).

Moreover, according to Maryudi et al. (2015), **farmers are dependent on intermediate traders, and prices offered to them are usually well below market rates** because of their lack of access to market information and understanding of the market channels. On the one hand, SVLK-certification would allow smallholders to directly collaborate with industries. On the other hand, according to Nurrochmat et al. (2016), this shortened supply chain may result in a financial loss for farmers, as they usually regard their trees as savings or safety net and traders give them immediately cash in exchange for timber, while industries usually take more time for payment (Nurrochmat *et al.*, 2016).

### **2.2.5 Effective tax collection**

Before the signature of the VPA, illegal logging was a major issue in Indonesia, causing substantial losses in tax revenues for the government (TEREA, 2016). According to Fern (November 2016) **tax returns from the timber industry have significantly increased**.

Nevertheless, **other losses due to underperformance of revenues from legal timber** are also mentioned in the literature. This issue is explained amongst other things, by the lack of proper revenue collection data; the fact that domestic and international prices of timber are 3-4 times higher than the benchmark price set by the Ministry of Trade for timber royalty payment; and the inadequate and even overlooked measures for monitoring and enforcement of payment compliance, leading to under or non-payment (Mumbunan & Wahyudi, 2016).

## **2.3 Domestic market**

Indonesian small-scale furniture manufacturing industries supply both international and domestic market (Maryudi and Myers, 2018). However, **the domestic market is estimated to only absorb 6-10% of the production although the number of producers focusing on the domestic market increased over the past few years** (*ibid.*).

In this section we mostly rely on recent academic papers and Fern's VPA updates.

### **2.3.1 Promotion of legal wood on the domestic market**

The SVLK applies to the export market but also to the domestic market (EFI, 2018). However, wood panel industry representatives interviewed by Susilawati et al. (2019) state that **most domestic buyers do not require SVLK** for the products they buy. Growers, producers and consumers in the domestic timber market have little interest in pursuing SVLK certification (Erbaugh et al., 2017).

Once again, **self-declaration allows small operators to produce for the domestic market without being SVLK-verified** (Susilawati et al., 2019). They have to declare each wood that is harvested and traded and declare that their wood is legal through DKP. However, as mentioned earlier, self-declaration is problematic and sometimes abused by producers.

The domestic market also imports wood-based product. According to TERE (2016), those **imports are subject to a regulation aimed at supporting local SVLK-manufacturers** to compete against supplies of uncertified products from foreign countries which do not prohibit illegal products.

### **2.3.2 Domestic procurement policy**

**Public Procurement Policies (PPP)** are being developed at national level by some local governments (TERE, 2016). As the domestic market is large and expanding, the scope of the SVLK to PPP is high. It **would increase the number of suppliers which seek SVLK-certification and might sufficiently increase their profitability in order to afford the costs of certification** (*ibid.*). A huge positive impact is expected for enterprises which are SVLK-certified, especially SMEs that are not involved in exports.

### **2.3.3 Level the playing field (fair competition, transparent regulation)**

No information.

### **2.3.4 Economic impact of domestic market development**

No information.

### **2.3.5 Environmental impact of domestic market development**

No information.

## **THEME 3: Jobs and employment**

### **3.1 Job creation**

#### **3.1.1 Job creation related to legal timber development**

Forestry and timber industry is an important sector in the national economy in Indonesia (Maryudi, 2016). According to Susilawati et al. (2019), small-scale timber enterprises on the island of Java employ some 750,000 people. The state forest company, Perum Perhutani, established to manage the state-owned forests on Java employs approximately 341,000 people throughout the island (Erbaugh et al., 2017).

#### **3.1.2 Public procurement policies including local workforce utilisation as criteria**

No information.

#### **3.1.3 Environmental impacts of job creation**

No information.

#### **3.1.4 Economic impact of job creation**

According to Erbaugh et al. (2017), median yearly income for tree growers in Jepara (an Indonesian city in Java of approximately 1 million inhabitants) is \$2709.33, well above the rural poverty line of \$302.13/year.

### **3.2 Professionalization of employment and improved qualifications in the forest sector**

#### **3.2.1 Capacity building - skills, qualifications, diplomas**

No information.

#### **3.2.2 Capacity building - specific equipment & technologies**

No information.

### **3.3 Working conditions and rights**

#### **3.3.1 Securing employment through contracts**

No information.

#### **3.3.2 Affiliation to social security, health and accident insurance, etc.**

No information.

#### **3.3.3 System of staff career and promotion tracking**

No information.

#### **3.3.4 Labour unions**

No information.

### **3.4 Gender and social inclusion**

#### **3.4.1 Gender is taken into account in job creation**

Almost all (88%) tree growers interviewed by Erbaugh et al. (2017) are men. There is no additional information about gender in job creation.

#### **3.4.2 Social inclusion is taken into account in job creation**

No information.

## **THEME 4: Governance, law enforcement and compliance**

### **4.1 Forest management and governance**

This section is essentially based on the Fern VPA Updates, the FLEGT Evaluation (TEREA, 2016) as well as the academic papers of Maryudi (2016) and Wibowo *et al.* (2018).

#### **4.1.1 Forest governance (status)**

Forest governance in Indonesia was particularly problematic during both the rule of Suharto and its aftermath. **There has been substantial improvement in forest governance in Indonesia since 2003, and illegal logging has greatly declined since the first half of last decade. It is widely acknowledged that without the FLEGT AP, far less would have been achieved** (TEREA, 2016; EFI, 2018).

There is, for example, a **wider coordination between ministries** and this more coherent approach is expected not only to lead to improved forest governance, but also to have wider effects on governance in general sense. Other **sectors such as palm oil and mining sectors are said to be interested in learning from the SVLK scheme**. Yet, following such a set-up will only make sense if there is a real successful implementation, including effective enforcement, specifically concerning the allocation of permits (TEREA, 2016).

**However, considerable governance improvements in Indonesia's forests sector are still required** (Fern, Nov. 2016). Because of the existing multiple forest regimes, the SVLK standards leads to redundancy of administrative procedures in forest management and timber trade in Indonesia. This in turn leads to decrease in cost efficiency, weak legitimation and low effectiveness of the system, especially in community forests (Maryudi, 2016). Moreover, although success in timber-legality verification could result in forest certification, especially for firms that want to reach a broader market or improve brand image, it is argued that this may not increase the quality of forest management since **the ideal scheme for improving forest governance is not automatically the one chosen by firms** (Wibowo *et al.*, 2018).

#### **4.1.2 Participation**

**The VPA has given civil society a place on the negotiation table and an increased capacity to raise their voice on key issues** (TEREA, 2016; Fern, May 2011). According to EFI (2018), "multi-stakeholder governance structures and related space has been created as a result of the VPA/SVLK process". Before the VPA, in 2008, major social issues had been removed from the SVLK standard by the government, favouring the industry's interests (Maryudi, 2016; TEREA, 2016). CSOs are now formally recognized as monitors of the system (Fern, May 2011) and the **Independent Forest Monitoring Network (JPIK)** was created in 2010 to monitor activities concerning the implementation of the SVLK (Fern, May 2012). Moreover, the multi-stakeholder engagement process has led to **better relations between government staff, private sector and civil society**, not only at the national level, but also at the field level (TEREA, 2016; EFI, 2018). Hence, progress have been made regarding participation, yet it is not clear to what extent (Fern, June 2017) and there is still room for improvement (EFI, 2018).

#### **4.1.3 Public awareness on forest protection and "protective functions"**

No information.

#### **4.1.4 Law enforcement capacity to enforce forestry legislation**

**When Indonesia began implementing its TLAS in September 2010, a programme of audits and capacity building across the forestry sector started** (Fern, May 2012). Auditors, monitors and others have been trained at considerable cost, particularly due to the great number of people being trained.

However, in 2016, it was suggested that auditors of CABs should be given more training, because many of them were recent graduates with little relevant experience concerning ways the system can be cheated (TEREA, 2016). Even though specialist technical capacity within the government is getting stronger (Fern, June 2017), the **provinces and districts are not yet enough trained or equipped to implement the SVLK, nor do they have clarity on their responsibilities and obligations in terms of on the ground monitoring** (Fern, Nov. 2017).

## 4.2 Effective Law Enforcement

This section is essentially based on the Fern VPA Updates, the FLEGT Evaluation (TEREA, 2016) as well as on recent academic papers.

### 4.2.1. Number of enforcement missions, paper investigations, government findings...

According to EFI (2018), “Indonesia’s capacity to regulate is strong”. Third-party auditors used in the frame of SVLK reduces the risk of corruption in the auditing process (Setyowati and McDermott, 2017). Today, **all timber harvesters and processors are in principle subject to independent audit monitored by a civil society group**, the JIPK, launched in September 2010 (Fern, May 2012; Fern, November 2016; Setyowati and McDermott, 2017). Coordination between different government ministries is said to be good and expected to contribute to the effective implementation of the SVLK (TEREA, 2016). According to TERE (2016), SVLK improves control and strengthen law enforcement. **However, JPIK is extremely concerned about the lack of enforcement of the SVLK** (Fern, November 2017).

### 4.2.2 Denunciations from independent forest monitoring

With the VPA process, the civil society evolved sufficiently to serve as an independent monitor through the JPIK in order to check that the SVLK is being properly implemented (TEREA, 2016). However, **personal security and funding are considered to be two major concerns** of the Independent Monitoring system (TEREA, 2016; Fern, June 2018; Fern, December 2018; EFI, 2018).

An independent consultancy company has carried out a first annual overview of Indonesia’s TLAS and highlighted that **independent monitoring activities carried out by CSO have revealed 56 cases of suspected non-compliance** (Fern, June 2018). **Yet**, independent monitoring organizations have not been informed about how these cases are being handed and the **follow-up has not occurred as expected** (Fern, June 2017; Fern, June 2018). According to Fern (December, 2018), despite JPIK provided evidence to the Government that timber is being illegally logged in protected areas, the DG Law Enforcement has still not taken action. JPIK also submitted a complaint to DG Law Enforcement about the Korean-Indonesian conglomerate Korindo Group, for which evidence on illegality, environmental destruction and community rights violations have been published (Fern, December 2018).

CSOs have used transparency and monitoring requirements of the VPA to demand access to information about logging concessions (Fern, June 2015). **Even if the FLEGT VPA process has improved transparency** (Fern, November 2016), **access to information to support and facilitate SVLK monitoring activities** (such as on timber products management) **is still weak, and much of the data to be published is still unavailable** (Fern, November 2017; Fern, June 2018). According to EFI (2018), updates on the status of non-compliance cases are not public nor regular.

### 4.2.3 Compliance incentive

The potential market incentives for SVLK verification lie in the issuance of V-legal documents for export (Setyowati and McDermott, 2017). According to Erbaugh *et al.* (2017), **tree growers have little incentive to comply with regulations when selling domestically**. The authors suggest to provide incentives for complying with timber regulation standards, especially in the form of faster growing strains of luxury

tropical hardwoods. Obidzinski *et al.* (2014) suggest that the government should provide specific financial incentives to small-scale forestry enterprises to encourage them to pursue SVLK certification.

### 4.3 Grey areas in existing regulation

This section is essentially based on Fern's VPA Report of November 2016 and two recent academic papers (Derous and Verhaeghe, 2019; Nurrochmat *et al.* (2016).

According to Derous and Verhaeghe (2019), **“the SVLK does not capture all relevant regulations and is severely limited by capacity constraints”**.

There are coordination and coherence issues between ministries as well as between central and local governments (Fern, June 2018) which create regulatory difficulties (Nurrochmat *et al.*, 2016). Many stakeholders also believe that SVLK is actually less important because of its redundancies with the existing administrative procedures (Nurrochmat *et al.*, 2016). According to McDermott, Hirons and Setyowati (2019), the SVLK is *“widely perceived as independent of, if also complementary to, the FLEGT VPA”*. Moreover, the overemphasis on timber licensing and on exports is criticized as it fails to address community rights and domestic access to timber (*ibid.*).

According to Fern (November 2016), there are concerns that the way in which violations are 'scored' in the legality system could allow companies with human rights violations to still qualify for a FLEGT licence.

### 4.4 Sanctions

This section is essentially based on recent Fern's VPA Reports and on the academic paper of Susilawati *et al.* (2019).

#### 4.4.1 Frequency of controls

Fern (June 2018) argues that the **“frequency of verification and controls must be re-examined”**, meaning the number of controls is not adequate.

#### 4.4.2 Transparency over status

According to Susilawati *et al.* (2019), **small timber producers lack of awareness of SVLK requirements and have no sense of the risks associated with non-compliance**. The authors claim that *“there is clearly a need to build awareness of the compliance requirements of SVLK for all actors involved in the value chain, perhaps complemented by exemplary sanctions of actors who persist in non-compliance”*.

#### 4.4.3 Adapted sanctions

The Independent Forest Monitoring Network JPIK claims that the government should **strengthen law enforcement by imposing sanctions when certain obligations are not fulfilled** (Fern, June 2018). It also asks the government to require verification bodies to carry out their duties diligently and to apply sanction if they do not fulfil their obligations (*ibid.*).

### 4.5 Potential causes for ineffectiveness of law enforcement

Law enforcement faces **many challenges such as certificates renting, falsification of documents, mixing of legal and illegal timber, etc.** Cases of suspension and withdrawal of legality licenses have been reported but the relaxed verification procedures still opens opportunities for exporters to continue their illegal practices (Maryudi and Myers, 2018). Various reasons explain this ineffective law enforcement such as **corruption, opportunistic behaviors of government officials; conflicting interests of ministries or industrial lobbies** (Maryudi, 2016).

The conflicting interests between ministries crystallized for example when the Ministry of Trade issued a regulation exempting 15 product types from requirements to undergo compliance audits under SVLK in 2015 (Fern, Dec. 2015). The full enforcement of the SVLK has been delayed due to the Ministries of

Trade and Industry's concerns about the potential adverse impacts on the national timber industry (Maryudi *et al.*, 2015). **Improvements in coordination between ministries as well as between central and local governments are still needed** (Fern, June 2018). Moreover, the provinces and districts are not yet well trained or equipped to implement the SVLK, nor do they have clarity on their responsibilities in terms of on-the-ground monitoring (Fern, Nov. 2017).

**Corruption remains deeply entrenched in Indonesia's forest sector.** It comes especially from irregularities in the issuance of permits and associated documents for log transports, involving the bribing of government officials. **Bribery is estimated to account for 40% of the entire production costs in the forest sector.** Despite the recognition of the role of corruption, this issue is not addressed by SVLK legality certification and companies manage to receive VLK and PHPL certification despite obtaining their licenses through corrupt practices. **The SVLK is said to have been reduced to a system of administrative checklists where the focus on documentation ignores the issue of whether concessions, transport permits, or other documents were issued through corrupt practices, which constrains its potential to support broader efforts to improve forest governance** (Setyowati and McDermott, 2017).

One solution supported by the EU and civil society to tackle corruption is the system of third-party auditors. However, the costs of this system are borne by the producers who already struggle to pay compliance costs. Even if there have been some initiatives to help SMEs comply with SVLK, **certification costs and complex requirements** remain one of the main challenges for effective law enforcement (Setyowati and McDermott, 2017).

**Lack of expertise as well as lack of transparency and difficulties to access relevant information for the Independent Forest Monitoring Network** continue to constrain its ability to effectively monitor the implementation of SVLK (Setyowati and McDermott, 2017; Fern, June 2018). Moreover, even though the **interchange of personnel between civil society and the MoEF** is encouraged in order to contribute to policy coherence, there is fear that recruitment by certification accreditation bodies of auditors having links to companies in the timber or paper sectors compromises the integrity of audits under the SVLK (TEREA, 2016). Finally, the government certification body and the KAN (National Accreditation Committee responsible for holding the certification body accountable) have **repeatedly ignored the JPIK's complaints** about a palm oil concession clearing forests illegally and the timber cut being certified legal under SVLK (Fern, Nov. 2017).

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