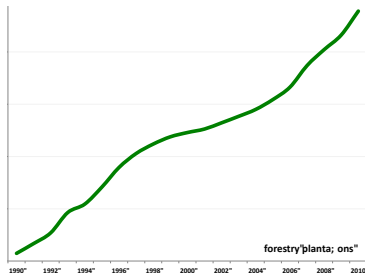
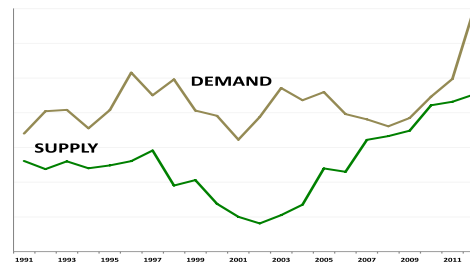


The P&P sector in Indonesia & legality verification (SVLK)

Indonesian Ministry of Forestry (MoF) and industry data indicate a gap in the legal supply of timber, which suggests widespread corruption, mismanagement, and losses in royalties >US\$2 billion/yr.



Despite increasing the area cleared of forests for plantations, the pulp & paper (P&P) sector continues to rely on timber for natural forests—the majority of which comes from this *conversion timber*, some of which UNEP/Interpol alleges is laundered through plantations. The MoF has only gazetted 16% of the forest area & communities complain of loss.

Under the EUTR timber must comply with *applicable legislation* covering *inter alia*:

1. **Rights to harvest timber** within legally gazetted boundaries;
2. **Payments** for harvest rights and timber;
3. Legislation directly related to **timber harvesting**;
4. **Legal rights of 3rd parties** concerning use and tenure affected by harvesting;
5. **Trade and customs**, in so far as the forest sector is concerned.

Indonesia will monitor compliance through the *Timber Legality Assurance System* (SVLK in the Indonesian acronym). Once the VPA is operational, the SVLK will be used to issue FLEGT export-licenses. At that point, timber with a FLEGT-license “shall be considered to have been legally harvested” (*i.e.*, requiring no further *due diligence* [EUTR Article 3]).

However, the Indonesian NGO *Anti-Timber Mafia Coalition* condemns the SVLK as consistently being weakened.¹ Moreover, the **SVLK now virtually ignores categories #1, 2 and 4**, above. The only relevant criteria² cover company behaviour (not government) and they ignore community rights:

- P1. Legal status of area and right to utilise
 - 1.1.1 Permit holder can demonstrate that the timber utilisation permit is valid
- K3.2 Permit holder has settled the payment of applicable fees | | Proof of deposit made for the Payment of Reforestation Fund and/or Forest Resources Fee

At present the SVLK does not verify compliance with legislative requirements regarding:

- Respect of indigenous/community land rights;
 - The Constitutional Court (MK35) prohibited allocation of ungazetted land
- Consultation with communities, regardless of whether they identify as indigenous;
- The House of Representatives required a review of natural resource laws in order to strengthen community rights and thereby address conflicts;
 - Although the law was passed in 2001, this review has yet to take place.
- Compensation for loss of land and trees.

¹ eyesontheforest.or.id/attach/Anti%20Forest%20Mafia%20Coalition%20%2818Mar14%29%20SVLK%20Flawed%20FINAL.pdf

² <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52013PC0433&from=EN>

Therefore, given that the risk of illegality is clearly not “negligible”, operators must develop a *Risk Assessment & Mitigation* system, including a *due diligence* system.

As a *monitoring organisation* [MOs], the SVLK should be required to regularly evaluate their due diligence system to ensure it is compliant with the EUTR criteria.

- Likewise, Competent Authorities (CAs) are obliged to “Carry out checks at regular intervals to verify that...[MOs] continue to fulfil the functions”;
 - This may be prompted by information, including substantiated concerns from third parties” of shortcomings in implementation
- A report “shall be made available in accordance with Directive 2003/4/EC.”
 - CAs “shall exchange information on serious shortcomings” (Article 12 ¶2)
- If a CA determines failure, “it shall without delay inform the Commission.” (Art 8 ¶5)
- For Indonesia, CAs should request the independent assessment of the SVLK by EFI

Evidence of illegality causing conflict in the P&P plantation sector...

For 2012, Indonesia President Yudhoyono’s office received reports of 8,495 agrarian conflicts, of which 2,002 were “likely to erupt into violence.” The violence allegedly is a result of the lack of compensation, and ultimately, recognition of community ownership.

The Government established a *Fact-Finding Team*, which included both government and NGOs, to investigate a number of deadly conflicts around plantations. Although never publicly released, Human Rights Watch³ obtained the report, which recommended:

- A review of the legality of concession permits, especially where they overlap with community claims;
- Establishment of an independent body to address and monitor agrarian conflicts;
- Implementation of the 2001 directive to undertake a nationwide legal review of community land rights.

A January 2013 progress report confirmed that there has been no government action on any of these recommendations.

Members of the Independent Forest Monitors Network (JPIK, in the Indonesian acronym) criticized the SVLK, auditors, and the government for failing to share necessary information with them in a timely fashion. As of June 2013, for example, while over 600 operations had been audited for legality, only 25 had been reviewed by independent monitors, and in 15 of these cases JPIK lodged complaints: only 2 of which were resolved satisfactorily—one license was suspended and the other canceled.

Third party monitors have specifically requested the revocation of legality permits for Asia Pulp & Paper (APP) and Asia Pacific Resources International (APRIL), two of the largest P&P mills in the country, due to the lack of transparency. JPIK voiced particular concern about efforts by the auditor to hide failures of APP and APRIL to meet certain criteria.

The Indonesian Corruption Eradication Commission’s (KPK) *2012 Integrity Survey* found that the Ministry of Forestry (MoF) scored lower than any other central government ministry, and the lowest scoring national public service agencies were the MoF’s agency for the rezoning of state forest land (necessary to obtain a forest conversion permit), and the land title registration and title transfer offices of the National Land Board.

³ Human Rights Watch. 2013. *The Dark Side of Green Growth: Human Rights Impacts of Weak Governance in Indonesia’s Forestry Sector*. hrw.org/reports/2013/07/15/dark-side-green-growth.