



## Contesting national and international forest regimes: Case of timber legality certification for community forests in Central Java, Indonesia<sup>☆</sup>



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### ABSTRACT

The Government of Indonesia (GoI) and the European Union (EU) have signed a Voluntary Partnership Agreement on Forest Law Enforcement Governance and Trade (FLEGT-VPA), which aims to prevent illegal timber products from entering the EU. This agreement recognizes a certification for timber products exported from Indonesia based on FLEGT-VPA standards and implemented through the timber legality verification system, *Sistem Verifikasi Legalitas Kayu* (SVLK). While the implementation of SVLK complies with the FLEGT-VPA, it has not dissolved pre-existing national systems for forest management and timber trade. Implementing SVLK standards amid multiple forest regimes causes redundancy of administrative procedures in forest management and timber trade in Indonesia. This redundancy, in turn, leads to decrease in cost efficiency, weak legitimation, and low effectiveness of the system, especially in community forests.

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### 1. Introduction

The global value of illegal logging, including timber processing, is worth between USD 30 and 100 billion, or 10% to 30% of the global wood trade (Nellemann and INTERPOL Environmental Crime Programme, 2012). Within Indonesia, illegal logging estimates vary based on the method of estimation, the source of data, and the timeframe of analysis (Dermawan et al., 2013). The direct economic loss from illegal timber and the accompanying tax evasion cost approximately IDR 25 trillion per year or about USD 2.1 billion<sup>1</sup> per year (Nurrochmat, 2005; Nurrochmat et al., 2012); however, there are higher estimates of total economic loss, ranging from USD 600 million to 8.7 billion annually (Luttrell et al., 2011).

Multiple studies estimate that 40% of timber products imported into the European Union (EU) from Southeast Asia (including Indonesia) and China originate from illegal sources (Giurca, 2013; Hirschberger, 2008). To curb illegal timber circulation in the European market, the Government of Indonesia (GoI) and the EU signed a Voluntary Partnership Agreement on Forest Law Enforcement Governance and Trade

(FLEGT-VPA) on September 30th, 2013. The FLEGT-VPA aims to prevent the trade of illegal timber by ensuring that the EU imports only verified legal timber and timber products. This partnership agreement includes a licensing system for timber products exported from Indonesia to any of the twenty-eight EU member states, based on the timber legality verification system named *Sistem Verifikasi Legalitas Kayu* (SVLK). SVLK is thus a contemporary policy mechanism by which the international forest regime implements timber legality verification in Indonesia.

Referring to the argument of different interests in forest management (Krott, 2005), though SVLK is a product of the international forest regime, its effectiveness needs to be evaluated alongside existing governance systems for forest management and timber trade. We define the international forest regime as the totality of norms, rules, principles, standards and procedures, expressed through international instruments and other acts (Humphreys, 1996, 2006; Tarasofsky, 1999). Recent scholarship considers three different alternatives with regard to the international forest regime (Giessen, 2013). The first interpretation is that an international forest regime does not yet exist. The second interpretation is that there exists an international forest regime, comprised of hard regulatory instruments, soft law, and private international law. The third interpretation is that in place of an international forest regime, there is a more fragmentary set of overlapping laws and policy instruments collectively titled an international forest regime complex. Following the dominant interpretations in recent discussions on the

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<sup>1</sup> Using the exchange rate of 1 USD = IDR 12,195.

international forest regime (Glueck et al., 2010; Rayner et al., 2010), this study discusses the implication of forest regime complex in Indonesia.

The FLEGT-VPA agreement requires internationally supported and approved timber verification regulation within Indonesia (The European Union and the Republic of Indonesia, 2013). The SVLK policy instrument exists and operates among several other regulatory instruments for governing forest management and timber trade in Indonesia. These existing instruments include the sustainable production forest management certification system (*Pengelolaan Hutan Produksi Lestari/PHPL*), the log legality note (*Surat Keterangan Sahnya Kayu Bulat/SKSKB*), and the timber origin note (*Surat Keterangan Asal Usul Kayu/SKAU*). An assessment of SVLK effectiveness must also consider existing private forest governance systems (voluntary certifications) for sustainable forest management, including the Indonesian Ecolabel Institute (*Lembaga Ekolabel Indonesia/LEI*) and the Forest Stewardship Council (FSC).

This proliferation of regulatory instruments stems from the difficulty in addressing illegal timber production. Formulating an appropriate policy to combat illegal logging is not easy because of the multiple definitions of illegal timber production. Illegal logging is defined by Smith (2002) as timber harvesting-related activities that are inconsistent with national or sub-national laws. However, “illegal logging” could also encompass other illegal practices throughout the range of activities from wood harvesting and transport to industrial processing and trade (Chan, 2010; Tacconi, 2007). Within the Indonesian context, these definitions of illegal timber production are intended to address logging concessions or “unmanaged” state forests. To date, more than 40 millions ha of state forests have been deforested (Ministry of Forestry, 2011), and a large part of them are not properly managed or lacking supervision (Indrarto et al., 2012; Nurrochmat et al., 2012). Counter to this trend, forest area in Java is increasing.

The Island of Java is undergoing a period of afforestation, led by the efforts individuals who plant trees on their own land for economic and ecological reasons (Kallio et al., 2011, 2012; Roshetko et al., 2013). This afforestation is accompanied by increased development for community forests, and it has been traced to better prices for locally produced wood and processes of deregulation that simplify procedures for bringing timber to market (Dharmawan et al., 2013; Nurrochmat et al., 2013; Putri, 2013; Roshetko et al., 2013). In this text, “community forest” refers also to small-scale private forests (*Hutan Rakyat/HR*) and community based forest management (*Pengelolaan Hutan Berbasis Masyarakat/PHBM*).<sup>2</sup> The most common forms of community forests found in Central Java are small scale, private forests (HR); in the last two decades, the number of small-scale private forests (HR) in Java have increased from 1.9 million ha in 1993 to 2.7 million ha in 2009 (Suprpto, 2010). Timber from HR contributed to more than 75% of the wood for the major timber industries within Jepara, Central Java (Hadiyati, 2011). While the community forests of Java represent an increasingly important source of Indonesian timber, they are outside the context in which the above definitions of illegal logging are most often applied (Nomura, 2008).

Illegal logging is not the main concern for community forests in Central Java, mainly due to stronger forest property rights and better supervision than forest areas in the outer islands (Nomura, 2008; Nurrochmat et al., 2013, 2014). In many cases, however, timber produced from community forests goes unrecorded, and is thus considered illegal, because the term “illegal timber” also refers to timber traded without formal documents (Nurrochmat et al., 2013; Smith, 2002). This definitional confusion is an important issue for debates over policing illegal timber from community forests (Dharmawan et al., 2013). Further, differences between the legal needs of community forests in Java, contemporary Indonesian forestry policy, and the implementation of SVLK create regulatory difficulties. This research addresses those difficulties through an

examination of Indonesian forest policy, as enacted within community forests of Java.

In this text, we evaluate three questions to consider how the FLEGT-VPA interacts with pre-existing systems of forest governance within Indonesia. These questions are: (1) What are stakeholders’ perceptions of and conflicts of interests for on-the-ground implementation of SVLK? (2) What are the dialectics of legality and legitimacy of SVLK as a mandatory certification policy compared to the existing national policies regulating community timber trade? and (3) Is SVLK, as a forest policy introduced by the international forest regime, effectively implemented amid the local contexts of community forests and timber trade in Central Java, Indonesia?

## 2. Theoretical background and methodology

### 2.1. Theoretical background

#### 2.1.1. Legality, legitimacy, and effectiveness of forest governance

“Raised public concern in the EU about the legality of its timber imports has pushed the European Commission to raise its standards and legality demands for timber imports” (Giurca et al., 2013, p. 730). As a forest governance regime, SVLK is comprised of “policy approaches and instruments by which governments regulate forest management to protect environmental and other forest values” (Wilkinson et al., 2014, p. 1). Thus, issues of compliance and enforcement of SVLK are central to its effectiveness and “are critical to closing the gap between policy intent and on-ground outcomes in forest management” (Wilkinson et al., 2014, p. 1).

The success of any forest regulatory system is principally determined by the relevance of its prescribed policies and practices to regulatory objectives. It is also important to consider the values (e.g. norms, culture, social behavior) which shape these prescriptions, the costs of regulation, and the degree to which society and markets have trust and confidence in the system (Wilkinson et al., 2014).

The term legality mostly addresses the role of the state and focuses on law enforcement; however, a broader interpretation of legality can include issues of participation and sustainability (van Heeswijk and Turnhout, 2013). Understanding legitimization processes for private (or international) governance initiatives requires a multi-dimensional approach. Three aspects provide an improved understanding of such governance process: “legality, moral justifications, and consent/acceptance” (Schouten and Glasbergen, 2011, p. 1891). These aspects are applied in an analysis of the process for creating legitimacy of certain private (or international) governance initiatives. The institutionalization of private (or international) governance creates new global governing patterns, which raises questions about their legitimacy. Legitimacy refers to “justifications of authority” (Schouten and Glasbergen, 2011, p. 1891). It is, according to Suchman (1995, p. 574), “a generalized perception or assumption that the actions of an entity are desirable, proper, or appropriate within some socially constructed systems of norms, values, beliefs and definitions”. Legitimacy contributes to the effectiveness and stability of institutions, and is regarded as a fundamental condition for rule acceptance. Thus, assessing the effectiveness of SVLK requires an evaluation of its role in resolving the problem of illegal logging and the broader consequences the instrument has for on-the-ground practices (see Auld et al., 2008). Considering Auld et al. (2008) and following Schouten and Glasbergen (2011), Suchman (1995), and Wilkinson et al. (2014), this research evaluates three factors that measure the effectiveness of forest governance regimes: first, the relevance of regulatory policies (legality); second, the degree of trust and confidence toward the system (legitimacy); and third, the cost of regulation (profitability).

#### 2.1.2. Conflicting interests of different forest regimes

As part of an international forest regime, FLEGT-VPA is not immune to political interests. Referring to Glueck’s theory, Krott (2005, p. 8)

<sup>2</sup> The PHBM is applied in the district of Randublatung, Blora. Therefore, this research considered to refer “community forest” as a broader term for “private forest” and PHBM.

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