

# Global forest governance to address illegal logging: The rise of timber legality verification to rescue Indonesia's forests

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**Abstract:** The extent of illegal logging in Indonesia is widely acknowledged to be one of the highest in the world, and it remains high despite a multitude of efforts that have been made by the international community to help Indonesia address the problem. However, recent efforts to deal with illegal logging in Indonesia, such as the enactment of a timber legality verification mechanism, have enjoyed widespread support from a variety of stakeholders on a scale previously unseen for efforts to combat global deforestation. This is because timber legality verification has gained traction in producer countries such as Indonesia by garnering support from a broad coalition of actors motivated by increased access to global timber markets and the promise of achieving environmental goals. We argue that the development of Indonesia's timber legality assurance system (SVLK) and the signing of the EU FLEGT Voluntary Partnership Agreement hold potential for development of durable and effective institutions for reducing illegal logging in Indonesia. If these developments are managed strategically, they can represent a positive development for improved forest governance in Indonesia.

**Keywords:** Governance, Indonesia, Legality Verification, pathways framework, illegal logging

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## 14.1 Introduction

Indonesia historically has one of the highest rates of illegal logging in the world (Seneca Creek Associates 2004). Over the past 30 years, hundreds of millions of cubic meters of illegal timber in Indonesia have been rubber stamped as “legal” and taken out of the country to feed international trade networks (Obidzinski et al. 2007). While the extent of illegal logging has fallen from 80% in the early 2000s (EIA and Telapak 2002) to 40% in 2009 (Lawson and McFaul 2010), the illegal timber trade has been estimated to cost the Indonesian economy USD 1 billion to USD 5 billion per year (Seneca Creek Associates 2004, Tacconi et al. 2004, Human Rights Watch 2009). For estimates of the total extent of illegal logging in Indonesia see Table II 14.1.

Despite encouraging statistics demonstrating a decline in reported cases of illegal logging, the

environmental, economic, and social impacts of the illegal timber trade are still far-reaching. Illegal logging is widely acknowledged to be one of most damaging and egregious cases of forest degradation and deforestation (Brown 2006, FAO & ITTO 2005, Kaimowitz 2005). It results in significant loss of national tax revenue and generates illicit wealth that serves as a source of social conflict and fuels widespread corruption (Obidzinski et al. 2007).

With 98.7 million ha of forest cover,<sup>(1)</sup> Indonesia has the third-largest expanse of tropical forests in the world, after Brazil and the Democratic Republic of Congo, and one of the highest extents of illegal log-

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<sup>(1)</sup> Indonesian Ministry of Forestry 2012. Statistik Kehutanan Indonesia 2011. Jakarta, Indonesia, July 2011. More recent 2012 estimates from the World Bank suggest the figure is about 88.5 million ha.

**Table II 14.1 Estimates of the total extent of illegal logging in Indonesia.**

Source	Illegal logging from total harvest (%)	Annual loss in national tax revenues (USD)	Years covered
DFID 1999 <sup>1</sup>	73		1990s
Center for International Forestry Research 2004 <sup>2</sup>	64–83	1 billion	2000–2001
Seneca Creek Associates 2004	60	0.6–3 billion	2003
Human Rights Watch 2009	50	2 billion	2003–2006
Chatham House 2010 <sup>3</sup>	40–61		1997–2009

<sup>1</sup>) DFID 1999. Roundwood supply and demand in the forest sector in Indonesia. Indonesia-UK Tropical Forest. Management Programme. December 1999.

<sup>2</sup>) Tacconi, L., K. Obidzinski, K. & Agunget, F. 2004. Learning Lessons to Promote Forest Certification and Control Illegal Logging in Indonesia. Center for International Forestry Research. Bogor, Indonesia

<sup>3</sup>) Lawson, S. & McFaul, L. 2010. Illegal logging and related trade: Indicators of the global response. Chatham House. London, UK. 154 p.

ging. Over the past decade, several tropical forested countries, such as Brazil, Ghana, and Cameroon, have actively engaged in open dialogue on ways to combat illegal logging. However, what is particularly unique about Indonesia is the marked transformation of the national government's position from denial to open acknowledgement that illegal logging is a severe problem. Despite the urgency of this issue, for many years the topic of illegal logging was a highly sensitive political issue that was tacitly understood to be taboo in discussion of sustainable forest management (SFM), especially in Indonesia. It was not until the early 2000s that Indonesia's national government and civil society began efforts to directly address illegal logging through timber legality verification, although domestic support was initially weak. More than a decade later, timber legality verification is enshrined in legislative commitments and is seen as one of the most promising mechanisms for addressing illegal logging in Indonesia and throughout the global forest product supply chain (Cashore and Stone 2013).

This presents the following puzzles: What explains the change from initial reluctance to overarching support? Have similar instigating factors wrought change in other countries where illegal logging is prevalent? What might these changes tell us about the future of legality verification and its potential to influence domestic and international forest governance? The goal of this chapter is to explore the evolution of domestic and international efforts to address illegal logging in Indonesia, in order to identify the enabling factors that led to widespread acceptance of timber legality verification as a new form of governance, and the implications of this for legality verification's

direct and indirect future potential. The analysis is supplemented with on-the-ground examples of how these dynamics are playing out in Indonesia in the early stages of implementation of Indonesia's timber legality assurance system.

Section 14.2 puts forth a theoretical argument as to why timber legality verification represents a new form of governance that has the potential to create durable institutions that work towards the mutual goal of SFM. Section 14.3 presents the case of illegal logging in Indonesia and details the emergence of timber legality verification as a mechanism for addressing illegal logging that gradually gained acceptance and support. Two case studies illustrate how timber legality verification may or may not affect conditions on the ground. Section 14.4 analyses the enabling conditions that furthered this acceptance, as well as the constraining factors that were overcome. It highlights interactions between pathways of influence and the institutional and political arrangements in play. The section 14.5 offers thoughts on the future of legality verification and implications for SFM.

## 14.2 Theoretical framework

Timber legality verification is a simple concept. It removes illegal timber from the global supply chain by requiring verification of its legal origins and manner of production. It also puts tracking systems in place to monitor legal timber as it changes hands while moving through the global supply chain. Once all illegal timber is weeded out of the market, the overall timber supply decreases, which theoretically

**Box II 14.1 Pros and cons of timber legality verification as a means of achieving SFM**

What is meant by “legal timber” and what can reasonably be accomplished by timber legality verification towards achieving SFM? Critics have argued that legality verification is not ambitious enough to reach SFM because it focuses only on “legality,” for example, whether or not any laws were broken during the harvesting of timber. Their main argument is that legality does not ensure sustainability – legal timber could be harvested from a licensed concession within high-conservation-value forest or from a concession with unsustainable management practices. The definition of “legality” can also vary. Does “legal” refer only to the origin of timber? Or does it also include related activities such as paying stumpage fees and traffic violations during transportation of forest products? The scope of what is covered by “legality” varies according to country but generally is designed to affect a relatively narrower set of problems compared with efforts that more broadly promote forest certification, good forest governance, and SFM (Cashore and Stone 2012).

On the other hand, supporters of legality verification argue that it is the first step toward sustainability because it has the potential to reinforce baseline governance in developing countries, for example, efforts to improve capacity and technology and to weed out corruption and other governance challenges that have exacerbated both development and environmental challenges (Cashore and Stone 2013). Unlike other mechanisms, such as forest certification, which are perceived as entrenching a global authority dominated by wealthy states such as the European Union (EU) and the United States (Drezner 2007), legality verification works to reinforce national sovereignty and empowers autonomy in local decision-making (Cashore and Stone 2013). In short, this mechanism has the potential to gain greater traction and support in timber-producing countries like Indonesia, where it serves to strengthen domestic efforts to reduce corruption rather than to set strong but unachievable standards.

leads to an increase in timber prices. In sum, unlike forest certification, which promises price premiums to producers (a promise that is not guaranteed to be fulfilled) legality verification harnesses the simple economic law of supply and demand to deliver increased revenue to producers because of greater market access (see Box II 14.1).

One of the key questions at hand is to what extent legality verification has the potential to ratchet up forest governance or to inadvertently trigger a race to the bottom in lowered standards. As a point of departure, we refer to the path-breaking work of political scientist David Vogel, who explored the dynamics that led to the formation of coalitions in the face of increased environmental regulation. Vogel found that in some cases when self-interested firms are confronted with higher environmental, safety, and social regulations than their competitors in other jurisdictions or countries, they often align with environmental groups or other social actors to champion increased regulations on their competitors (Vogel 1995, Vogel 2001). Certain types of interventions can actually cause various stakeholders driven by very different motivations to coalesce in support of the intervention, creating what Vogel refers to as a coalition of “Bootleggers and Baptists,” i.e. an unlikely coalition of actors usually in competition with each other who join together to work towards the same mutually beneficial goal.

There is strong evidence that such a coalition has emerged to support the cause of legality verification in Indonesia and also on the global level. In this case, the unlikely group of actors includes environmental

groups and industry representatives, which historically have been at odds over government regulation of the forest sector and other efforts to promote SFM. Environmental and social groups support legality verification because it furthers their goal of reducing deforestation and illegal logging and offers a means of empowering local civil society vis-à-vis local law-enforcement officials. These kinds of coalitions are durable because they appeal simultaneously to very different interests (Cashore and Stone 2012). Industry groups support legality verification because they have an economic self-interest in weeding illegal timber out of the global supply chain in order to realise higher revenues and preserve market access. In the Indonesia case, it also provides a mechanism for producer countries to gain access to lucrative markets in consumer countries such as the United States and European Union in ways that are easier to meet compared with demands for certified forest products or boycott campaigns. Despite the volume of timber going to markets in China, India, and the Middle East, imports to the European Union alone still reach an estimated average of USD1.2 billion per year (Yulisman 2012).

This widespread support not only holds promise for improving baseline governance but also for putting in place the infrastructure needed to track movement of timber throughout the supply chain. Legality verification requires reliable tracking systems for legally harvested wood to ensure that it is not mixed or switched with illegal sources on its journey through the supply chain. The effectiveness of tracking systems is largely based upon the num-

ber of actors contributing data and bringing it closer to a theorised point of perfect information; legality verification as a requirement versus certification as a voluntary system has greater potential to achieve this by drawing in a larger number of entities. Once these tracking systems are entrenched in business-as-usual practices, then legality standards can be increased in ways that reward, rather than punish, participating firms. While it can only be hypothesised that these tracking systems might put in place the conditions needed for widespread adoption of forest certification in tropical forests, such as has been seen in the case of Brazil (Bird and Thiel 2009), it is certain that without institutionalised supply chain tracking, it will be difficult for certification systems to move to the next stage of global market penetration.

In sum, legality verification represents a new form of governance with the potential to tip the scales towards good forest governance. It falls at the intersection of a suite of local, domestic, international, non-state, and market-based policy initiatives. It does not actually require any new action; it only creates incentives to comply with laws and regulations that already exist. In doing so, it treats all nations – producer, processing, and consuming countries – equally rather than imposing high standards. The next section explores how support for legality verification evolved in Indonesia, starting from a period of no support and eventually obtaining overarching support by a broad coalition of government, industry, and civil society actors.

### 14.3 The case of Indonesia

The shape of efforts to address illegal logging in Indonesia, through both domestic and international efforts, has evolved radically throughout the past 20 years. Indonesia itself has gone through transformational change in a transition to democracy over the same period.

#### 14.3.1 No support: Illegal logging during the Suharto era and *reformasi* (1990s–2001)

When Suharto came to power, he enacted the 1967 Basic Forestry Law that expanded the central government's control over the 143 million ha forest estate, which was then exploited to drive economic development. During this period, timber concessions were frequently used as a tool for clientelism (McCarthy 2006), and many assert that this approach condoned widespread illegal activities. Illegal logging often took the form of overcutting concession boundar-

ies, encroachment into protected areas sponsored by businesses or individuals, hit-and-run operations by groups posing as plantation companies, and other types of illegal activities (Casson and Obidzinski 2002).

During Indonesia's transition to democracy during the *reformasi* period (1999–2001), the shift in the balance of power served to create new forms of illegal logging rather than reduce illegal extraction altogether. The 1999 Regional Autonomy Law devolved authority over natural resource management to the district governments, which essentially divided power over forest resources between the district and central governments. The end result was that despite the transfer of ownership rights of natural resources to the regional authorities, technocratic forest management decisions all remained highly centralised. Districts gained the power to allocate concessions, while the Ministry of Forestry retained authority over delineation of the status of forest area (e.g. protection, production, limited production, or conversion forests), management of nature conservation parks, and determination of the criteria and standards for natural resource conservation (Dermawan and Resosudarmo 2002). This arrangement quickly gave rise to a fragmented tug of war between the central and regional governments (Purwanto 2005) that continues to this day.

The last years of the Suharto regime and the transition to a decentralised government led to a spike in the rate of illegal logging (Casson and Obidzinski 2002). To stem the rush towards exploitation during this transition, the Indonesian government enacted two new laws (Regulations no. 34/2002 and no. 32/2004), which granted the central government the authority to approve or deny a district's decisions about land-use and resource allocation (Singer 2009). In addition to these legal measures, the government instituted two export bans: a total roundwood export ban in 2001 and a sawn-wood export ban in 2004.

#### 14.3.2 From no support to weak support: Efforts to address illegal logging (2001–2008)

Before 2001, combating illegal logging was not part of Indonesia's domestic policy agenda. The change began with a key ministerial meeting in 2001, and several factors furthered the transition from no support to weak support between the 1990s and 2001, including: international initiatives that sought to influence domestic policy (e.g. international memorandums of understanding, the FLEGT VPA process), reforms in public administration (e.g. decentralisation that catalysed the rise of civil society), and en-

actment of new regulations and policy instruments (e.g. Indonesia's log-export ban).

It was about the time of decentralisation that the international community began applying pressure on producer and consumer countries to address the challenge of illegal logging and associated trade. A ministerial summit took place in 2001 in Bali where a number of non-binding commitments were made to raise the profile of illegal logging, building upon the G8's major initiative to address various global forestry issues (Brack and Chatham House 2003). This summit is where Forest Law Enforcement and Governance (FLEG) efforts first began taking shape, until the European Union formally adopted the Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan in 2003 as a new way of addressing illegal logging through supporting good forest-governance efforts while highlighting the need to promote responsible trade of forest products.

Indonesia was a key target of these pressures, given its place as a major supplier of forest products to consuming countries such as the United States, Japan, China, and Europe. According to some estimates, as much as 40% of wood entering the European Union from Southeast Asia, primarily from Indonesia, was illegal, largely transshipped through China and the country of origin mislabelled (WWF 2008). This resulted in the signing of several bilateral memorandums of understanding (MOU) between Indonesia and the United Kingdom, United States, and China as well as the beginning of a longer FLEG process with the European Union (Chrystanto 2004). Much of these early efforts were tied to helping Indonesia enforce its logging ban.

At first, these efforts received weak domestic support from Indonesian stakeholders. However, the rise of the FLEGT process served as a wake-up call to Indonesia's national association of timber concessionaires, *Asosiasi Pengusaha Hutan Indonesia* (APHI). It realised that continued resistance to these efforts might threaten Indonesia's access to the EU market and calculated that the reforms they would have to undertake were fairly modest.

In 2002, the government of Indonesia began its own efforts to domestically reduce illegal logging. It established the *Badan Revitalisasi Industri Kayu* (BRIK, Indonesian acronym for Institute for the Revitalization of the Timber Industry), which was charged with monitoring and verifying the legality of timber. This was the first instance where timber legality verification was formally recognised as an essential mechanism for addressing illegal logging. However, BRIK's approach met with criticism – the certificates of legality it issued were easily reproduced on the black market (Colchester 2006), there were little or no field visits, and BRIK's efforts were seen as little more than paper exercises that fostered little meaningful change (Tacconi 2008).

At about the same time, Indonesia began developing its Timber Legality Assurance System (TLAS), locally known as *Standar Verifikasi Legalitas Kayu* (SVLK). The development of the SVLK was a marked departure from previous efforts to address illegal logging for several reasons. First, it was developed through a multi-stakeholder process that included members from civil society, rather than being developed unilaterally by the Indonesian government. Second, the Indonesian government voluntarily gave up enforcement to outside parties, a significant departure from the way state actors would normally behave, e.g. maintaining full authority for creating and developing rules. This has been seen as an effort to raise the credibility of the mechanism in the eyes of the international community by circumventing potential opportunities for corruption and uncertainties about implementation (Cashore et al. 2010). The implications of these unique design factors are further detailed in Box II 14.2.

Although a draft of the SVLK mechanism was technically completed in 2003, it was not submitted to the Ministry of Forestry for approval until 2008. The delay was largely due to reluctance on the part of the Indonesian government as well as vigorous debates within the multi-stakeholder group. The next section outlines some of the factors that encouraged the government to take action in adopting the legality standard.

### **14.3.3 From weak to strong support: Fear of the closing door to international markets (2007–2013)**

Several enabling factors helped overcome the Indonesian government's reluctance to move forward on timber legality verification and move from a stage of weak support to strong support, most of which were related to the passage of policies in consumer countries, such as the US's Lacey Act, the EU's Timber Regulation, and public procurement policies in Japan, Australia, and New Zealand. The negotiation process between Indonesia and the European Union over the FLEGT Voluntary Partnership Agreement also provides insight into the factors that affected Indonesia's move into a phase of strong, institutionalised support for timber legality verification.

#### *The US government's Lacey Act amendments, 2008*

Indonesia's response to the 2008 amendments to the United States (US) Lacey Act, a domestic US law that prohibits the import of illegally sourced wildlife



**Box II 14.2 Unique design of the SVLK, Indonesia's timber legality assurance system**

The dramatic changes in Indonesia's forestry sector, coupled with international pressure to address illegal logging, paved the way for the emergence of loose coalitions of industry and civil society that worked together to design a timber legality system that included several unique features.

*Developed through a multi-stakeholder process*

About 2008, an intensive public consultation began based on a Ministry of Forestry Ministerial Decree (SK) 70/Menhut-II/2006 that initiated a process of socialisation to revise national legality standards (Telapak 2007), building upon processes initiated by The Nature Conservancy (TNC) in the mid-2000s (Luttrell et al. 2011). This approach meant that the actual legality verification requirements were generated by a loose coalition of Indonesian government, civil society, and business interests (Cashore and Stone 2013). This mixture of competing interests all saw legality verification as part of their long-term interest, despite their different motivations. The business and industry groups were motivated by a desire to ensure market access, while the environmental and indigenous-rights NGOs saw legality verification as an opportunity to increase the enforcement of relevant Indonesian regulation. While these groups were not a coordinated coalition, they all participated in the multi-stakeholder dialogues to ensure that their key issues and concerns were incorporated into the final SVLK mechanism. This multi-stakeholder process was widely recognised as inclusive, transparent, and robust; which contributed to SVLK's reception domestically and internationally as a legitimate and credible mechanism.

*Third-party auditing*

The Ministry of Forestry is not involved in the accreditation of auditors who verify the legality of the operations of SVLK certificate holders or auditing activities for legal compliance. Instead, third parties accredited by BRIK or LEI perform all auditing duties (Luttrell et al. 2011), which means that SVLK is essentially a form of "privatised regulation" that is conducted and enforced entirely by non-governmental third parties. While examples of privatised regulation can be found in a multitude of industries, such as the automotive, chemical, and medical equipment sectors, timber legal-

ity verification represents one of the first major forays into the forest products sector.

As a result, many of the same non-governmental third parties who serve as auditors for forest certification schemes are now busily expanding their portfolio of services to include legality assurance. For example, the Rainforest Alliance's Smart-Wood program, which audits firms for compliance to FSC certification standards, has launched generic standards for Verification of Legal Origin (VLO) and Verification of Legal Compliance (VLC). One of the rationales for this approach is that third-party auditors can directly take part in the governance of forest resources, which the Rainforest Alliance suggests is essential for credibility given that mechanisms such as FLEGT are not free from conflicts of interest on the part of participating governments (Donovan 2010).

*Independent monitoring*

This mechanism empowers civil society to monitor SVLK's implementation by submitting objections when any irregularities are observed in order to track outcomes and progress. While at the time of writing there has not been enough activity to assess the impact of independent monitoring, several concerns have been voiced regarding how these activities will be funded, and how NGOs will address the safety concerns of sending staff to conduct on-the-ground monitoring in remote areas with potentially violent illegal activity\*. These concerns represent real and potentially intractable problems that can limit the extent and effectiveness of independent monitoring as a means of assuring implementation.

*Mandatory compliance*

Licensed timber concessionaires and companies are obliged to obtain SVLK certificates by 2013. However, it has been recognised that SVLK should be made mandatory for all companies selling timber and forestry products domestically as well as internationally, especially given that 80% of wooden furniture produced in Indonesia is for domestic consumption (Arnaz 2013).

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\* Personal Interview, Official with Greenpeace International, February 29, 2012

and plant products into the United States, highlights several of the factors that led to increasing support for legality verification: reinforcement of domestic governance, access to international markets, and respect of national sovereignty. In Indonesia, the Lacey

Act is seen as reinforcing baseline governance while affording equal treatment to all nations – developed and developing countries, suppliers, and processors. It also provides a mechanism for gaining access to US markets relatively easily compared with forest

certification, which is seen as imposing more costs than benefits, or boycott campaigns, which are seen as protectionist, blunt, and discriminatory. The Lacey Act approach also did not demand extensive negotiations with domestic and global stakeholders such as experienced through the VPA negotiations with the European Union. Such negotiations bear the risk of encountering unanticipated demands and costs and indirect challenges to national sovereignty (Cashore and Stone 2012).

#### *EU-FLEGT Voluntary Partnership Agreement negotiations*

The international pressure created by the enactment of public procurement policies in lucrative export markets spurred the Indonesian government to take concrete actions towards enacting a timber legality verification mechanism to address illegal logging. SVLK became law in 2009, while Indonesia was in the midst of negotiations with the European Union to develop a Voluntary Partnership Agreement (VPA) through the FLEGT process. A VPA is a trade agreement that provides timber producer countries with market access to the European Union in exchange for formal commitments to developing a timber legality assurance system that will ensure the legality of all forest products exported to the European Union. Formal negotiations began in March 2007 but halted only a few months later after several initial points of contention led Indonesia to stop the talks. One was the lack of a legal mechanism that would criminalise the importation of illegal forest products by EU citizens, creating a mutual adherence to legality for both Indonesia and the European Union. Another concern was that a VPA would not stop neighbouring countries, such as Malaysia and China, from laundering Indonesian timber and then exporting them as Malaysian or Chinese products. Both of these concerns were addressed through the creation of the EU Timber Regulation.

#### *The EU's decision to enact the EU Timber Regulation*

Following passage of the US Lacey Act in 2008, the European Union announced that it would launch its own version of the US law in the form of the European Union Timber Regulation (EUTR) (*Obligations of operators who place timber and timber products on the market*, 2010). Such a law had been requested by the Indonesian VPA negotiators, who saw that demand for legality verification from the European Union had the potential to ameliorate the pervasive corruption and weak enforcement plaguing current efforts to address illegal logging. The EUTR also

served as an additional catalyst that led the Indonesian government to commit to certifying 100% of its industry in order to meet the requirements of EU and US trade legislation.

#### *Public procurement policies in other countries*

With the advent of the US Lacey Act and the EU Timber Regulation, increasing international pressure is being placed on other developed countries to enact similar public procurement policies that ban imports of illegally sourced and produced forest products. While Japan and New Zealand have had such policies since 2006, Australia passed the Illegal Logging Prohibition Act in 2012 and many other individual European countries have enacted their own public procurement policies independent of the EUTR, such as Belgium, Denmark, France, Germany, Norway, and the United Kingdom.

Following the advent of the procurement policies and trade agreements mentioned, one of the last potential roadblocks towards institutionalising legality verification in Indonesia was passed in January 2013 when the European Union officially recognised SVLK as a sign of “due diligence” on the part of exporters, meaning that all SVLK timber would automatically be considered to be compliant with the EUTR. If this had not occurred, Indonesian exports would have been required to undergo additional steps to be screened through the due-diligence system before being allowed to enter the European Union, which local businessmen were concerned would have created additional costs and financial burden (Osman 2013). This combination of dependence on EU markets and the EU efforts to encourage Indonesia to address illegal logging through a negotiated VPA were a key determining factor in understanding the specific choices Indonesia made to formalise its commitments to legality verification. The substance of the Indonesian-EU VPA was agreed upon in May 2011, and the agreement is slated for ratification in September 2013 (Yulisman 2013). In the meantime, the Indonesian national government has begun approaching timber-importing countries such as Japan, South Korea, Australia, and the United States regarding the development of similar bilateral trade agreements for legal timber (Lubis 2013a).

### **14.3.4 Summary**

The signing of SVLK into law represents a clear change from no support in 1999 to weak support in 2001 to formal and legislated commitments in 2008. SVLK was formally enacted in January 2013, and the EU's Timber Regulation came online a few months

later, in March 2013. As of December 2012, approximately 7 million ha have been SVLK certified, covering 50% of the woodworking industry, 84% of the panel industry, and 80% of the pulp and paper industry (Ministry of Forestry 2013). Ten per cent of Indonesia's timber producers currently hold SVLK licenses. The next section discusses the early phase of implementation of timber legality verification in Indonesia, with particular attention to the extent to which the mechanism's inherent weaknesses may affect its ability to address illegal logging.

## 14.4 SVLK in practice: Two case studies

Despite its unique attributes, the SVLK legality verification mechanism is widely acknowledged to have several inherent weaknesses. It has a weak accreditation system, it is not designed for smallholder and community forests, and it does not directly address the problem of unclear or overlapping tenure. This means that illegal logging can still potentially threaten SVLK-certified areas. More importantly, the boundaries of forest areas cannot be gazetted in the absence of clear tenure, which may mean that the criteria for "legality" are not met. To what extent do these weaknesses hinder its implementation?

While it is too early to assess whether or not the initial phase of SVLK implementation has strengthened legality of the forest sector or reduced corruption, a geographic bias is already apparent regarding the regions where companies are obtaining SVLK certificates. The majority of the 600+ SVLK-licensed concession holders<sup>(2)</sup> are located in Java (70%) and Sumatra (14%), while the majority of the nearly 650 SVLK-licensed exporters are located in Java (71%) and Sumatra (15%), with minor representation in Kalimantan, Sulawesi, Bali, and eastern Indonesia. One source speculates this geographic bias is exacerbated by the fact that companies and exporters must pay SVLK auditors to travel to their sites, which lends itself to a geographic bias in Java since nearly all of the currently licensed auditors are based in Jakarta or West Java (Yulisman 2012).

Meanwhile, forest-rich areas known to be hotspots for illegal logging – such as Kalimantan, Papua, and the provinces of Riau and Jambi in Sumatra – remain relatively unrepresented in terms of number of certificate holders despite the fact that the

illegal timber trade in these key forested regions are most often pointed out by Indonesia's industry associations as the cause of the forestry sector's struggles and of illegal logging as a whole (Obidzinski et al. 2007). In 2005, the illegal timber trade in West Kalimantan reached approximately 1.2 million m<sup>3</sup> and is commonly blamed on agents and financiers from Malaysia (Obidzinski et al. 2007). Although the UK-Indonesia MOU initiated pilot efforts and legality verification and tracking in Kalimantan (Pribadi 2004), sources of legal timber remain few and far between in the region.

However, one of the most pressing issues is that the withdrawal of industrial timber concessions within these regions means that there are fewer sources of legal timber, augmenting pressure on existing forest resources. For example, withdrawal of industrial timber concessions operating in the buffer zone of Gunung Palung National Park in West Kalimantan led to the expansion of palm oil plantations, which in 2002 made up nearly 70% of the park's buffer zone (Curran et al. 2004). The ongoing expansion of palm oil places further pressure on the national park because it takes away land that could be used for reforestation or establishment of new timber concessions, as well as land for settlement and agriculture to support a growing population. This compels local communities to log inside the park to obtain timber for construction and other basic needs. The Kalimantan example demonstrates that a large portion of illegal-logging timber in Indonesia is consumed domestically, beyond the reach of international trade pressures. Due to a lack of available, legal timber sources that could be pursuing SVLK certification, locals have no choice but to accept illegal timber.

To better illustrate these different regional dynamics, two case-studies examine how SVLK implementation plays out in practice. One focuses on SVLK certification for community forests and smallholder teak growers in Central Java, while the other focuses on how SVLK has affected the operations of industrial concession holders. The former case illustrates potential barriers to SVLK implementation at the local level while the latter illustrates how SVLK has gained the support of large-scale companies as a means to boost credibility and awareness of their sustainability efforts.

### 14.4.1 Gunung Kidul District, DI Yogyakarta

Gunung Kidul District in Yogyakarta was one of the first places where smallholders successfully obtained SVLK certification. Nearly 28.5% of Gunung Kidul District is forested (42 000 ha), 69% (29 000 ha) of

<sup>(2)</sup> Referring to industry actors who hold *Izin Usaha Industri Primer Hasil Hutan* (IUIPHHK) permits that grant permission to cultivate roundwood within a legally allocated concession.



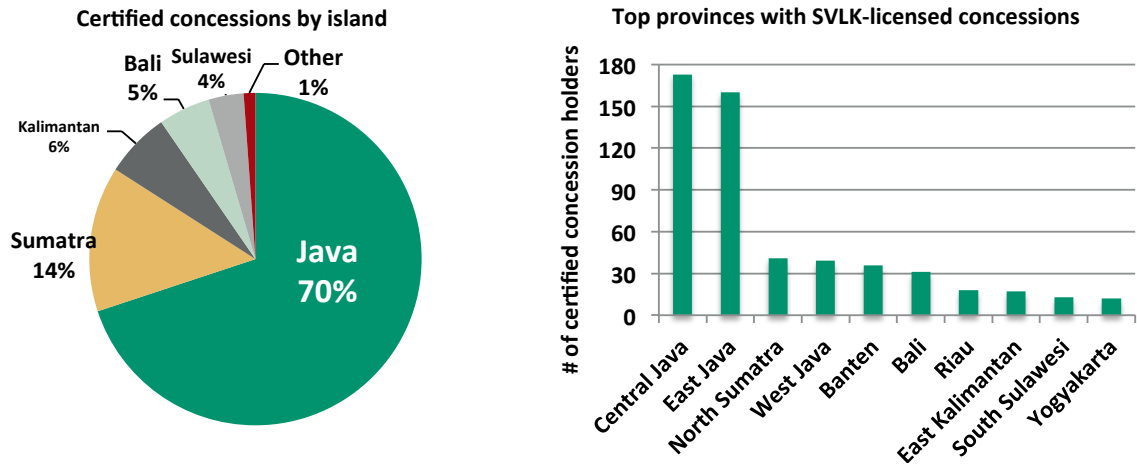


Figure II 14.1 Breakdown of SVLK-licensed concessions by province. Source: Sistem Informasi Legalitas Kayu, Ministry of Forestry. Data accurate as of September 2013.

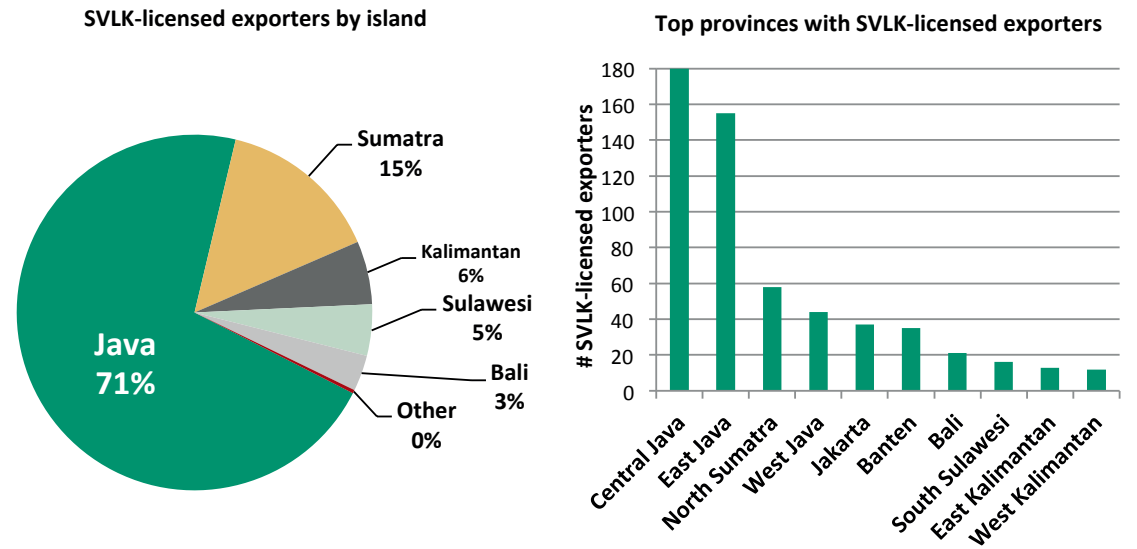


Figure II 14.2 Breakdown of SVLK-licensed exporters by province. Source: Sistem Informasi Legalitas Kayu, “Eksportir.” Ministry of Forestry. Data accurate as of September 2013.

which are smallholder teak plantations. This district has a history of serving as pilot sites for other forestry initiatives, such as one form of community forestry: *Hutan Kemasyarakatan* (HKm), which was launched in 2001. HKm was seen as a way to revitalise forest management in Gunung Kidul, which had been severely deforested during the 1998 economic crisis (Djmhuri 2008). Gunung Kidul has also been targeted by the DFID-funded Multi-Stakeholder Forestry Programme’s (MFP’s) capacity-building efforts to socialise and provide training to diverse groups of stakeholders involved in the implementation of Indonesia’s timber legality assurance system. The MFP program also focuses on technical training of SVLK auditors, independent monitors from civil society, and identifying capacity-building needs of

local government institutions.

Gunung Kidul is an excellent pilot location for integrating smallholders and communities into the SVLK mechanism, given that smallholder teak producers face many barriers towards the realisation of economic benefits from their teak (Perdana et al. 2012). A study of competition among teak growers in Gunung Kidul found that most tree growers had difficulty obtaining fair market prices for their products due to lack of access to market information, high transaction costs associated with transportation, and a restrictive regulatory environment that discouraged smallholders from actively marketing their teak or investing significant time and resources in management of their systems. Many of the same government regulations designed for large-scale timber producers

were also applied to smallholders. As a result, the sale of harvested teak trees only contributed an average of 11.6% to total household income, largely because smallholders only harvested teak when faced with significant financial needs (Perdana et al. 2012).

During a field visit to a community considering SVLK certification, it was found that local awareness of SVLK was very low despite the fact that several neighbouring villages had already obtained SVLK certificates. One of the key discussion points was the cost of obtaining SVLK certification, which was estimated to be approximately USD 2600 to USD 3100<sup>(3)</sup> and posed a significant entry barrier. Village forest committee members discussed the possibility of obtaining a group certificate with neighbouring communities. The concept of group certification is one of the most promising options for integrating local producers into the SVLK system. For the most part, benefits to local actors are limited given the lack of local rights over forest resources. However, the idea of group certification met with some resistance from committee members due to concerns that involvement of more actors would overly complicate the matter, and that the village's negotiating power would be reduced. Several months later, after internal deliberations and discussions with advisors from a nearby university, they eventually decided to pursue group certification in order to lower transaction costs.

This case illustrates several points of interest. One is that the concept of group certification may not be readily accepted by communities, and significant time and outreach is needed to introduce and discuss its advantages and disadvantages with community members. Another significant point is that access to capital is a major issue for small and medium-sized enterprises and community forests, which will require significant capital in order to comply with the SVLK. However, formal efforts have been made to provide capital to these groups through government subsidies and donor funding. As of January 2013, the Indonesian government had allocated about USD 312 000 to help small-scale producers pursue SVLK certification (Osman 2013). The European Union is also cooperating with the Food and Agriculture Organization of the United Nations (FAO) to manage a small grants program to support FLEGT-related activities of applicants from VPA countries. For Indonesia, these grants provide support 1) to

small producers in implementing SVLK and 2) to civil society for conducting independent monitoring and establishing provincial-level multi-stakeholder forums (EU and FAO 2013).

It was also observed that local knowledge of later stages of the teak supply chain was low, which should be a crucial factor in deciding whether to pursue SVLK certification. Similar to the situation described in Perdana et al. 2012, the local supply chain consisted of the tree growers (usually farmers who also grow crops such as upland rice, cassava, peanut, soybeans, bananas, and various vegetables) and local traders who trade timber among each other, with large-scale traders, or sell directly to processors. In this case, their teak was usually sold to processors, craftsmen, or furniture-manufacturing facilities in Jepara, a famed hub for the forest products and wood crafts industry on the northern coast of Central Java. Although much of the teak furniture manufactured in Jepara is exported abroad, local tree growers and traders had little knowledge whether or not their teak ever reached foreign markets or was consumed domestically.

However, smallholder teak producers in Gunung Kidul are not necessarily ideal targets for illegal logging interventions. The community described above has a long history of forest management, with clear land tenure over a 573 ha forest under the formal designation of *hutan rakyat*. Their forest was governed and managed by a 20-member village forest committee consisting of tree growers, traders, and village government officials. Although illegal logging is not a threat for these types of communities, this case illustrates the issues facing community forests in becoming part of the supply chain of legal timber that SVLK seeks to create. These dynamics also play out elsewhere in Indonesia; as of August 2013, only 7% of wood handicraft exporters in Bali were SVLK certified because they remain unconvinced of certification benefits (Winarti 2013).

#### 14.4.2 Large-scale pulp producers

Two of Indonesia's largest pulp and paper producers, Asia Pulp and Paper (APP) and Asia Pacific Resources International Limited (APRIL), were some of the first major companies to pursue SVLK certification of timber for their pulp mills. Although certification is mandatory, expressed support is not; yet these two companies have publicly expressed support for the SVLK standard and continue to actively cultivate consumer confidence in the legality of Indonesian timber at the global level. The reasons and dynamics behind this support help to illustrate reasons why SVLK has garnered broad support from the private sector in Indonesia.

<sup>(3)</sup> The cost of the certification is not set by the government but negotiated between clients and accredited auditing companies. Recent newspaper articles cite the average fee as USD 2800 to USD 4100. Source: "Govt helps small timber product firms get SVLK certification." Yulisman, The Jakarta Post. August 3, 2012.

APP is one of the largest pulp and paper producers in the world, producing approximately 80 billion tons of pulp, paper, and packaging products in Indonesia each year. About 10% of this total enters Europe, and the remainder is either consumed domestically or exported to approximately 65 other countries, including the United States (Greenbury 2012). APP became fully compliant with SVLK following certification of all its nine Indonesia-based mills in November 2012 (Gyekye 2012). Among the reasons motivating their certification was the need to comply with the legal requirements of importing countries, such as the US Lacey Act and the EU Timber Regulation (Asia Pulp and Paper 2012), which suggests that market access rather than theoretical price premiums are a key driver behind support for the SVLK standard.

APRIL's subsidiary PT Riau Andalan Pulp & Paper (PT RAPP) also achieved SVLK certification of its Sumatra-based mills and plantations in November 2012 (APRIL 2012). These mills produce an estimated 2.8 million tons of pulp annually. Prior to the advent of SVLK, APRIL had taken its own measures to assure legality and sustainability of its operations; the company has had its own timber legality verification system in place since 2002, and its plantations have been certified by the Indonesian Ecolabel Institute (LEI, acronym for *Lembaga Ecolabel Indonesia*) since 2006. However, such systems lack recognition at the global level; for example, the LEI standard is recognised by Japan but not by the United States or Europe, which lends further support to the hypothesis that retaining market access to importing countries is one of the key factors driving support for widely accepted timber legality schemes in the private sector.

On the other hand, critics have argued that timber legality certification could follow in the footsteps of forest certification with respect to providing a form of greenwashing for large forest sector companies such as APP and APRIL. While both companies have gone to great efforts to communicate the sustainability of their operations, they have also made significant efforts to promote the credibility of Indonesian timber in the global marketplace, which could suggest that being perceived as sustainable remains subsidiary to being perceived as credible. While APP acknowledges that SVLK certification is a necessary step towards achieving the company's 2020 Sustainable Roadmap Vision of sourcing all raw materials from plantations rather than natural rainforest, they take care not to confuse "sustainability" with "legality." This illustrates the leading role that large-scale producing companies with international supply chains can play in furthering implementation of the SVLK standard in Indonesia. By increasing consumer confidence in the credibility of wood products sourced from Indonesia, they help keep the doors to consumer

countries open for Indonesia's multitude of small-scale exporters and other small and medium-sized enterprises, thus boosting the domestic forest products industry.

### 14.4.3 Summary

These two case-studies demonstrate several key implementation challenges to legality verification in Indonesia, such as the difficulty in applying the standard to smallholders and community forests and the inability of timber legality verification to extend influence into traditional problem areas. At the same time, the progress that has been made should not be understated. Tens of thousands of legality documents have already helped to certify 2 million tons of forest products worth USD 1.41 billion (Fitriani 2013). SVLK may also become a key factor in enabling Indonesia to lift its current log export ban; the Ministry of Forestry is discussing the possibility of allowing only SVLK-certified companies to export raw logs, permitting them to obtain premium prices in the international market instead of the currently depressed domestic-market prices (Fauziah 2013, Lubis 2013b). An online information system, *Sistem Informasi Legalitas Kayu*, was launched in mid-2012, making a broad database of SVLK certificate holders publicly accessible, along with their audit documents. So, a decade after multi-stakeholder efforts began to craft a definition of legal timber in Indonesia, the system envisioned has become reality and its story will continue to unfold as it is put into practice.

## 14.5 How and why do new forms of governance emerge?

Bernstein and Cashore (2000) theorise that there are four distinct pathways through which influence on domestic policy-making processes occurs. For a full discussion of this framework, see Part II chapter 9. By applying the pathway framework to the case of illegal logging in Indonesia, we see that all four pathways were crucial in creating support for timber legality verification in Indonesia's domestic policy process (Table II 14.2).

What is interesting for the purposes of this analysis is the interaction between each of the four pathways. For example, the market pathway interacted with the norms pathway when forest certification – a non-state market-driven mechanism – failed to take hold in the tropics and led to the widespread embracing of timber legality as a more practical step towards achieving SFM. The widespread adoption

**Table II 14.2 Application of the pathways framework to the case of timber legality verification in Indonesia.**

Pathway	Indonesia
International Rules	US Lacey Act and EU Timber Regulation EU FLEGT VPA Process Public procurement policies of other countries (Japan,Australia, New Zealand)
Norms	Sustainable forest management Good forest governance Green public procurement
Market	Desire for market access Ability to take away market share from countries not pursuing legality verification Realisation of potential premium prices
Direct Access	Multi-stakeholder process in developing SVLK gave civil society and bilateral donors direct access in policy-making Third-party monitoring gives civil society direct access in implementation

set legality verification on its way to becoming a global norm, as more and more countries develop green public-procurement policies and public awareness about the impacts of consumption grows. The market pathway also interacted with the direct access pathway when NGO boycott campaigns in the early 2000s damaged Indonesia's reputation and thereby threatened market access of Indonesia's forest products to European markets. As a result, the Indonesian government and the multi-stakeholder group that developed the SVLK standard realised that there was a critical need for SVLK to be credible. The pursuit of credibility fundamentally altered the design of the mechanism to include components that government would normally interpret as impinging on national sovereignty, such as third-party auditing and independent monitoring of implementation. Lastly, there was interaction between different international rules within the international rules pathway when the US Lacey Act and stalled FLEGT VPA negotiations spurred development of the EU Timber Regulation, which was a prerequisite for Indonesia to agree to sign the VPA.

It should also be noted that the need to address illegal logging is high on the national agenda, as evidenced by the presence of presidential decrees, high-level international dialogues, widespread media coverage, and the fact that forestry issues comprise a significant component of the dockets of bilateral donors such as DFID, USAID, GIZ, Norway, etc. The media coverage of forestry issues, including illegal logging, is widespread in Indonesia. Stories on these topics are frequently featured on broadcast

television news and in prominent Indonesian magazines and newspapers. An analysis of the volume of English-language media coverage of illegal logging in six countries (Indonesia, Malaysia, Brazil, China, Gabon, and Cameroon) found that coverage was the highest in Indonesia, with a peak of 1200+ articles in 2007 (Lawson and McFaul 2010). However, it is unclear to what extent media coverage has served as an enabling factor for garnering widespread acceptance for legality verification or whether it merely reflects the activities already occurring through the four pathways, such as pressure from international rules and policies, excitement over possible economic incentives through the market pathway, or the collective support of environmental and business interests that drove creation of the SVLK mechanism through the direct access pathway.

## 14.6 Conclusion

Widespread domestic and international changes over the past 20 years interacted with each other to give rise to new forms of forest governance in Indonesia, via timber legality verification mechanisms to address the problem of illegal logging. Whether timber legality verification eventually succeeds in rescuing forest governance and setting a course towards sustainable forest management in Indonesia depends upon whether the strategic choices made by practitioners can harness the new dynamics that it has created. The extent to which the Indonesian government is



committed to enforcing its timber legality standard and to enforce the Lacey Act and EUTR and the extent to which industrial timber producers realise a natural price premium from weeding out illegal timber from the market are certain to play crucial roles in determining how support for timber legality verification will continue to evolve. The perception of SVLK in the broader NGO community will also affect its potential impact, as boycott campaigns of SVLK timber have the potential to irreparably damage the system's credibility among European consumers.

One of the most interesting areas to watch in the coming years will be how timber legality verification is received by provincial and district governments in Indonesia and how their reaction reinforces or deviates from traditional tensions between the levels of government. Already, some NGOs have reported that certain provincial governments have refused to cooperate in sharing data to support independent monitoring (Solo Pos 2012), while other district governments actively help local enterprises in securing certificates (Antara News 2013). The outcome of Indonesia's 2014 presidential election may also shift national-level dynamics of support for timber legality verification. It will be of interest to academics and practitioners to observe how these fluctuations of support among and between the three levels of government continue to play out.

This chapter sought to illustrate the conditions in Indonesia that led to serious and concerted efforts to address illegal logging and thus foster meaningful progress towards SFM. It highlights a plausible course of evolution through which legality verification paves the way for widespread adoption of certification systems by putting in place enabling factors that forest certification currently cannot adequately incentivise, such as global supply-chain tracking systems. Although we cannot empirically measure how likely it is that this evolution towards SFM will occur, we can identify the processes through which this evolution might occur, as well as the enabling factors and constraints that exist along the way. It remains crucial that further research on these types of systems is conducted early in their development so that policy can be reshaped as the system's strengths and weaknesses are uncovered. Such inquiry can further theory building that will then support development of durable and effective interventions that have lasting impacts on global and domestic forest governance.

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