

EU-Indonesia voluntary partnership agreement on forest law enforcement, governance and trade in timber products to the EU

European Parliament resolution of 27 February 2014 on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Indonesia on forest law enforcement, governance and trade in timber products into the European Union (2013/2990(RSP))

The European Parliament,

- having regard to the draft Council decision on the conclusion of the Voluntary Partnership Agreement between the European Union and the Republic of Indonesia on forest law enforcement, governance and trade in timber products into the European Union¹,
- having regard to the Voluntary Partnership Agreement between the European Union and the Republic of Indonesia on forest law enforcement, governance and trade in timber products into the European Union²,
- having regard to the request for consent submitted by the Council in accordance with Articles 207(3), first subparagraph, 207(4), first subparagraph, 218(6), second subparagraph, point (a)(v), and 218(7) of the Treaty on the Functioning of the European Union (C7-0344/2013),
- having regard to the United Nations Declaration on the Rights of Indigenous Peoples (adopted by General Assembly Resolution 61/295 of 13 September 2007)³,
- having regard to Regulation (EU) No 995/2010 of the European Parliament and of the Council of 20 October 2010 laying down the obligations of operators who place timber and timber products on the market⁴,
- having regard to the World Bank report of 14 March 2012 entitled *Justice for forests: Improving criminal justice efforts to combat illegal logging*⁵,
- having regard to the Human Rights Watch report of 16 July 2013 entitled *The dark side of green growth: Human rights impacts of weak governance in Indonesia's forestry sector*⁶,

¹ Council document 11767/1/2013.

² Council document 11769/1/2013.

³ http://www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf

⁴ OJ L 295, 12.11.2010, p. 23.

⁵ World Bank, *Justice for forests: Improving criminal justice efforts to combat illegal logging*, 2012, pp. 5-10,
http://siteresources.worldbank.org/EXTFINANCIALSECTOR/Resources/Illegal_Logging.pdf

⁶ Human Rights Watch, *The dark side of green growth: Human rights impacts of weak governance in Indonesia's forestry sector*, 2013,
http://www.hrw.org/sites/default/files/reports/indonesia0713webwcover_1.pdf

- having regard to the Framework Agreement on Comprehensive Partnership and cooperation between the European Community and its Member States, of the one part, and the Republic of Indonesia, of the other part, signed on 9 November 2009,
 - having regard to Rule 110(2) of its Rules of Procedure,
- A. whereas on 30 September 2013 the Government of Indonesia and the EU signed a Voluntary Partnership Agreement (VPA) on forest law enforcement, governance and trade in timber products into the EU (FLEGT), confirming their mutual commitment to ensuring that timber entering the EU is produced, harvested and shipped legally;
 - B. whereas VPAs are designed to eradicate illegal logging, improve forest governance and ultimately lead to the sustainable management of forests, as well as supporting worldwide efforts to stop deforestation and forest degradation;
 - C. whereas VPAs are intended to foster systemic changes in the forestry sector, rewarding the efforts of diligent operators who acquire timber from legal and reliable sources and protecting them from unfair competition;
 - D. whereas Indonesia is home to the world's third-largest rainforest area after the Amazon and the Congo Basin, but is also a significant emitter of greenhouse gases, mainly as a result of the large-scale conversion of its rainforests and carbon-rich peatlands to other land uses such as the production of palm oil and paper;
 - E. whereas Indonesia lost at least 1 240 000 hectares of forest between 2009 and 2011;
 - F. whereas only 10 % – by value – of Indonesian timber and timber product exports are currently destined for the EU, while the bulk of exports are directed towards Asian countries, which makes the VPA an important standard-setter for the entire Indonesian timber industry;
 - G. whereas there is a high risk of money laundering and tax evasion in Indonesia's forestry sector, according to Interpol and a 2012 World Bank study;
 - H. whereas, according to Human Rights Watch, corruption, tax evasion and money laundering in the forestry sector cost the country as much as USD 7 billion between 2007 and 2011; whereas the Deputy Chair of Indonesia's Corruption Eradication Commission (KPK) has described the forestry sector as a 'source of unlimited corruption'¹; whereas Indonesia has, however, made significant progress in recent years regarding the prosecution of financial crimes, as was proven by the Supreme Court conviction of palm oil producer Asian Agri Group for tax evasion in December 2012;
 - I. whereas both parties must agree on the Indonesian Timber Legality Assurance System (TLAS) / Sistem Verifikasi Legalitas Kayu (SVLK) so that Indonesian timber and timber

¹ Reuters Online News, 17 September 2010, 'Graft could jeopardise Indonesia's climate deals', <http://www.reuters.com/article/2010/09/17/indonesia-corruption-idUSSGE68G03P20100917>

products covered by the VPA can enter the EU market as FLEGT-licensed timber, which is automatically considered legal under the terms of the EU Timber Regulation¹;

- J. whereas the Indonesian SVLK is currently undergoing revision to bring it into compliance with the VPA requirements;
 - K. whereas the Commission is empowered under Council Regulation (EC) No 2173/2005 on the establishment of a FLEGT licensing scheme for imports of timber into the European Community² to adopt detailed requirements for the granting of FLEGT licences and to amend the list of partner countries and their designated licensing authorities set out in Annex I to that regulation;
 - L. whereas on 6 May 2013 Indonesia's Constitutional Court ruled that the customary forests of indigenous peoples should not be classed as falling within 'state forest areas', thereby paving the way for wider recognition of the rights of indigenous peoples in the archipelago;
1. Commends Indonesia's enormous voluntary effort to resolve rampant illegal logging and associated trade by developing its SVLK through a multi-stakeholder process, and especially the significant progress achieved in recent months; remains concerned, however, about certain problems; recalls that in order to formally issue FLEGT licences the SVLK must be operational with a view to achieving the goals of the VPA;
 2. Welcomes the outcome of the negotiations on the Voluntary Partnership Agreement between the EU and the Republic of Indonesia on forest law enforcement, governance and trade in timber products into the EU; reiterates its support for the conclusion of the VPA and its willingness to support the successful implementation thereof;
 3. Notes that the majority of timber sources in question in the country have not yet been SVLK-certified and that large volumes of unverified timber from forest clearance are entering the supply chain;
 4. Underlines the importance of extending the coverage of the SVLK scheme, including auditing, to cover all timber production areas and every stage of the supply chain, ensuring that verified legal timber is separated from unverified timber so that the latter does not enter SVLK supply chains;
 5. Considers the issue of forest conversion to be an ongoing problem in Indonesia's land-use governance system; regrets the fact that at present the SVLK is not auditing the process whereby concessions for forest conversion are granted to undertakings, especially as regards the completion of environmental impact assessments (AMDALs) and compliance with restrictions imposed as part of the process for obtaining a forest conversion permit (IPK);
 6. Notes that the current SVLK leads to timber operations being certified as legal even when land-use rights claims by indigenous peoples and local communities have not been settled and/or proper compensation has not been paid, where appropriate; calls on the Commission to urge the Indonesian Government to ensure that traditional community rights to forests, the free, prior and informed consent of indigenous peoples and local communities, and compensation for lost access to forest lands, where appropriate, are taken into due account

¹ Regulation (EU) No 995/2010.

² OJ L 347, 30.12.2005, p. 1.

in the verification of legality, and that the verification bodies are given a mandate to assess whether undertakings have respected local land-use rights and whether land has been legally gazetted;

7. Encourages the Indonesian Government to ensure that the certification process does not discriminate against small and medium-sized enterprises;
8. Calls on the Commission to urge the Indonesian Government to give assurances that:
 - all timber sources and their complete chains of custody are audited, including verification that timber undertakings had the right to harvest in the first place,
 - certified and uncertified timber and timber products are kept separate,
 - the conversion of natural forests is kept to a minimum and the legal origin of timber from conversion areas is verified, including the existence of an AMDAL, and/or compliance with its stipulations regulating the use of land under concession;
9. Calls on the Indonesian Government, with a view to enhancing the country's credibility in issuing FLEGT licences, to complement the legal verification under the SVLK with decisive action to combat financial crimes linked to the forestry sector, such as money laundering and tax fraud;
10. Calls on the Indonesian Government to follow up on its recent decision to enforce tax laws, and to require documentation showing that companies exporting timber are in full compliance with Indonesia's tax statutes and the anti-money laundering statute of 2010;
11. Welcomes the Indonesian Government's 'one map' initiative to increase public access to up-to-date and transparent data and maps, without which good forest governance in Indonesia is hampered by inconsistent and multiple interpretations of laws, and conflicts with local and indigenous communities; underlines the fact that the independent forest monitors need to have access to such basic information in order to perform their role credibly, and that concession maps, harvesting plans and information on permits should be a matter of public record; calls on the Indonesian Government to accelerate the 'one map' initiative and publish a first version of it, including relevant information linked to forest licensing and land-use claims;
12. Calls on the Commission, through its participation in the Joint Implementation Committee, to ensure that the risk of fraud and corruption is substantially addressed, including through the preparation of a risk-based fraud control plan;
13. Acknowledges that verification of the legality of timber relies almost entirely on the performance of auditors and independent monitoring; commends the SVLK for its official role in respect of independent monitoring by civil society; notes, however, that the capacity of independent monitoring networks is still severely limited in terms of human and financial resources;
14. Calls on the Commission to urge the Indonesian Government to ensure that auditors and verification bodies, along with the independent forest monitors, receive adequate funding and training so that they can carry out regular field monitoring, spot checks and audits;

15. Welcomes the efforts made by the Indonesian Government to strengthen the role of the designated forestry police; notes, however, that the Indonesian Ministry of Forestry should further improve its policy for monitoring, cataloguing and following up on cases of illegal logging; stresses the utmost importance of reporting companies found to be operating illegally to the law enforcement authorities;
16. Calls on the Commission to urge the Indonesian Government to ensure that independent monitoring reports signalling infringements of relevant legislation are responded to adequately, and that effective and dissuasive enforcement action is taken by the relevant authorities where infringements of the legislation in question are detected;
17. Underlines the fact that independent monitoring and respect for the rights of indigenous peoples and local communities are critical factors lending credibility to the SVLK; stresses, therefore, that it is important that this commitment continue, that transparency vis-à-vis other civil society stakeholders be enhanced, that independent monitoring by civil society take place without violence, threats or any form of abuse, and that the latter be vigorously prosecuted should they occur;
18. Calls on the Commission to urge the Indonesian Government to ensure that:
 - stakeholder involvement in the implementation and operationalisation of the SVLK is continued and enhanced,
 - independent monitoring by civil society takes place without violence, threats or any form of abuse, and that the latter are vigorously prosecuted should they occur,
 - free, prior and informed consent of indigenous peoples and local communities is obtained in all cases, and fair compensation paid, where appropriate, for loss of access to forest lands critical to their livelihoods, as a non-negotiable condition of any FLEGT licence,
 - the SVLK audit requirements are not static, but are subject to periodic review by Indonesian stakeholders with a view to their continuous improvement;
19. Calls on the Commission to ensure that the findings of the decision of Indonesia's Constitutional Court of 6 May 2013 are duly taken into account in the revision of the SVLK;
20. Calls on the Commission to facilitate the efforts requested from the Indonesian Government and to ensure a regional level playing field by meeting the Indonesian Government's request to include the region of Sarawak in the negotiations for an EU-Malaysia VPA;
21. Is aware that certain requests contained in this resolution go beyond the criteria established in Annex 8 to the VPA regarding the approval of the licensing system; calls on the Commission to ensure that progress is made in meeting these additional requests, which Parliament deems important, and to report back to Parliament on that progress before approving the licensing system;
22. Calls on the Commission to report regularly to Parliament on the progress made in implementing the VPA, and in particular on how the aforementioned issues have been, and will be, addressed;

23. Instructs its President to forward this resolution to the Council, the Commission and the Government and Parliament of Indonesia.