

The CSO Coalition Call for the Revocation on the Ministry of Trade Regulation No. 15/2020 to President Jokowi: Detrimental to the State, Contradicting with SDG15, and Violating the Indonesian-European Union Trade Agreement.

Jakarta, March 26, 2020 - The coalition of civil society in monitoring the implementation of the Timber Legality Verification System (SVLK) sent an open letter to The President of the Republic of Indonesia, Joko Widodo (Friday, 20/3/2020). The civil society asked the president to immediately instruct the revocation or revision of the Minister of Trade Regulation Number 15 of 2020 (Permendag 15/2020) regarding the Export Provisions for Forestry Industrial Products. It is because these regulations remove the obligation for the use of V-Legal Documents as a requirement export of forestry products.

The Ministry of Trade (Kemendag) argued that the regulations released (Permendag 15/2020) on February 27, 2020, were intended to make it effective for export industrial forestry products, which is to increase the higher export value. Currently, the convenience of exporting wood products without V-Legal documents is a step to anticipate the impact of Coronavirus (Covid-19) on the economy.

Two reasons were quite lied and unfounded. Instead of making effective the forestry industry product exports, the establishment of Permendag 15/2020 could even destroy Indonesian wood products exports because the mandatory requirement of exports was removed from this published Permendag.

The V-Legal document is one of the export requirements for Indonesian forestry industrial products. The document stated that the exported product must fulfill timber legality verification requirements according to government regulations. If V-Legal documents are not listed as export requirements in the regulation, Indonesia has the potential for violating the commitment of the Voluntary Partnership Agreement (VPA) with the European Union regarding the legal timber exports.

The argumentation that SVLK is not required for exporting wood products to the market is something that against Indonesia's commitment to maintaining the system legality and traceability of wood products. Confirming that the SVLK is unnecessary for the market means facilitating export to a market that does not care about timber legality. It is also not used the principles of forest governance and allow the illegal logging potential more often.

Besides that, the commitment to fight illegal logging, establish strong forest governance, and create a timber product legality system was Indonesia's commitment to implement Sustainable Development Goals (SDG). It was especially for SDG 15 (protect, recover and support the use of sustainable mainland ecosystem, sustainably manage the forest, fight the desertification, obstruct and reverse the land degradation, and obstruct the loss of biological diversity). The export of wood products without certification but confirms their legality is a violation of SDG15.

This Permendag also created legal uncertainty, especially in the national environmental law, where the Permendag provided a legal basis for forestry industry activities that did not need to pay attention to traceability, legality, and sustainable development.

In the end, Permendag 15/2020 will impact the global diplomacy position because it will damage Indonesia's reputation that was inconsistent with the global policy that has been established. In global diplomacy, it was not only a technical result or economic impact but also maintaining geopolitics by consistently providing a clear wood product legality and free from illegal logging. On the other hand, Indonesia's competitor countries such as Cameroon, Central African Republic, Ghana, Guyana, Honduras, Liberia, Congo, Vietnam, China, and Myanmar are preparing to create a comprehensive legality system like the Indonesian SVLK.

Abu Meridian from **Kaoem Telapak** (an organization that focused on the environmental sector) stated, the release of Permendag 15/2020 intimated the failure of Indonesia's commitment to stop illegal timber trade through the comprehensive implementation of SVLK. A system established almost 20 years ago through the involvement of parties used legality, traceability, and sustainability principles in timber production and trade, from upstream to downstream, including exports. SVLK enforcement was to provide the certainty of Indonesia wood products legality, both for the domestic market or the global market. "Indonesia has been known as a pioneer country that succeeded in reforming the timber sector dominated by illegal practices in the past. This success was recognized by the European Union through legal timber trade agreements with Indonesia (FLEGT-VPA)," said Abu.

M. Kosar from **the Independent Monitoring Network of Forestry (JPIK)** said that this Permendag allowed products without legality assurance to be exported freely. "This means that there is a chance for many illegal logging and illegal timber trade. This is a threat that can drop the image of Indonesian wood products in the world, and tear down the credibility of Indonesia as a pioneer country in improving governance forests management," explained Kosar.

Adrianus Eryan from the **Indonesian Center for Environmental Law (ICEL)** said that Permendag 15/2020 has the potential to reduce interest and incentives for the downstream timber industry to implementing SVLK, which led to the deterioration of Indonesian forestry governance. "Business actors that commit to sustainable management seemed underestimated, and they are only played by changing of various regulations and policies, which created legal uncertainty," said Adrianus.

Syahrul Fitra from **the Auriga Nusantara Foundation** (an organization that focused on environmental preservation) said that Article 10 of the VPA (Voluntary Partnership Agreement) also regulated that Indonesia still has to apply SVLK for timber, which was exported to non-European Union (EU) countries and sold on the domestic market. "The impact of removing V-Legal documents as an export requirement in Permendang 15/2020 will cause Indonesia to violate the VPA agreement," said Syahrul.

The release of Permendag 15/2020 has limited public participation and ignoring the existence of Independent Monitors as part of the SVLK system. This Permendag did not consider the impact on the SVLK credibility, which has been established with much effort and gained market recognition. "We as part of public participation, we should reject the operationalization of these rules that has the potential for illegal timber and negative impacts for Indonesian forests," said **Agung Ady**, from **Forest Watch Indonesia**.

Indonesia will face the risk of market rejection if they still send the unknown wood products. It is especially for several market countries timber products that have regulations to prevent the entry of illegal timber from other countries, such as the European Union, the United States, Australia, Japan, Korea, and China that was recently revising its Forestry Law.

If the current situation continues until the enactment of Permendag 15/2020 on May 26, 2020, the coalition assesses that there has been a deterioration of forestry governance in Indonesia. The coalition asked the **President of the Republic of Indonesia to immediately instruct the revocation or revision of Permendag 15/2020** considering the regulations contradict Permen LHK (the Ministry of the Environment and Forestry Regulation) No. 30/2016. It also had the potential to created legal uncertainty and uncertainty of doing business; causing Indonesia in violating the FLEGT-VPA agreement (Forest Law Enforcement, Governance and Trade-Voluntary Partnership Agreement) with European Union; causing distrust of business actors who have to obey the SVLK implementation; and causing a deterioration in Indonesia's timber exports due to the loss of market confidence.

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Editor's Note:

- The coalition of SVLK Strengthening consists of eight members that are the combination of Civil Society Organization (CSO), which has focused on sustainable Indonesian forest governance.
- The Timber Legality Verification System (SVLK) aims to guarantee timber and wood products from legal sources. Legal certainty is seen as the first step to sustainable forest management and with continued efforts. It is expected that all wood products in Indonesia are produced from sustainable forest management.

- FLEGT-VPA (Forest Law Enforcement, Governance and Trade-Voluntary Partnership Agreement) is a bilateral agreement between the European Union (EU) and countries timber exporters to improve forestry sector governance and ensure that only legal timber and timber products are exported to the EU from the country partners.
- Permendag 15/2020 has the potential to violate the commitment of Indonesia's Nationally Determined Contributions (NDC) related to the Paris Agreement 2015. Indonesia's NDC clearly emphasized that the second-largest sector effort that will reduce emissions is the forestry sector. Removing SVLK obligations for markets that are not sensitive to illegal logging and strong forest governance will become a legal gap for forest loggers to facilitate the export of wood products without SVLK, which in the end, would be a violation of Indonesia's NDC agreements. Thus, this Permendag is potentially violating international law, the Paris Agreement, which has been ratified into the Indonesian National Law.
- SVLK becomes central to the partnership agreement between Indonesia and the European Union because it can be used as a Timber Legality Guarantee System (TLAS). Under this system, all the products covered by the agreement must have an export license to enter the EU market. The Indonesian government implemented the SVLK in 2009 with the release of Permenhut (The Ministry of Forestry Regulation) No. P.38/Menhut-II/2009, and starting to implement it in September 2010. Regulations regarding SVLK have several times improvements with the releasing of P.68/Menhut-II/2011, P.45/Menhut-II/2012, P.42/Menhut-II/2013, P.43/Menhut-II/2014, P.95/Menhut-II/2014, and P.30/MenLHK/Setjen/PHPL.3/3/2016.
- V-Legal Document is a requirement for all timber products to be exported. It previously appears in Permendag 25/2016 on Export Products Forestry Industry that is revised through Permendag No. 84 of 2016, Permendag No. 12 of 2017, and Permendag No. 38 of 2017. Permendag No.15/2020 annulled the provisions in Permendag No.12 of 2017.
- Several market countries of wood products have released legislation to prevent the entry of timber products from illegal sources into their country, such as:
 - o *European Union Timber Regulation* (EUTR) requires all wood products imported to the European Union from an official source that can be verified and requires business actors to trace their product at the initial source.
 - o Amendments of the United States of America Lacey Act is created to fight the illegal logging practice by regulating a prohibition on trade with illegal product materials, including timber products/made from wood.
 - o Australian Illegal Logging Prohibition Act (AILPA) contained the prohibitions to imports and sales of all types of products from the unclear origin wood products.
 - o Revision of China's Forestry Law in Article 65 stated that no entities/individuals are allowed to buy, process, and transport wood from an illegal source, such as theft or deforestation.

- o The Goho Wood/Legal Wood system is implemented by the Japanese Government requiring parties that export timber and wood products to Japan must be verified the legality.
- o Act on the Sustainable Use of Timber and Creation and Management of Forest Resources Act is released by the Korean Government to prevent the distribution or use of illegal timber inside or outside Korea.
- SVLK export data since 2013 is jumped drastically:

2013: USD 6 billion, 2014: USD 6.58 billion, 2015: USD 9.84 billion, 2016: USD 9.26 billion, 2017: 10.93 billion, 2018: USD 12.13 billion (2 times in 2013 for only five years), 2019: USD 11.62 billion (Decreased due to global economic conditions, but still higher than 2013 and 2017). January 1, 2020 – March 17, 2020: USD 2.57 billion. The dominant position of Indonesia is threatened by the Ministry of Trade Regulation, which is supposed to work for improvement exports, not otherwise.
- Indonesian products with SVLK license or certification give the highest advantage for importing European Union tropical wood products in 2019 and make Indonesia the first rank in the European Union. FLEGT Independent Market data Monitoring (FLEGTIMM) in September 2019. It can be downloaded at the link
<https://www.flegtimm.eu/index.php/eu-market-oveview>

