

# Does EU Breach Treaty Obligation on FLEGT – VPA with Indonesia?

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Ambassador of the Republic of Indonesia  
to the Federal Republic of Germany







2011



2011



2016



2012



# Key Elements of FLEGT - VPA

1

## **GOOD FORESTRY GOVERNANCE**

“RECOGNISING efforts by the Government of the Republic of Indonesia to promote good forestry governance, law enforcement and the trade in legal timber, ...” (Preamble para. 8)

4

## **FULFILMENT OF WORKERS' RIGHTS**

Criteria K.5.2 Fulfilment of workers’ right under Principle P.5 Compliance with labor laws and regulation (Annex II – Legality Definition)

2

## **SUSTAINABLE FOREST MANAGEMENT**

RECOGNISING that implementation of a FLEGT Voluntary Partnership Agreement will reinforce sustainable forest management and ...” (Preamble para. 9)

5

## **ENVIRONMENTAL IMPACT ASSESSMENT**

Criteria K.4.1 Permit holder has an approved Environmental Impact Assessment (EIA) document and has implemented measures identified in it under Principle P.4 Compliance with environmental and social aspects related to timber harvesting (Annex II – Legality Definition)

3

## **TIMBER PRODUCTS**

“... , is to provide a legal framework aimed at ensuring that all imports into the Union from Indonesia of timber products covered by this Agreement have been legally produced and in doing so to promote trade in timber products” (Article 1)

6

## **COMPLIANCE WITH ENVIRONMENTAL AND SOCIAL ASPECTS**

Principle P.4 Compliance with environmental and social aspects related to timber harvesting (Annex II – Legality Definition)

# Indonesia's commitment under FLEGT VPA

**1**

**Since 2015, it was noted that more than 20 new regulations and circular have been issued as technical arrangement to fulfill legal, sustainable and social aspect on the key elements of VPA**

**2**

**The Treaty has helped strengthen the traceability of timber and improve supply chain controls**

**3**

**The Treaty also includes Indonesia's Sustainable Forest Management System (Pengelolaan Hutan Produksi Lestari) is one of important factors to issue SVLK certification**

# Level of Actual Formal Implementation of the EUTR

*Forest Policy and Economics 90 (2018) 180–190*

**Table 4**

Relative levels of actual formal implementation of the EUTR.

	Adoption of legislation	Content of legislation	List of operators	Civil society participation	Total score
Germany	2	4	2	2	10
Netherlands	2	4	2	2	10
UK	2	4	1	2	9
Austria	2	3	2	0	7
Bulgaria	2	3	2	0	7
Sweden	0	4	2	1	7
Greece	0	4	0	0	4
Italy	0	3	0	1	4
Spain	0	3	0	0	3

Constance L. McDermott, Metodi Sotirov,  
 A political economy of the European Union's timber regulation:  
 Which member states would, should or could support and  
 implement EU rules on the import of illegal wood?,  
 Forest Policy and Economics, Volume 90, 2018, Pages 180-190,  
 ISSN 1389-9341,  
<https://doi.org/10.1016/j.forpol.2017.12.015>.

# EU Commitment under FLEGT – VPA

## Article 13

### Market Incentives



Taking into account its international obligations, the Union shall promote a favourable position in the Union market for the timber products covered by this Agreement. Such efforts will include in particular measures to support:

- (a) public and private procurement policies that recognise a supply of and ensure a market for legally harvested timber products; and
- (b) a more favourable perception of FLEGT-licensed products on the Union market.



# European Forestry Institute (EFI) Finding

Analysis of China's trade with the EU and VPA countries 2010-2019



**VPA Countries**



**China**



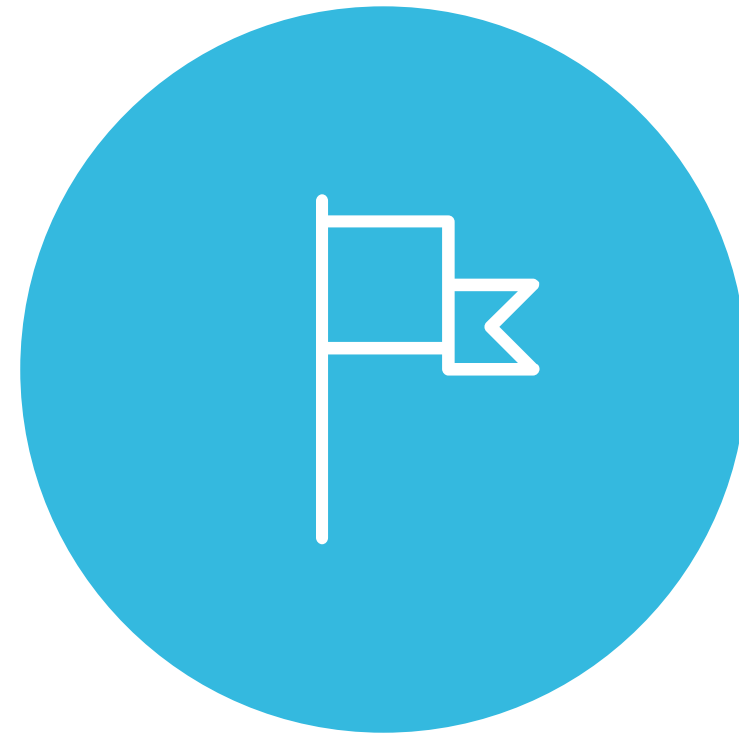
**US**

EU+EFTA Member States' share of forest product imports from VPA countries fell by nearly half, from 19% to 10% from 2009 to 2018. In 2018, EU+EFTA markets imported \$5.8 billion in forest products from VPA countries, compared to \$9 billion imported by China and \$8.3 billion by the US

China remains the most powerful country that EU has little or no leverage in trade . . .

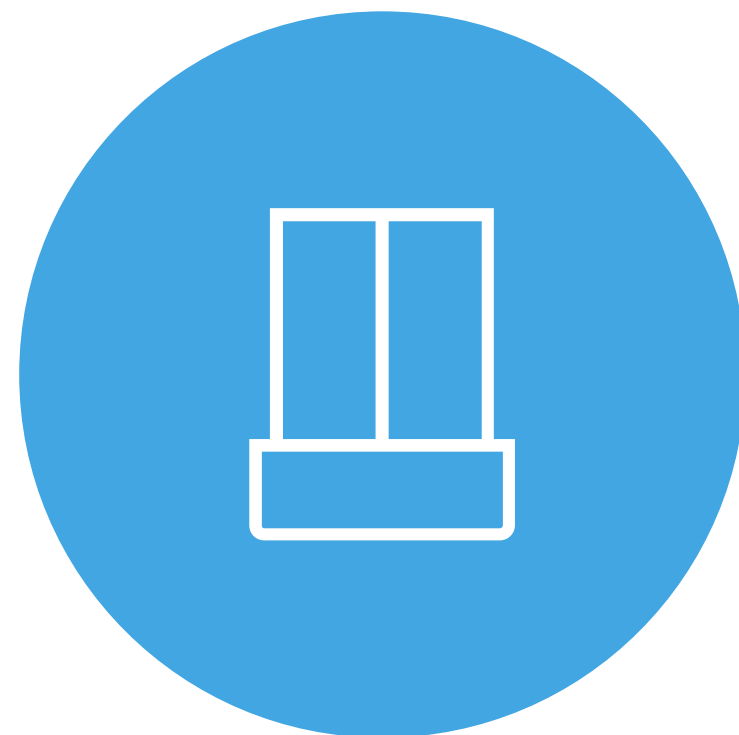


# EU Members Position – Lack/No Awareness & Flat Refusal



**The Indonesian Embassy in Berlin sent out official letters to all Bundesländer (16) on 24 August 2020 regarding the implementation of Article 13 FLEGT – VPA. There are 3 (three) responses:**

- required FSC, PEFC or other equivalent certification (not aware of SVLK)
- advised to discuss on federal level (not aware of SVLK)
- Aware on SVLK but refuse to use the mechanism under FLEGT VPA, because its not sustainable standard



**The Indonesian Embassy in Berlin sent out official letter to Federal Minister of Food and Agriculture on 15 March 2021 on the implementation of Article 13 FLEGT – VPA.**

- The response (7 April 2021) was the VPA officially only certifies the legality of timber product but not its sustainability. (Thus, Germany will not implement Article 13)



# CONCLUDING FACTS

■ **Is EU in Violation of FLEGT – VPA? Yes, clearly.**

■ **Article 20 of FLEGT VPA provides dispute settlement mechanism, as follows:**

- Consultations
- Joint Implementation Committee (JIC) - If a dispute has not been settled by means of consultations within 2 months
- good offices of, or request mediation by, a third party - if the JIC is unable to settle the dispute within 2 months
- either Party may notify the other of the appointment of an arbitrator - If it is not possible to settle the dispute

■ **Implication to EU-Indonesia CEPA. If the legal commitment under FLEGT – VPA is not implemented by EU, what will happen to legally binding agreement under EU – Indonesia CEPA later?**

■ **Indonesia demands “Comprehensive, Robust and Deep” policy in Trade and Sustainable Development chapter of CEPA**

- Comprehensive: all related goods are included (wood, fish, all kind of vegetable oil)
- Robust: right to complaint if there are illegal and non-sustainable products enter EU market from Indonesia’s competitor such as IUU products and non FLEGT products
- Deep: compliance on sustainability must be awarded by preferential treatment and the non-implementation shall be treated with “snap back clause”

■ **Inconsistency**

- Refuse to implement article 13
- Refuse to accept CRD concept in TSD
- Tend to accept TSD that “supposedly” comprehensive
- Insisted on TSD Vietnam and Singapore standard

## ■ Signs of EU discriminatory policy

- Prefer its own certification in government procurement
- Does not include EU Peatland and EU Forest in effort to reduce deforestation and forest degradation – rape seed and sunflower
- EU commitment in forest partnership is covered with discriminatory policy to protect EU own Product and farmers
- Is it true that EU rumors will leave FLEGT?

In Germany peatland agriculture causes annually a climate damage of € 3.6 billion, and gets 300 million EU-grants (CC)





**THANK YOU**



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