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ACTIVITY REPORT

Activity 2.3. Develop One Package Protocols/Guidelines To Monitor The TLAS Implementation Conducted by Independent Civil Society

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ITTO TFL PD 010/09 Rev. 1 (M)

“Strengthening The Capacity of Related Stakeholders in Java on Implementing New Indonesian
TLAS”

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Foreword

Independent civil society organizations are allowed to monitor the verification legality in forestry sector and the production of legality certificates. However, guidelines / protocols to monitor the TLAS implementation by civil society organizations have not been formulated.

Until now, agencies or civil society organizations which monitor the implementation of TLAS in Java is very limited. Several civil society organizations / NGOs in Java in particular has a role as a companion to the community forest owner with the aim of achieving forest certification. But their role as companion NGOs in community empowerment is relatively different with the role in TLAS monitoring. This led to the need of clear definition of roles and responsibilities of civil society / NGOs in monitoring the implementation of TLAS, including guidelines, mechanisms and Consultation Report procedures.

Through project MoF - ITTO TFL PD 010/09 REV. 1 (M) particular activities 2.3, trying to prepare a protocol / guidelines for monitoring the implementation of TLAS. To achieve this goal, the project has hired a national consultant for two months and the international consultant for a month to do the Activity 2.3 that is preparing a package of independent monitoring guidelines for the TLAS implementation by civil society.

Activities undertaken include public consultation and group discussions where necessary to establish guidelines and independent monitoring action mechanism in TLAS implementation that acceptable.

Hopefully the following report illustrates the form of protocols or guidelines that can be used as guidelines and independent monitoring mechanism in TLAS implementation.

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List of Abbreviations

ARupa	= NGO
Bioma	= NGO
BUK /BPK	= Forestry Production Development
CBFM	= Community Based Forest Management
CSO	= Civil Society Organisation
e.g.	= for example
FMU	= Forestry Management Unit
FSC	= Forest Sewardship Council
FWI	= Forest Watch Indonesia
GRES	= NGO (Institute for Social and Environmental Justice)
HCVF	= High Conservation Value Forest
Hispam	= NGO
HR	= Private (Right) Forest
IPK	= Timber Utilization License Holder
IM	= Independent Monitor
ITTO	= International Tropical Timber Organisation
Javlec	= NGO
JPIK	= Independent Forestry Monitors Network
Kanopi	= NGO
KpSHK	= NGO
LATIN	= NGO
LEI	= Indonesian Ecolabeling Institute
LP & VI	= Independent Assessment and Verification Agency
MFP	= Multistakeholders Forestry Program
MoF	= Ministry of Forestry
NAC	= National Accreditation Committee
NGO	= Non Governmental Organization
Paramitra	= NGO
Pendamping Kelompok	= Association
Persepsi	= NGO
Pesat	= NGO
PHBM	= Community Co-Forest Management
PWP Pacitan	= NGO
SFM	= Sustainable Forest Management
Shorea	= NGO
SK	= Regulation
SKAU	= Use of Certificate of Origine
Suphel	= NGO
Telapak	= NGO
TL	= Timber Legality Certificate
TLV	= Timber Legality Verification
TLVA	= Timber Legality Verification Agency
TLVS	= Timber Legality Verification System

ToT	= Training of Trainees
Tropenbos	= NGO
TUK	= Timber Administration
UU	= Law

List of Annexes

1. Terms of Reference for Output 2 (Activities 2.1, 2.2 and 2.3)
2. Guidelines for Independent Monitoring, Jogjakarta 20 January 2011
3. Code of Conduct for Independent Forestry Monitoring, Draft, Jogjakarta 20 January 2011
4. Annex 4 of P.02/VI-BPPHH/2010
5. Annex 5 of P.02/VI-BPPHH/2010
6. Minutes of Meeting from Focus Group Discussions Bogor 21 December 2010
7. Minutes of Meeting from Focus Group Discussions Semarang 23 December 2010

Chapter 1. Background

Since 2003 the Government of Indonesia initiated collaborative work with multi-stakeholders in developing timber legality verification standard (TLVS). The Indonesian timber legality standard was developed to answer criticism from various parties, particularly from the international forest communities concerning the legality of timber and timber products from Indonesia. Doubtfulness on timber legality has affected the marketing and price of Indonesian timber and timber products that eventually created uncertainty as to the products' sustainability.

After a long process that involved multi-stakeholders consultations in forestry sector, on 12 June 2009 the Ministry of Forestry issued a ministerial decree P.38/Menhut-II/2009 regarding Standards and Guidelines on Assessment of Performance of Sustainable Production Forest Management (PHPL) and Verification of Timber Legality (VLK) for license holders or in private forests. It was followed up on 15 June 2009 by the Decree of Director General of Forestry Production Development concerning Standards and Guidelines on Assessment of Performance in Sustainable Production Forest Management for PHPL and Timber Legality Certification (VLK) for timber products (P.6/VI-Sec/2009). Through the new regulation, verification will be undertaken by independent bodies/third party. The regulation will be applied for all concession holders originating from State-Owned forest in natural forest (IUPHHK-HA/HPH), plantation forest (IUPHHK-HT/HPHTI), and holder of timber product utilisation license in community forest (IUPHHK-HTR, IUPHHK-HKm), and private forest, as well as for primary (IUIPHHK) (upstream) industries and advanced (downstream) timber industry (advanced IUI) license holder.

On 10 February 2010 technical guidelines number P.02/VI-BPPHH/2010 was issued for Assessment of Sustainable Production Forest Management (PHPL) and Verification of Timber Legality (VLK). Those above regulations are basic foundations

for the implementation of Indonesian Timber Legality Assurance Standard (TLAS) in the field.

The project will support the implementation of the new Indonesian TLAS for timber resource originating from community forest and community plantation forest in Java. The project is focusing on improving capacity of these groups and other relevant stakeholders that will be achieved through dissemination of information of the new standard of TLAS to the communities and relevant stakeholders, and conducting series of training and strengthening the monitoring institution.

Upon completion of the project, the capacities of relevant parties/stakeholder in implementing TLAS had been improved. Trade volume of legal timber from sustainable community forest and community plantation forest will improve as well. As the long term effect of the project intervention it is expected that local economy of forest dependent communities in Java will be increased and Illegal logging and illegal timber in Indonesia being reduced.

Chapter 2. Consultancy Assignment

Up to now there are very few existing institutions or organizations to monitor TLAS implementation in the field. In fact, there are several NGOs on Java Island that in particular have roles in empowering communities to have their forests be certified. However, their roles (i.e. NGOs in empowering civil society) might slightly be different from monitoring TLAS. It is necessary then to define role and responsibility of civil society/NGOs in monitoring TLAS implementation, including its guidelines, its mechanisms and procedures. Public consultations and group discussions are required to develop an acceptable mechanism and guidelines for independent monitoring of Indonesian TLAS.

To this effect the project has employed one national expert for two months and one international expert for one month to undertake **Activity 2.3** that is to develop one package protocols/guidelines to monitor the TLAS implementation conducted by independent civil society. The objectives of the assignment:

- a. Develop protocols/guidelines to monitor TLAS implementation.
- b. Carry out stakeholder meetings to introduce and discuss the protocols/guidelines.

2.1 Methodology

The consultancy work was carried out as

- 2.1.1 Desktop study on Independent Forest Monitoring to obtain relevant information needed to develop the guidelines. The regulation of Director General of Forestry Production Development P.02/VI-BPPHH/2010 was used as main reference, particularly Annex 4 on Independent Monitoring of Verification of Timber Legality (LK) and Annex 5 on Submission and Resolution of Objections in the Assessment of Verification of Timber Legality.

2.1.2 Result from activities 2.1 and 2.2 of the Project were also used in developing the guidelines.

2.1.3 Focus group discussions or stakeholders meeting were conducted to seek feedback from civil society for the finalization of the draft guidelines for Independent Monitoring of TLAS implementation.

Consultants also communicated with other parties who also worked on the issues of independent monitoring such as MFP2-DFID and attended several meetings organized by independent forestry monitoring network that already exists to enhance synergies and minimize duplication.

2.2 Time Schedule

The consultancy work was carried out in fragments during a total period of two working months between beginning of December 2010 to the first week of February 2011, based on the availability of consultants.

2.3 Geographical area

Since the Ministry of Forestry has developed a mechanism for verifying the legality of forest products, the project disseminated and informed about the newly issued Timber Legality Verification System (TLVS) to stakeholders on Java Island. The project activities in improving capacities was conducted for target group communities, mainly license holders of forest plantations and relevant parties as well as to small/medium wood processing industries in Java Region (East, Central and West Java).

Java was selected because on the island the area of community forest has expanded positively. The community forest area covers 4,670 ha with a promising potential. As public awareness of illegal logging issues has grown, the community forest owners need to seek assurances of legality of origin and compliance with national norms defining legality for the timber they are going to produce.

Growing awareness of these issues, has also resulted in an increase in interest among manufactures especially the small/medium size processing industries located in Java regarding their supply chains and an interest in reducing the potential risk associated with conducting trade in illegally sourced materials.

2.4 Stakeholders meetings

During the months of December 2010 and January 2011, several focus group discussions and stakeholder meetings were held to discuss various things related to independent monitoring and gathering input for the preparation of guidelines/protocols for monitoring implementation of TLVS in Java. Focus group discussions followed by civil society groups that have been identified through the activities of 2.1 and 2.2 in this ITTO project.

These meetings took place:

- 1 December 2010 in Bandung for civil society groups in West Java
- 21 December 2010 in Bogor for civil society groups in West Java
- 23 December 2010 in Semarang for civil society groups in East, Central Java and Jogjakarta
- 20 January 2011 in Jogjakarta for all stakeholders (civil society) to discuss and agree on draft guidelines for independent monitoring and Code of Conduct for an independent monitor

Chapter 3. Regulations References

Definition and role of Independent Monitor:

P.38/Menhut-II/2009:

Independent Monitor Agency shall mean the institution that can perform the supervisory/monitoring function relating to public services in forestry such as the issuance of SFM Certificate or TL (timber legality) Certificate. This includes non-governmental organizations (NGOs) in forestry. (Chapter I, Article 1, point 8)

Independent Assessment and Verification Agency (LP&VI) shall be a state-owned or private company accredited to assess the performance of Sustainable Forest Management (SFM) and/or verify the timber legality. (Chapter 1, Article 1, point 14)

According to Chapter II, Part Five, Article 10, § 4: TL Certificate shall be effective for 3 (three) years as from the issuance, and surveillance shall be conducted every 1 (one) year;

Non Governmental Organizations (NGOs) or civil society in forestry sector can perform as independent monitors in the process of SFM assessment and/or timber legality verification carried out by LP&VI. (Chapter III, Article 14, point 1)

In the event that the NGO or civil society organization in the forestry sector should have an objection to the result of an assessment, the objection shall be submitted not later than 20 (twenty) workdays later to the LP&VI for settlement. Chapter III, Article 14, point 2). If the objection cannot be settled then the NGOs or the society could bring the claim/objection to the National Accreditation Committee (KAN).

P.02/VI-BPPHH/2010

A technical guideline for Independent Monitor is contained in this decree.

Definitions: (Annex 4, Chapter I, paragraph E, point 1. Independent Monitor):

- a. Non Governmental Organizations (NGOs) or civil society in forestry sector can serve as independent monitor.
- b. Independent Monitor from NGOs or civil society may include forestry observer, NGO with an Indonesian corporate body, the community living inside or around the area where license holders or owners of right forest are located/operating, and other Indonesian citizens who concerned about forestry sector.
- c. Institution (including institution personnel) or individual being an independent monitor should have no direct or indirect relationship to or with LP&VI and license holders.
- d. Independent Monitor will perform supervisory/monitory functions related to public service in forestry sector such as issuing PHPL Certificate or LK Certificate.

Activities (Annex 4, Chapter II, paragraph A, points 1-5):

1. The monitoring activity regulated in these guidelines is that related to verification of LK and assessment of certification and verification of LK for the past 1 (one) year carried out by LP&VI.
2. Independent Monitor will give a close look at the process and result of LP&VI assessment, decision-making process and decision on LP&VI in issuing PHPL/LK certificate.
3. Independent Monitor can use and develop their own monitoring methods.
4. In carrying out their activities, Independent Monitor can access any required public information/document and can submit an application for obtaining other required information/documents in writing to holder of the information.
5. Independent Monitor will also monitor the developments in handling of report on objections both from LP&VI and NAC.

Reporting (Annex 4, Chapter II, paragraph B, points 1-5):

1. A report containing objections to the process and/or result of LP&VI assessment on license holder accompanied by the reporter's identity and justifiable supporting material evidence.
2. Material for objections is the result of monitoring activity for the past 1 (one) year for verification of LK or in accordance with the coverage of verification carried out by LP&VI.
3. Report on the monitoring submitted to LP&VI no later than in 20 (twenty) calendar days since the announcement of the assessment result.
4. In the event that LP&VI cannot resolve the objections, then the report can be submitted to NAC.
5. After 20 (twenty) calendar days since the announcement of the assessment result (certificate) then new findings can be reported as new monitoring result from IM to the Ministry of Forestry and LP&VI.

Chapter 4.

Discussion of Main Issues in Stakeholders Consultations in Bogor, Semarang and Jogjakarta

During the group discussion and stakeholder meetings all issues relevant to the issues addressed in a comprehensive way for independent monitoring. In focus group discussions, participants scrutinized the regulations governing TLVS of the Ministry of Forestry and discussed various issues relevant to their roles as independent monitors. Opinions varied, as could be expected from such gatherings, but a consensus could be reached on almost all issues related to independent monitors and monitoring. Below is a summary of some of the main issues.

4.1 Independent Monitor

It was agreed that the content of existing regulations is good, basically it is open for all Indonesian parties to act as independent monitors without any requirement regarding of competence. That is anyone can be monitor, whether individual or institution concerned with forestry issues. However some concern was raised mainly related to the acceptability of the results of monitoring by LP&VI, which is due to lack of recognition of the parties who conduct the monitoring. Therefore to ensure credibility of the system there should be some kind “criteria”, e.g. good understanding of the TLVS, procedures necessary to be able to monitor, produce monitoring result, experience in monitoring and public consultation.

This raised the issue of competence requirement, which believed to be administrative. Whether there should be a registration and where should it be submitted and who should be in charge? This could be a tedious process not serving the aim being practicable and easily implementable, therefore the idea was dropped. Many voices were in favor of having some kind of protocol (code of conduct) for

individuals because without it their monitoring result in the field may not be accepted. To overcome this foreseeable problem most participant supported the idea that individuals should either work through a network or report irregularities to such network for follow-up. To help these individuals who want to make an independent monitoring but cannot carry it out on their own they can propose it to the network for follow-up.

Each network will develop their internal rules regarding membership in such a network Generally speaking the network should specify rules for application, criteria for applicant and establish an internal code of conduct. One criteria supported by everybody was the criteria of having knowledge of the TLVS, process of monitoring and experience in public consultation.

The scope of monitoring was also raised, in which the existing regulations only are referring to independent monitors, monitoring and implementation of auditing for certification, both for SFM and timber legality verification. Participants also highlighted the importance of expanding the scope of monitoring that also includes the monitoring of the process and results of accreditation by National Accreditation Committee of the LP&VI, as well as on the processes of settlement of objection. This is because that LP & VI and personnel of auditors is one of the key components determining the results of the audit/certification.

Related to the implementation of monitoring, there were participants who suggested that monitoring activities should be mandatory and implemented in conjunction with audit activities. The proposal was discussed but no consensus could be reached whether this proposal should be submitted as a recommendation to improve regulation.

Participants also discussed the importance of public consultation activities in the implementation of timber legality verification as one means to submit reports/inputs related to the performance of licensees. Public consultation is one of the procedures required in the certification of SFM, but not required for the verification

of legality of timber. Shouldn't there be a similar requirement for TL also? It was discussed but no consensus could be reached on this point either whether to recommend a change in the regulation.

An intense discussion followed in all three places regarding the definition contained in Director General Regulation P.02/2010, Definition "c" of independent monitor: *"Institution (including institution personnel) or individual being an independent monitor should have no direct or indirect relationship to or with LP&VI and license holders."* Some participants expressed disapproval on the grounds that these rules would severely limit the parties who wish to participate in monitoring and that this rule is contrary to the clause which states that all Indonesian citizens who have concern for the issue of forestry to perform monitoring. This clause is proposed to be removed or repaired editorial so as to avoid misinterpretation

It was difficult to recognize/accept the conflict if the same person acted as both a facilitator (to help prepare for certification) and as an independent monitor. Participants from Central and East Java and Jogjakarta were quite insistent that the facilitator should also be allowed to act as an independent observer. Conversely, participants from West Java in general had the opinion that the facilitator should not do the monitoring to avoid any conflict of interest that could affect the monitoring results. At the last meeting in Jogjakarta after several discussions it was agreed that the regulation should be accepted with the following interpretation: NGOs or organizations that work as advocates or facilitators of community forests can act as facilitator in an area say "A" but cannot act as an independent monitor in the same area but can act as such in other areas, say area "B", "C", "D", etc.

The participants also observed the absence of clear rules regarding the follow-up and management of monitoring results. Who is managing or should manage the monitoring results? How to follow up the results of the monitoring, etc? This is not clarified in the regulations. It was suggested that management of the results of monitoring should be handled by a single desk (in the Ministry of Forestry) as a developer and owner of the system. The monitoring results should be submitted by

the monitors to LP&VI, forwarded to MoF and NAC as well as to the Secretariat of the Network, if monitoring is done by member(s) of a network.

A special case is the “Intermediate Traders/Brokers” in Java. This group plays a vital role in the supply chain between farmers (producers of raw material) and industries but existing regulations do not mention this group. The problem with this group is related to verification of timber legality because this group of "collectors" usually cannot prove the origin of wood they have procured and sold to industries. One possible solution discussed was to include this group as subject of verification to ensure the verification system of accountability throughout the timber supply chain from private forests otherwise the entire verification system of timber legality may be in jeopardy.

4.2 Data and Information

“In carrying out their activities, Independent Monitor can access any required public information/document and can submit an application for obtaining other required information/documents in writing to holder of the information.”

The discussion was quite intense because the regulation does not expressly say that independent monitors have the right to public information required in the monitoring, and also does not require the holder of information to provide data and information needed for independent monitors.

It is assumed that independent monitors are not going to collect and compile data/information because this would be a cost prohibitive exercise hence monitoring will be based on existing data/information. Regulation P.02/2010 does not expressly regulate the procedure how to access public information, including any information that can be accessed, the format of the request, to whom it should be addressed, how long will it take until the request for information be addressed, what happened/what sanctions applied if data/information requested is not provided by the holder of the information.

One issue which should be clarified is where to obtain required data/information? Is it the license holder, local government, Ministry of Forestry, etc.? Somebody, party or agency/division should be made responsible for it. The issue of access to information becomes very important because availability of data and information is key for independent monitoring, without any or limited access to data and information related to performance and validity of permit holders who operate in the field an independent monitoring becomes impossible.

What will happen if requested information is not handed over? There is no sanction for refusing of handing over data. Also there is no time limit imposed within which such data/information should be handed over. It would be most appropriate if the regulation is amended by stating that all data/information handed over or made accessible to LP&VI should be made similarly available to independent monitors also which was suggested by some participants. Other participants also highlighted the problem of information transparency of the forestry data base, which until now is still a major problem for civil society groups working on issues of forest monitoring.

4.3 Access to the field by independent monitors

Monitoring includes also access to the field by monitors. However some difficulties were anticipated if monitor was an individual. It may be difficult to convince the license holder of the purpose because lack or none existence of an of introduction letter or similar even though the regulations regarding independent monitoring is an integral part of the TLVS system.

Therefore it was suggested that individuals or monitoring agency join in a network or association, and then they can be equipped with a cover letter that is proof of their existence that can facilitate access to the area of license holder. For example in the case of journalists they are protected by law if he/she can show an identity card (press card) which also guarantees access to information. Those who impede the access to this information could be dealt with by the law more or less directly. There was a suggestion that monitors should be reported or registered with the

government so that government can provide clarification if there is a problem in the field related to monitoring activities.

Access to the field is facilitated for implementation of auditing. The same should be applicable for monitors also who could accompany the auditor's team conducting examination of the unit supposed to be monitored. This method is preferable from point of cost efficiency.

4.4 Objection and Settlement of Objection

According to P.02/2010 *"Independent Monitor will give a close look at the process and result of LP&VI assessment, decision-making process and decision on LP&VI in issuing PHPL/LK certificate."*

The emergence of auditing, monitoring etc. is there due to market, especially foreign, demand. Independent monitors will submit an objection to a certification if they find irregularities in the audit or if the audit results are not in accordance with the findings of the monitoring. Thus, a public summary of audit results became one of the main bases for monitors to submit objections. However, P.02/2010 regulations do not regulate format of public summary by auditors so that public summary of existing audit results did not provide enough information regarding how a decision of the audit or the issuance of certificate was made. This limits the possibility for independent monitors to submit objections to the issuance of a certificate. The participants proposed that P.02/2010 should prescribe a standard format for public summary for auditors which should at least explain the results of the assessment of the indicators or verifiers that led to the issuance or not issuance of the certificate.

Also regarding objection lack of clarity of information material that should be submitted by independent monitors to be followed up by the auditor is also questionable. To date, nearly all auditors require monitors to present objective evidence in submission of objections, but monitors are not act as second auditors.

Participants agreed that an objection is a strong indicator of occurrence of violation if it can be supported with data that can be/have been cross verified.

The time limits for filing an objection during 20 days after announcement of a certificate is also regarded as something that is not necessary, especially because there is an in clarity whether the 20 days are counted from issuance of a certificate by LP&VI or since announcement was made by the Ministry of Forestry. Participants proposed that the time limit (20 days) for filing an objection to a certification should be eliminated, because in another paragraph “B. Reporting, point 5” of P.02 /2010 it is stated that observers can report evidence as new findings on LP&VI beyond the deadline of 20 days.

Participants also observed that settlement of objection is not clearly regulated, for example procedure of time, what will happen to the status of the certificate or the license holder of the management unit that has been sued or an objection was filed to the certificate and the settlement process is prolonged. Who should be responsible, BUK/BPK of the Ministry of Forestry, NAC, LP&VI or who?

4.5 Reporting

P.02/2010 Regulations require different types of reports, for example "Report of Monitoring Result", Report of Objection", “Request of Data/Information”, and “Public Summary” but existing regulations do not clarify what should be and how it should be reported. The issue was discussed and it was strongly recommended that for the sake of compatibility and to facilitate an easier follow up a minimum standard for reporting format should be developed. It was suggested that it should be the Directorate General of Production Forest Management of the Ministry of Forestry who should be in charge of this development.

Another point of interest was when and how to make public/publish the result of the independent monitoring? LP&VI is required to make a public announcement of the decision in connection with issuance of the certificate for a license holder for

"compliance" with existing regulations. Couldn't a similar process be applied also to publicize the result of an independent monitoring?

4.6 Financing

Financing of monitoring was also one of the issues addressed. Monitoring activities so far could take place because there was some financial support from various parties (donors), but what would happen if the flow of funds from these sources will stop? Who should pay for independent monitoring considering it is voluntary? Some opinion was that funds should come from government sources and should be included in the funds for auditing. But is such funding making independent monitor/monitoring sufficiently impartial from any interested party?

Some proposals related to financing came out from the series of discussions:

- a. Government finance monitoring activities, such as PNPM scheme, where the government allocates funds for monitoring, which is also used to develop community-based monitoring. Governments also have an obligation to improve the capacity of monitors to be more credible.
- b. Funding derived from non-government sources that do not affect the independency and impartiality. One proposal is that some of the funds allocated for auditing activities and the rest would be set aside to carry out monitoring of auditing (included in the system/rules implementing TLVS and SFM).

Chapter 5. Conclusions & Recommendations

1. Independent monitoring is a very important part of the TLVS for increasing objectivity and credibility of timber legality verification because this monitoring is independent and impartial.
2. The role as independent monitor can be given to the wide civil society by upholding the principles of impartiality, free of conflicts of interest and objectivity.
3. The choice of an independent monitoring institute or an individual as monitor is voluntary where the existence of a network or association of monitors will strengthen the credibility, facilitate access to information and access to field and recognition by various other parties within the TLVS such as LP&VI, NAC and government as owner of the system.
4. Access to public information is needed for monitoring the implementation of TLVS. It is the right of independent monitors and should be guaranteed by the Government. Therefore there must be sanctions if the information holder does not provide public information requested by independent monitors.
5. Public consultation in the process of verification of legality of timber needed to maximize the input from civil society and other stakeholders as it is done in the PHPL process.
6. Regulation of Director General Decree P.02/2010 should be revised so that there is clarity both in the ordinary procedures of certification, monitoring implementation, submission and settlement of objection. Clarity of these procedures is one of the important factors that support the implementation TLVS to be credible and accountable. For example: there must be a certain time limit in settlement of objection, the Ministry of Forestry shall appoint the Directorate General or create a specific position in the ministry as a receiver of monitoring reports or submission of objections from independent monitors and to make necessary follow up including proposal for amendment of existing regulation.
7. Standard format for different reporting and public summary should be prepared.

Terms of Reference - Output 2

INDEPENDENT INSTITUTION FOR MONITORING IMPLEMENTATION OF TLAS FOR TIMBER RESOURCE FROM COMMUNITY FORESTS AND COMMUNITY PLANTATION FORESTS ASSESSED AND PROPOSED

1. Introduction

Background

Ministry of Forestry just released P.38/Menhut-II/2009 regarding sustainable forest management certification (PHL) and timber legality verification certification (LK) for timber products. It is followed up by the Decree of Director General Management of Forest Production on Criteria and Guidelines for PHL and LK certification (P.6/VI-Sec/2009) in 2009 and technical guidelines for implementation of PHL and LK certification (P.02/VI-BPPHH/2010) in 2010. Those above regulations are basic foundation for the implementation of Indonesian Timber Legality Assurance System (TLAS) in the fields.

According to Article 14 (point 1, 2 and 3) of P.38/Menhut/II/2009, it states that civil society or non-government organizations (NGOs) are entitled to be an independent monitoring agent in the process of TLAS assessment. If the society or NGOs object with the result of the certification assessment, the claim objection has to be submitted to the independent certification and verification body (LP&VI) within 20 days. If the objection cannot be settled then the NGOs or the society could bring the claim to the National Accreditation Commission (KAN).

On the other hand, procedures or guidelines on how civil society or NGOs to monitor TLAS implementation in the fields have not been formulated. The protocols or guidelines are supposed to be easily understood by the users. It is therefore that public consultation with civil societies and NGOs are necessary to be carried out in order to identify and define the role and responsibility of civil society/NGOs in monitoring TLAS implementation, including its guidelines, its mechanisms and the procedures. It is expected that the result of the public consultation could achieve agreement among participants (civil society/NGOs) on how to use the guidelines.

2. Objectives:

- To assess the existing institution that is eligible to monitor the implementation of TLAS
- To review the role and operation of the proposed eligible institution as an independent body
- To develop one package protocols/guidelines to monitor the TLAS implementation which could be conducted by independent civil society group
- To conduct public meetings/consultations with relevant stakeholders (civil society/NGO)
- To proposed three independent monitoring institution from community group in three provinces (West, Central and East Java)

3. Expected Outputs:

- Three independent monitoring institutions from community group in three provinces (West, Central and East Java) proposed.
- Protocols/Guidelines for monitoring TLAS implementation formulated and developed
- Mechanisms or Procedures how to use the guidelines are tested with relevant civil societies and NGOs in Java Forests.

4. Activities:

To achieve the output 2, several activities will be carried out as follows:

Activity 2.1. Asses the existing institution that eligible to monitor the implementation of TLAS

- 2.1.1. Asses the existing relevant institutions to be chosen as independent monitoring institutions.
- 2.1.2. Carry out discussion with relevant parties as a partner of MoF in doing similar activities.
- 2.1.3. Carry out meetings/stakeholders group discussions in three provinces attended by relevant stakeholders to share information concerning independent monitoring institutions/agency.

Activity 2.2. Review the roles and operational activities of the proposed eligible institution from three provinces as an independent monitoring body.

- 2.2.1. Prepare and conduct meeting two times in Jakarta with 15 participants each, to review the roles and activities of the existing monitoring body.
- 2.2.2. Analyze the candidates' profile including its institutions, source of finance, activities etc, (track record of doing independent monitoring).
- 2.2.3. Giving advice how to improve the monitoring system to be independently.

Activity 2.3. Develop one package protocols/guidelines to monitor TLAS implementation.

- 2.3.1. Hiring short term international and national consultant to develop protocol/guidelines
- 2.3.2. Develop protocols/guidelines to monitor TLAS implementation.
- 2.3.3. Carry out stakeholder meetings to introduce and discuss the protocols/guidelines.

5. Inputs

a. Consulting Team:

The consulting team would consist of two months national consultant to carry out activity 2.1. and 2.2. For activity 2.3. the project will hire **one international expert** (one month input) and two months national consultants as a partner of the international expert. The national consultants would support the formulation of the protocols/guidelines for the independent monitoring and disseminate the results to the wider stakeholders.

The international candidate should have experiences in evaluation processes and understanding on a forest-market linking which request credible and verifiable assurances of the legality, origin and forest management of a forest product entering a wider market such as through VPA negotiation with EU countries.

The National consultant should have an experience and qualified personal in monitoring the implementation of Timber Legality Verification, expertise and knowledge in community forest, experienced in evaluating SFM activities from social aspects, having broad information and knowledge on timber legality/timber trade, forest certification both in natural and community forests, at least 3 years working experience in similar jobs.

b. Methodology

Interviews (semi-structure) and meetings will be carried during the consultation. The consultants would visit field sites (private forests) in West Java, Central Java, and East Java for public consultations or meetings and data collection. Relevant stakeholders such as Ministry of Forestry, Forest Concessionaries, NGOs and Community groups would be consulted as resource persons.

c. Timeline

To carry out activity 2.1.; 2.2; and 2.3, the consultants will be assigned in two months working calendar. It might be tentatively started in mid October 2010. The consultancy work would be started ahead from the schedule planned in order to harmonize and in line with other donor activities (such as MFP-2/DfiD) related to TLAS in the fields.

Draft

Guidelines for Independent Monitoring for the Implementation of the Verification of Timber Legality

Objective

These guidelines are intended to guide the implementation of the Independent Monitoring to ensure accountability of the accreditation process of the Institution for Timber Legality Certification made by NAC, the assessment process, the verification system and the decision-making process undertaken by the Independent Assessment and Verification Agency (LP&VI), for verification of TLVS to assure overall credibility.

Scope

The scope of monitoring includes:

1. Monitoring the performance of LP&VI in the verification process and decision making by the personnel on behalf of LP&VI.
2. Monitoring the performance of license holders in fulfillment of or compliance with indicators and verifiers for timber legality before and during the activities for verification of timber legality and after the issuance of timber legality certificate.
3. Settlement of monitoring objection made by LP&VI and Accreditation Agency.
4. Monitoring the process and result of accreditation of Verification Institute carried out by the Accreditation Institute.
5. Monitoring the issuance of the license by the licensing institute.

Definition

1. Independent monitoring is a function that is undertaken by the Indonesian civil society, which is independent from various elements of the TLVS (Permit Holder, Regulator, Verification Agency and Accreditation Institution), to monitor and oversee the implementation of TLVS.
2. Independent monitor is the Indonesian civil society, which is independent from various elements of the TLVS (Permit Holder, Regulator, Verification Agency and Accreditation Institution), who performs the monitoring function and oversee the implementation of TLVS.
3. Independent Assessment and Verification Agency (LP&VI) is a state-owned legal entity or private sector accredited to assess the performance of Sustainable Forest Management (SFM) and/or verify timber legality.
4. National Accreditation Committee (NAC) is an institute that accredits the Independent Assessment and Verification Agencies (LP&VI).

5. Timber Legality Certificate (TL Certificate) shall mean a certificate granted to license holder or private forest owner, which states that the license holder or the private forest owner has met the timber legality standard (legal compliance) in removing the timber forest product.
6. SFM Certificate shall mean a certificate describing the level of success in the implementation of sustainable forest management.
7. License holder is a holder of license for utilization of timber forest products, holder of license for timber utilization (IPK) and holder of license for forest industry.
8. Private (right) forest shall mean a forest situated upon land which has had rights allocated to it outside the forest area and which has evidence of or right to land.
9. Forest license holders shall mean the holder of Timber Product Utilization License in Natural Forest abbreviated to IUPHHK-HA (formerly HPH), the holder of Forest Product Utilization License in Plantation Forest abbreviated to IUPHHK-HT (formerly HP-HTI), the holder of Forest Product Utilization License in Community Plantation Forest abbreviated to IUPHHK-HTR, the holder of Timber Product Utilization License for Ecosystem Restoration abbreviated to IUPHHK-RE, the holder of Timber Product Utilization License in Community Forest abbreviated to IUPHHK-HKm as referred to in Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008.
10. Primary (Upstream) Timber Industry License Holder (IUIPHHK) shall be as referred to in Government Regulation Number 6/2007 [revised by] Government Regulation Number 3/2008.
11. Advanced (Downstream) Timber Industry License Holder (Advanced IUI) shall mean a downstream timber product processing company with products such as furniture.

References:

1. Forestry Minister's Regulation Number P.38/Menhut-II/2009 concerning Standard and Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality in License Holder or in Right Forest.
2. Director General of Forestry Production Development's regulation number P.02/VI-BPPHH/2010 concerning Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality, in particular Annex 4 P.02/VI-BPPHH/2010 Guidelines on Independent Monitoring of Sustainable Production Forest Management (SFM) Performance and Assessment of Timber Legality LK) and Annex 5 P.02/VI-BPPHH/2010 Guidelines on Submission and Resolution of Objections in the Assessment of Sustainable Production Forest Management (SFM) Performance and Verification of Timber Legality (TL).
3. Explanation SE.8/VI-Set/2010 regarding certification of sustainable production forest management (SFM), and timber legality verification (TLV).

4. ISO/IEC 17021:2006 Conformity Assessment – Requirements for Bodies Providing Audit and Certification of Management Systems.
5. List of Support for Certification Institution (DPLS) 13 Rev. 0 will be Additional Conditions and Rules for Accreditation of Assessing Institution for Sustainable Production Forest Management.
6. ISO/IEC Guide 65:1996 General Requirements for Bodies Operating Product Certification Systems.
7. List of Support for Certification Institution (DPLS) 14 Rev. 0 KAN will be Additional Conditions and Rules for Accreditation of Institution for Timber Legality Verification

Criteria for Independent Monitor

1. Independent Monitor:
 - a) Section of the Indonesian civil society, individual as well as institution incorporated in Indonesia, is domiciled and have activities in Indonesia, which is independent of the elements of TLVS (SFM & TLV); and
 - b) Having the understanding of TLVS and have enough skill for being a monitorer so that it can undertake monitoring and produce monitoring result that can be accounted for
2. Individuals, institutions or groups of people who do not meet above criteria may submit information or report to the Independent Monitor for follow up by monitoring or submission of objection.

Independent Monitoring Institution

1. Independent Monitor, an individual as well as institution can choose to work alone or binding himself to a network of independent monitors.
2. Each network of independent monitors or independent monitors who works alone can develop their own monitoring methods that can produce a justifiable monitoring result.
3. Function of Network of independent monitors:
 - a) To give recognition to the independent monitors who are members
 - b) Acting as an intermediary for complain that comes from individuals, institutions or civil society groups who do not qualify as independent monitors or unwilling to submit objection on their own.
4. Network of independent monitors has a binding Code of Conduct for its members to ensure accountability and credibility of the monitoring on behalf of the Network.

Monitoring Procedure:

1. Independent monitors undertake monitoring when an assessment and verification of timber legality process is notified until the announcement of the certification result. Beside that, monitoring is carried out based on reports/special information from various sources (such as communities, NGOs, media) regarding the performance of a permit holder.
2. Independent monitors look at the process and result of accreditation, process and result of verification and the decision making process by Independent Verification Institute (LP&VI) for arriving at issuance of timber legality certificate (LK) and license.
3. Independent monitors can also monitor and follow settlement of objection undertaken by LP&VI and KAN.
4. Independent monitors have right to access public documents or information required in monitoring activities.
5. Independent monitors can access data and other information that supports the monitoring activities by submitting a written request to holder of information.
6. Independent monitors can use and develop their own monitoring methods that can produce a justifiable monitoring result.
7. For reasons of information sources' security and safety independent monitors may conceal respondents' or informants' identity.
8. Independent Monitor is not allowed to use notes, documents, and information of monitoring result outside monitoring interests.

Reporting Monitoring Result

1. Report of monitoring result can be divided into: (a) basic report of result of monitoring, (b) monitoring report for input in assessment and verification, and (c) objection report.
 - a) Basic report of monitoring result is a report containing findings on basis of monitoring (1) process and result of accreditation, (2) performance of LP&VI in assessment and verification process and decision-making by personnel from LP&VI, (3) process for issuance of license and/or (4) performance of license holder in compliance or adherence to indicators and timber legality verifiers just before and during ongoing verification activities of LK, and after issuance of LK certificate. This report is an internal monitoring document.
 - b) Monitoring report as an input for assessment and verification is a report that contains the basic report based on monitoring result, data/relevant information obtained from various parties or sources or both, which is intended to be used as input in the process of timber legality verification. The report is submitted to LP&VI during the assessment and verification process prior to issuance of the certificate.

- c) Objection report is a report that contains an indication of irregularities in undertaking the accreditation process by LP&VI, assessment and verification, and/or result of assessment and decision by LP&VI regarding license holder, issuance of license, as well as finding of incompliance after issuance of the certificate. This report is submitted to NAC for objection regarding accreditation; the report is also submitted to LP&VI or NAC, or the Ministry of Forestry as an objection regarding decision of certification and license.
- d) Reports b) and c) must be accompanied by the identity of the reporter together with supporting material which can be accounted for.
2. Data and information can be classified as follows: (a) opinion, (b) initial data/information, (c) indisputable data/information.
- a) Opinion is a kind of information that forms an opinion/conclusion/interpretation that is not a direct testimony or does not/not yet have substance/support.
- b) Data/initial information is data/information from news media; or direct testimony from resource persons (provider of information, respondent or informant) supported with material/supporter, but has not yet been tested or validated.
- c.) Indisputable data/information is data/information which is a direct testimony (ground truth) of independent monitor and strengthened by substance/support, or data/initial information that has already been checked or validated.
3. Data/information that can be accounted for include data/initial information and indisputable data/information.
4. Data/information which was found within 1 year (TLV) and 3 years (SFM) prior to undertaking the assessment/timber legality verification process can be used as material in the monitoring report.
5. Independent monitor can process the monitoring result as material for evaluation of the system. The evaluation results and recommendations for improvement of the system can be submitted in writing to the Secretary of Director General of BUK of Ministry of Forestry and copied to the Secretary General of the Ministry of Forestry.

Submission and Resolution of Objections related to Assessment and Verification:

1. Objections have to be submitted in writing using the format of an objection report and shall be addressed to the Director of LP&VI, and copied to Director of Accreditation NAC.
2. Objection report shall also be sent to the Secretary of the Director General of BUK, Ministry of Forestry if the objection material forms new evidence over time (pre- until certification decision is made).
3. Objection report must be completed, but not limited to, the following items: (a). Identity of reporter/monitor (name, address, legal entity/ID number), (b) objection material which refers to criteria, indicators and verifiers regarding legality of timber

which is accompanied by data/supporting information that can be accounted for with exception of anonymity of informants (respondents or informants).

4. In the event that the objection was not followed up adequately/satisfactorily by LP&VI, then the independent monitor shall submit in writing the objection report to the Director of Accreditation NAC.

5. Independent monitor can communicate in writing with parties where the objection report has been sent (LP&VI, NAC and Ministry of Forestry) including a request of receipt of the report, result of the validation report, follow-up which will be made or have already been undertaken by LP&VI or NAC or Ministry of Forestry as well as information of type/result of resolution of objection.

6. Independent monitor can use the process and the result of resolution of objection to evaluate the system. Result of evaluation and recommendation to improve the system shall be submitted in writing to the Secretary of Director General, BUK, Ministry of Forestry and copied to the Secretary General of the Ministry of Forestry.

Financing

Independent monitoring activities can be financed through several options:

1. Financing can be done independently by the monitor.
2. Cost of monitoring can be made by the government or can come from other sources which are legitimate and do not jeopardize the independency of the monitor; as well as payment for monitoring can be included in the financing component of audit/verification (mechanism will be further regulated later).

Draft

Code of Conduct

Network of Independent Forestry Monitors Java

Etiquette

1. Free of conflict of interest
2. Objective and impartial
3. Free from corruption
4. Not receiving payment
5. Accountable

Code of Conduct

I. General Provisions

1. Members of Independent Monitoring Network obliged to:
 - a) Carry out monitoring activities in accordance with work procedures of the Network.
 - b) Maintain objectivity and impartiality in conducting monitoring activities
 - c) Avoid conflicts of interest in carrying out monitoring activities
 - d) Maintain and protect records, documents and information regarding monitoring results from use outside of monitoring interests.
2. Members of Independent Monitoring Network are not allowed to:
 - a) Receive payment from any party that can effect the monitoring results
 - b) Use obtained data and information for personal gain (for pressure or personal benefit/enrichment) and other personnel gain outside monitoring context.
 - c) Falsify records, documents and information; with the exception of protecting undercover informants in order to maintain safety.
3. Members of Independent Monitoring Network are required to understand the substance and master the technical capability of monitoring.

II. WORKING PROCEDURES

A. Membership of Network

1. Individuals, community groups and institutions can become members of a network.
2. The network consists of regions, where region exists at province level.

3. For the first time, members of the network are institutions and individuals who are involved in the process of discussion of the guidelines and code of conduct for independent forestry monitors network in Java.
4. Applicant must submit a written application and attach the statute and profile of the network while personnel/individual applicants must attach a copy of identity card and curriculum vitae (CV); accompanied by written recommendation from two members of the network and approved at least by 50% +1 members of the region.
5. Institute of prospective members must state who is the representative of the institute (personnel monitor) within the network through an authorization letter.
6. Network Secretariat issue a registration number for independent monitors of the network for both individual/personnel monitors as well as for institution.

B. Implementation of Monitoring

1. Members of independent monitoring network is informed by Network Coordinator through a letter (written/electronic) that they are going to do monitoring. Letter of notification of monitoring include at least (1) identity and registration numbers of monitors and (2) identity of LP & VI and license holder that will be assessed/verified.
2. Network Coordinator will issue a travelling document (written/electronic) for monitoring if requested by an independent monitor who is member of the Network. The travelling document contains at least the following information (1) identity and registration number of the monitor as well as (2) identification of assessment/verification that is going to be monitored (LP & VI and permit holder).
3. Members of Independent Monitoring Network can communicate with relevant parties in order to obtain information to support the monitoring process. Request of data and information must be written/electronic and copied to Network Coordinator.
4. Members of Independent Monitoring Network can develop their own monitoring methods as far as not violating the code of ethics.
5. Members of Independent Monitoring Network carry out monitoring based on:
 - a) Reports of complain/information from various sources (such as communities, NGOs, media, research/personnel observation or others). Report/information of this kind shall be documented in writing objectively; or

- b) Official announcement from the Ministry of Forestry of the certification plan.
6. Objection report at least shall include: (1) personnel identity of reporter together with clear address and ID number, (2) data and information on the complained case as well as if it fulfills the aspect of 5W1H-What, Who, Where, When and How, (3) identity of the one who received the report and registration number as a monitor
 7. After a monitoring is completed, members of independent monitoring network file a written report regarding (a) basic report of monitoring result, (b) identity file of sources, and (c) summary of monitoring results. Basic report of monitoring results shall be written and properly archived by each member of the independent monitors' network, by giving the identity of informants (respondent and/or informant) that need to be kept confidential for security or safety. Reports shall be supported with materials such as copies of documents, photos with captions (explanation of photos), transcripts or copies of digital audio recordings, video footage resume and/or digital copy. Data and information in the basic report of monitoring result must have clear classification of information such as: (i) opinion, (ii) data/initial information, (iii) data/information which cannot be rejected (cross tested or supported with verifiable material).
 8. Monitoring report must at least include (1) personal identity of monitor, (2) time and place of monitoring and working tools for monitoring, (3) monitoring findings or collected data/information, (4) list of supporting material.

In addition in case of reporting an objection at least the information should include:

9. Identity of information source (respondent or informant) who must be kept confidential in order to maintain security or safety of information source, which shall be written in a separate file and archived properly by each member of the independent monitors Network. Identity of the informant contains at least clear name and short profile (position/title/job and/or domicile).
10. Summary of monitoring results shall be prepared in writing that covers the main points of the findings of the monitoring, availability of verifiable material/support, as well as note on lessons learned. Members of independent monitoring Network shall make a written/electronic summary of monitoring result to Network Coordinator for archiving purposes as a basic material for evaluation of the system. Summary of monitoring results at least include (1) identity and registration number of monitors (2) identity of LP & VI and permit holders who were monitored, (3) time and place of monitoring, (4) principal findings of monitoring and justification material/support, and also (5) documentation of lessons learned.

C. Monitoring and Objection Reports

1. Members of Independent Monitoring Network shall submit a written objection as a statement of objection and addressed to Director LP & VI, and copied to Network Coordinator and Director of Accreditation NAC. The written objection report shall also be sent to Secretary of Director General of BUK, Ministry of Forestry if material of objection is new evidence over time (pre- until certification decision is made)
2. Report of objection shall be accompanied by a letter of introduction from the monitor of the independent monitors Network. The cover letter shall contain information which at least include (1) date and number of letter, (2) identity and registration number of monitor, (3) identity of assessment/verification that was monitored (LP & VI and permit holder), (4) request of a written response.
3. Report of objection must include but not limited to the following items:
(a). identity of reporter/monitor (name, address, legal entity/identity number); (b) objection material which refers to criteria, indicators and verifiers of timber legality with accompanying data/supporting information which can be verified with exception of the identity of source (respondent or informant).
4. In the event that the objection was not followed up adequately/satisfactorily, then the monitor of the independent members Network shall submit a written report of objection addressed to the Director of Accreditation NAC, and copied to Network Coordinator.
5. Members of Independent monitors Network can communicate further in writing with LP & VI, including request of feedback for confirmation of receipt of report, results of the validation report, follow-up that will be or has been taken by LP&VI or NAC or Ministry of Forestry as well as information of the form/result of resolution of the objection. Letter of communication (from monitor) and response letter (from LP & VI or NAC or the Ministry of Forestry), shall be copied/forwarded to Network Coordinator.
6. Network Coordinator coordinate with members of independent monitors Network in order to help monitor and oversee the follow-up process of resolution of objections that have been raised by members of independent monitors Network.

Annex 4. : Director General of Forestry Production Development's Regulation
 Number : P.02/VI-BPPHH/2010
 Date : February 10, 2010
 On : Guidelines on Assessment of Sustainable Production Forest
 Management Performance and Verification of Timber Legality

GUIDELINES ON INDEPENDENT MONITORING OF SUSTAINABLE PRODUCTION FOREST MANAGEMENT (PHPL) PERFORMANCE ASSESSMENT AND VERIFICATION OF TIMBER LEGALITY (LK)

I. PREFACE

A. BACKGROUND

Assessment of Sustainable Production Forest Management (PHPL) Performance and Verification of Timber Legality (LK) that have been stipulated by the Forestry Minister's Regulation Number P.38/Menhut-II/2009 and Director General of Forestry Production Development's Regulation Number P.6/VI-Set/2009 and NAC DPLS 13 and 14, ISO/IEC GUIDE 65, ISO 17011, and 17021 will require guidelines on the implementation. One of the required guidelines will be guidelines on monitoring of PHPL Performance Assessment and verification of LK by an independent monitor.

B. OBJECTIVE

This guidelines aim to guide Independent Monitor in the monitoring of assessment process and result in the PHPL Performance Assessment and verification of LK carried out by LP&VI.

C. SCOPE

These guidelines will serve as a reference for Independent Monitor in monitoring the process and result of PHPL Performance Assessment and verification of LK based on Forestry Minister's Regulation Number P.38/Menhut-II/2009, Director General of Forestry Production Development's Regulation Number P.6/VI-Set/2009, DPLS 13, DPLS 14, ISO/IEC Guide 65, ISO/IEC Guide 17011, and ISO/IEC Guide 17021.

D. REFERENCES

1. Forestry Minister's Regulation Number P.51/Menhut-II/2006 on Utilization of Certificate Of Origin (SKAU) for Timber Forest Product Transportation from Right Forests as has been amended several times, the last being with the Forestry Minister's Regulation Number P.33/Menhut-II/2007.
2. Forestry Minister's Regulation Number P.55/Menhut-II/2006 on Administration of Forest Products from State-Owned Forests as has been

amended several times, the last being with the Forestry Minister's Regulation Number P.45/Menhut-II/2009.

3. Forestry Minister's Regulation Number P.16/Menhut-II/2007 jo. Number P.43/Menhut-II/2009 on Amendment to Forestry Minister's Regulation Number P.16/Menhut-II/2007 on Planned Supply of Raw Materials for Timber Forest Product Primary Industry (RPBBI).
4. Forestry Minister's Regulation Number P.35/Menhut-II/2008 jo. Number P.9/Menhut-II/ 2009 on Business License for Forest Product Primary Industry.
5. Forestry Minister's Regulation Number P.38/Menhut-II/2009 on Standard and Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality in License Holders or in Right Forests.
6. Director General of Forestry Production Development's Regulation Number P.6/VI-Set/2009 on Standard and Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality.
7. ISO/IEC Guide 23:1982 Methods for Indicating Conformity with Standards for Third-Party Certification Systems.
8. ISO/IEC Guide 65:1996 General Requirement for Bodies Operating Product Certification System.
9. ISO/IEC 17011:2004 Conformity Assessment - General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies.
10. ISO/IEC 10002:2004 Quality management. Customer Satisfaction. Guidelines on Complaints Handling in Organizations. Guidelines on Complaints Handling in Organizations.
11. ISO/IEC 17021:2006 Conformity Assessment – Requirement for Bodies Providing Audit and Certification of Management Systems.
12. The List of Support for Certification Institution (DPLS) 13 Rev. 0 will be Additional Conditions and Rules for Accreditation of Assessing Institution for Sustainable Production Forest Management.
13. The List of Support for Certification Institution (DPLS) 14 Rev. 0 will be Additional Conditions and Rules for Accreditation of Institution for Timber Legality Verification.

E. DEFINITIONS

1. Independent Monitor:
 - a. Non Governmental Organizations (NGOs) or civil society in forestry sector can serve as independent monitor.
 - b. Independent monitor from NGOs or civil society may include forestry observer NGO with an Indonesian corporate body, the community living inside or around the area where license holders or owners of right forest are located/operating, and other Indonesian citizens who concerned about forestry sector.
 - c. Institution (including institution personnel) or individual being an independent monitor should have no direct or indirect relationship to or with LP&VI and license holders.

- d. Independent Monitor (PI) will perform supervisory/monitoring functions related to public service in forestry sector such as issuing PHPL Certificate or LK Certificate.
2. Independent Institution for Assessment and Verification (LP&VI) is a state-owned or private-owned company with a corporate body accredited to carry out Assessment of Sustainable Production Forest Management (PHPL) Performance and/or verification of timber legality.
3. National Accreditation Committee (NAC) is an institution accrediting the Independent Institution for Assessment and Verification/ (LP&VI).
4. Timber Legality (LK) Certificate is a certificate awarded to license holders or right forest owners stating that the license holder or the right forest owner has followed the standard for timber legality (legal compliance) in obtaining timber forest products.
5. PHPL Certificate is a certificate explaining the success rate in the implementation of sustainable forest management.
6. License Holder is a holder of license for utilization of timber forest products and holder of industrial license.
7. Holder of License for timber forest product utilization shall include Holder of License for Timber Forest Product Utilization in Natural Forest abbreviated to IUPHHK-HA (formerly HPH), Holder of License for Forest Product Utilization in Timber Plantation abbreviated to IUPHHK-HT (formerly HP-HTI), Holder of License for Forest Product Utilization in Community Forest Plantation abbreviated to IUPHHK-HTR, Holder of License for Timber Forest Product Utilization in Restored Ecosystem abbreviated to IUPHHK-RE, Holder of License for Timber Forest Product Utilization in Social Forest abbreviated to IUPHHK-HKm as referred to in Government Regulation Number 6 Year 2007 jo. Government Regulation Number 3 Year 2008.
8. Holder of License for Timber Forest Product Primary Industry (IUIPHHK) is as referred to in Government Regulation Number 6 Year 2007 jo. Government Regulation Number 3 Year 2008.
9. Holder of Advanced Industry License (Advanced IUI) is a downstream timber forest product processing company, with such products as furniture.

II. ACTIVITIES

A. IMPLEMENTATION

1. The monitoring activity regulated in these guidelines is that related to verification of LK and PHPL Performance Assessment, namely certification and Assessment of PHPL Performance for the past 3 (three) years as well as certification and verification of LK for the past 1 (one) year carried out by LP&VI.
2. Independent Monitor will give a close look at the process and result of LP&VI assessment, decision-making process and decision on LP&VI in issuing PHPL/LK certificate.

3. Independent Monitor can use and develop their own monitoring methods that can produce a justifiable monitoring result.
4. In carrying out their activities, Independent Monitor can access any required public information/document and can submit an application for obtaining other required information/documents in writing to holder of the information.
5. Independent Monitor will also monitor the developments in handling of report on objections both from LP&VI and NAC.
6. For reasons of information source's security and safety, Independent Monitor may conceal respondent's and/or informant's identity.

B. REPORTING

1. Report on the monitoring from Independent Monitor is a report containing objections to the process and/or result of LP&VI assessment on license holder, and accompanied by the reporter's identity and justifiable, supporting material evidence.
2. Material for objections is the result of monitoring activity for the past 1 (one) year for verification of LK or for the past 3 (three) years for PHPL Performance Assessment or in accordance with the coverage of assessment or verification carried out by LP&VI.
3. Report on the monitoring should be submitted to LP&VI no later than in 20 (twenty) calendar days since the announcement of the assessment result.
4. In the event that LP&VI cannot resolve the objections, then report on the monitoring can be submitted to NAC.
5. After 20 (twenty) calendar days since the announcement of the assessment result (certificate), then new findings can be reported as new monitoring result from Independent Monitor to the Ministry of Forestry and LP&VI.

Annex 5. : Director General of Forestry Production Development's Regulation
 Number : P.02/VI-BPPHH/2010
 Date : February 10, 2010
 On : Guidelines on Assessment of Sustainable Production Forest Management
 Performance and Verification of Timber Legality

GUIDELINES ON SUBMISSION AND RESOLUTION OF OBJECTIONS IN THE ASSESSMENT OF SUSTAINABLE PRODUCTION FOREST MANAGEMENT (PHPL) PERFORMANCE AND VERIFICATION OF TIMBER LEGALITY (LK)

I. PREFACE

A. Background

Objections are written statements of dissatisfaction made by a party submitting the objections accompanied by justifiable evidence. In the Forestry Minister's Regulation Number P.38/Menhut-II/2009, license holder and independent monitor (non governmental organizations or civil society in forestry sector) can submit their objections to the result of assessment carried out by Independent Institution for Assessment and Verification (LP&VI).

B. Objective

These guidelines aim to:

1. Develop a mechanism for submission and resolution of objections.
2. Accomplish the management of transparency in and accountability for the process and result of PHPL Performance Assessment and verification of timber legality (LK) carried out by LP&VI.
3. Serve as tool for controlling the worthiness of PHPL and LK Certificates issued by LP&VI for license holders or right forest owners.

C. Scope

PHPL Performance Assessment and LK Certificate must be in accordance with the field situation known to and experienced by the parties concerned. These guidelines contain submission and resolution of objections to the status of PHPL and LK Certificates, and serve as guidelines on submission and resolution of objections.

The scope of objection resolution process will include:

1. Objections submitted by license holder to the report on assessment result.
2. Objections submitted by independent monitoring agency to the process and result of the assessment.

D. References

1. Forestry Minister's Regulation number P.51/Menhut-II/2006 on Utilization of Certificate of Origin (SKAU) for Transportation of Timber Forest Products from Right Forests as has been amended several times, the last being with the Forestry Minister's Regulation Number P.33/Menhut-II/2007.

2. Forestry Minister's Regulation Number P.55/Menhut-II/2006 on Administration of Forest Products from State-Owned Forests as has been amended several times, the last being with the Forestry Minister's Regulation Number P.45/Menhut-II/2009.
3. Forestry Minister's Regulation Number P.16/Menhut-II/2007 jo. Number P.43/Menhut-II/2009 on Amendment to Forestry Minister's Regulation Number P.16/Menhut-II/2007 on Planned Supply of Raw Materials for Timber Forest Product Primary Industry (RPBBI).
4. Forestry Minister's Regulation Number P.35/Menhut-II/2008 jo. Number P.9/Menhut-II/ 2009 on Business License for Forest Product Primary Industry.
5. Forestry Minister's Regulation Number P.38/Menhut-II/2009 on Standard and Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality in License Holders or in Right Forests.
6. Director General of Forestry Production Development's Regulation Number P.6/VI-Set/2009 on Standard and Guidelines on Assessment of Sustainable Production Forest Management Performance and Verification of Timber Legality.
7. ISO/IEC Guide 23:1982 Methods for Indicating Conformity with Standards for Third-Party Certification Systems.
8. ISO/IEC Guide 65:1996 General Requirement for Bodies Operating Product Certification System.
9. ISO/IEC 17011:2004 Conformity Assessment - General Requirements for Accreditation Bodies Accrediting Conformity Assessment Bodies.
10. ISO/IEC 10002:2004 Quality management. Customer Satisfaction. Guidelines on Complaints Handling in Organizations. Guidelines on Complaints Handling in Organizations.
11. ISO/IEC 17021:2006 Conformity Assessment – Requirement for Bodies Providing Audit and Certification of Management Systems.
12. The List of Support for Certification Institution (DPLS) 13 Rev. 0 will be Additional Conditions and Rules for Accreditation of Assessing Institution for Sustainable Production Forest Management.
13. The List of Support for Certification Institution (DPLS) 14 Rev. 0 will be Additional Conditions and Rules for Accreditation of Institution for Timber Legality Verification.

E. Definitions

1. Independent Institution for Assessment and Verification (LP&VI) is a state-owned or private-owned company with a corporate body accredited to carry out Assessment of Sustainable Production Forest Management (PHPL) Performance and/or verification of timber legality.
2. Ad Hoc Team for Objection Resolution is a team authorized to perform document checking, hold consultation with related parties and carry out field verification of objection materials submitted by a party submitting the objections.
3. Independent monitor:

- a. NGOs or civil society in forestry sector can serve as independent monitor.
 - b. Independent monitor from NGOs or civil society may include forestry observer NGO with a corporate body, the community living inside or around the area where license holders or owners of right forest are located/operating, and other Indonesian citizens who are concerned about forestry sector.
 - c. Institution (including institution personnel) or individual being an independent monitor should have no direct or indirect relationship to or with LP&VI and license holders/management unit.
 - d. Independent Monitor (PI) will perform supervisory/monitoring functions related to public service in forestry sector such as issuing PHPL Certificate or LK Certificate.
4. National Accreditation Committee (NAC) is an institution accrediting the Independent Institution for Assessment and Verification (LP&VI).
 5. Timber Legality (LK) Certificate is a certificate granted to license holders or right forest owners stating that the license holder or the right forest owner has followed the standard for timber legality (legal compliance) in obtaining timber forest products.
 6. PHPL Certificate is a certificate explaining the success rate in the implementation of sustainable forest management.
 7. License Holder is a holder of license for utilization of timber forest products and holder of industrial license.
 8. Holder of license for timber forest product utilization shall include Holder of License for Timber Forest Product Utilization in Natural Forest abbreviated to IUPHHK-HA (formerly HPH), Holder of License for Forest Product Utilization in Timber Plantation abbreviated to IUPHHK-HT (formerly HP-HTI), Holder of License for Forest Product Utilization in Community Forest Plantation abbreviated to IUPHHK-HTR, Holder of License for Timber Forest Product Utilization in Restored Ecosystem abbreviated to IUPHHK-RE, Holder of License for Timber Forest Product Utilization in Social Forest abbreviated to IUPHHK-HKm as referred to in Government Regulation Number 6 Year 2007 jo. Government Regulation Number 3 Year 2008.
 9. Holder of License for Timber Forest Product Primary Industry (IUIPHHK) is as referred to in Government Regulation Number 6 Year 2007 jo. Government Regulation Number 3 Year 2008.
 10. Holder of Advanced Industry License (Advanced IUI) is a downstream timber forest product processing company, with such products as furniture.

II. ACTIVITIES

A. Submission of Objections

1. Objection Materials
 - a. Objections that can be followed up shall comprise any dissatisfaction expressed by certain parties accompanied by justifiable evidences related to the process of and or decision on certification stipulated by LP&VI.
 - b. Objection Materials being submitted must be based on evaluation stages, namely the ways the LP&VI carries out the stages PHPL assessment and

verification of LK based on the Standard and Guidelines on PHPL Assessment and Verification of LK and the existing conclusions in the assessment result.

- c. Objections can be proven and supported with new comparative data/information or document that has not been used in the assessment process.

2. The Party Submitting the Objections

Parties that can submit objections to the process of and or decision on certification are:

- a. License Holder, to the report on assessment result.
- b. Independent Monitor, to the process and result of the assessment (certificate)

3. Period for Submitting Objections

- a. Objections from license holder shall be submitted no later than in 10 calendar days after the result of LP&VI assessment is received by the license holder.
- b. Objections from independent monitor shall be submitted no later than in 20 calendar days after the announcement of the certificate issuance.
- c. In case there are new findings from independent monitor after 20 calendar days since the announcement of the certificate issuance, they can be submitted to the Ministry of Forestry and LP&VI.

4. Procedures for Submitting Objections

- a. Objections shall be submitted in writing to LP&VI, accompanied by supporting data.
- b. Objections being submitted must be (1) based on assessment stages and/or result of standard fulfillment (criteria and indicators) and (2) supported with new and justifiable data/information that has not been used in the assessment process.
- c. In the event that objections from independent monitoring agency cannot be resolved by LP&VI, Independent Monitoring Agency can submit the objections to NAC.

B. Resolution of Objections

1. Resolution of Objections

- a. LP&VI will establish an Ad Hoc Team to resolve objections submitted by license holder and other mechanisms to resolve the objections submitted by Independent Monitoring Agency.
- b. Ad Hoc Team for Resolution of Objections
 - Ad Hoc Team for Objection Resolution is a team authorized to perform document checking, hold consultation with related parties and carry out field verification of objection materials submitted by the party submitting the objections.
 - Ad Hoc Team for Objection Resolution is established by LP&VI, on an ad hoc basis (not permanent) to help the LP&VI concerned in resolving objections.

- Auditor and Decision Maker (LP&VI), the party submitting the objections, and license holder cannot serve as part of the Ad Hoc Team for Objection Resolution.
- Ad Hoc Team for Objection Resolution will have an odd number of members and consist of at least 3 (three) persons. At a minimum, there should be one who understands, comprehends the issues and interests of a region where the objections are located.
- Ad Hoc Team for Objection Resolution shall comprise 1 (one) chairperson who will concurrently serve as a member and several members.
- Ad Hoc Team for Objection Resolution shall give explanation of/response to the report on objection resolution prepared by the team.
- Members of the Ad Hoc Team for Objection Resolution must:
 - Be independent, representing the parties and experts in the sectors in accordance with objection materials, with a minimum experience of 5 (five) years.
 - Have the capability of assessing the information found in the objection materials;
 - Comprehend the Systems for PHPL Performance Assessment and Verification of LK;
 - Have the capability of mediating conflict resolution;
 - Have an interdisciplinary perspective and capable of cooperating with other members;
 - Have high integrity and hold objectivity in high esteem in the process of objection resolution;

2. Period for Resolving Objections

- a. Objections from License Holder shall be resolved by LP&VI in no later than 10 calendar days since the report on objections is received by LP&VI.
- b. Objections from Independent Monitoring Agency shall be resolved LP&VI in no later than 10 calendar days since the report on objections is received by LP&VI;
- c. In the event that the objections from independent monitoring agency cannot be resolved by LP&VI, Independent Monitoring Agency can submit the objections to NAC for resolution in accordance with the procedures for resolving objections existing in NAC

3. Procedures for Resolving Objections

- a. Resolution of objections by LP&VI will include the following stages:
 - verification of objection legitimacy and
 - verification of objection materials.

- b. The verification of objection legitimacy will include inspection of material relevance and the party submitting the objections.
- c. Objections will be declared relevant if:
 - submitted data and information are relevant and
 - submitted by relevant parties.
- d. Objections will be rejected if considered irrelevant or are not new (novum) evidence.
- e. The verification of objection materials may include consultation with related parties and field verification of objections, and mediation for related parties in objection materials being submitted.
- f. Resolution of objections by LP&VI shall be done by making and stipulating decisions on objections in writing based on the result of stage (a) verification of objection legitimacy and/or (b) verification of objection materials. The report which contains decision on resolution of objections prepared by LP&VI shall be delivered in writing to the party submitting the objections.
- g. In the event that objections from Independent Monitoring Agency cannot be resolved by LP&VI, the Independent Monitoring Agency can submit the objections to NAC for resolution in accordance with the procedures for resolving objections existing in NAC.

Minutes of Meeting, Bogor, 21 December 2010

Development “Code of Conduct” for Independent Monitoring in Forestry

Participants:

1. Lasmini, MoF/ITTO
2. Mardi Minangsari, Telapak/Consultant ITTO
3. Jozsef Micski, Consultant ITTO
4. Stepri Hakim, Consultant ITTO
5. Rachmat, Kanopi Kuningan
6. M. Jauhari, KpSHK
7. Arrita S., Tropenbos
8. Retno P., LEI
9. Rudy Novira, LATIN
10. Arbi V., MFP-2/Anggota Telapak
11. Abu, JPIK/Anggota Telapak
12. Soelthon, FWI
13. Dadan, GRES Garut

Venue: Hotel Pangrango 2, Bogor

Presentations:

- Introduction by Lasmini, Project Coordinator ITTO TFL-PD 010/09 Rev.1 (M)
- Preliminary Findings by Stepri Hakim
- Presentation Draft Code of Conduct for Independent Monitoring (?)

Discussion Session - Minang & Jozsef Micski discussed:

- I. Definition of Independent Monitor (IM)
- II. Criteria of Independent Monitor
- III. Competency Independent Monitor

Discussion:

1. It is necessary to make a guideline/working standards/code of conduct for independent monitors for performance regarding implementation of SVLK/SFM as agreed together. The purpose of making guidelines is to filter out NGO/CSO “imitations” formed to fight the business rivalry.

2. It was also discussed whether associations are included in the criteria for IM since intermediate traders/brokers are not a legal body. Whether this group of intermediaries (brokers) should also be invited?

3. KpSHK: because the focus is on Java, then most of the observed cases are related to permission problem. How does it relates to wood products from the CBFM which is outside of the Perhutani (State Forestry Company) area? Are the TUK rules valid?

4. For IM it was agreed that it should have a body because if there is a

complaint from the community who does not have a legal status, it should be submitted through a group with legal status.

5. In the discussion it was said to criticize if the area is outside the rules (P.02/P.38).

6. Regarding who can act as monitor, any institution can. But a decision is needed to be made on how to make the criteria for screening if IM is false.

7. It should be open for all parties who could ensure the credibility of this system and there should be criteria of competence capacity. If any institution has a certain competence, to deliver a monitoring result, then the possibility is better and more focused. Minimum limits must exist. In P. 02 it is not so clear. There must be limits that can be followed up by LP&VI. If not we will negate community groups who wish to submit an objection but does not belong to any group of institutions.

8. IM really needs to be screened, for example if an individual wants to give an objection for a certain company, whether the individual must join a certain IM group? While the information presented is valid. What is important is that the information can be justified. Registration is needed to filter out if there are others who want duplicate registration.

9. When it's an individual, is it necessary with a protocol (codes of conduct)? Because what happens in the field at the end may not be recognized. Not until the contents have been reported, but report itself is not recognized.

10. The debate about the group or individual becomes repetitive; example, an individual may have the tendency of bias. Therefore individuals could use/join networking.

11. For example there is the broadcasting committee that gives a chance for society to report KPD if there are irregularities in the ethics or anything else that is not good. Is it necessary to help forming a committee for monitors for circulation of wood, which receives reports from the public (whether individuals or groups)?

12. Before the submission of the objection it should be mapped in the context of the implementation of SVLK. According to P.02, the report of objection shall be submitted to LP & VI in the context of monitoring TLV(VLK), an opportunity is opened for anyone (individuals or legal entities in Indonesia), to submit objections. Networks/committees can be formed. Currently within the TLV(VLK) context JPIK already exists. We do not get stuck to make restrictions that could hinder the submission of objections. The principle is: the contents of the report. If we restrict to go through certain institutions that can be an obstacle. There are no clear standards of operation to follow for submitting reports. Need to monitor who should follow-up submitted reports. If not followed up what will be the consequence? We should fix this.

13. JPIK informed that some monitoring has already been done in some places

and objection has already been submitted to audit institutions. But the report was not followed up. The system on which this is based (after the objection report has been submitted there is no further follow-up) is not running, what are the consequences? This matter must be included in the object of monitoring.

14. Principle: There should not be any discrimination. The existence of registration is indirectly a limitation (discrimination). But the registration issue arises due to in clarity. Whether registration is merely to report to the government (to inform) that this institution is an existing institution for monitors. The government needs to know when later be asked to clarify or mediate existing problems, the government already knows that there are groups of observers. But if there are groups that have not been reported?

15. JPIK does not mind if there are NGOs outside the network the importance is they can deliver monitoring.

16. Need to be careful what should be restricted, or what is already working well. Relationship for the monitors is with the audit agency. The notification scheme is more important through the auditors. But do not complain about the report if the institution is not known. If there is an audit process, the auditor should invite the IM to the meeting if there are assessment activities of TLV(VLK). The meaning of registration should be clear, not to bias definition.

17. Sets of rules already exist in P.02, but very general. Reality on the ground that is what happening was beyond the required regulations. This discussion is not merely about the activities of IM, but it could also serve to improve the content of P.02.

18. KpSHK: Concern with P. 38, need some clarity of this system. If a complain is arriving from anyone the mechanism should be clear regarding communication but to where? In P. 38: The reasons include monitoring institutions, but there is no explanation of the sanctions and delivery mechanisms. Discussed that P. 38 is not including independent monitoring activities, but in P. 02 details are presented.

19. Explained that P. 38 was issued first, P.02 is a guide for implementation. If you want to have consistency, then P. 38 can/should be revised.

20. Some participants considered that it's more important that what is reported is followed up. In this meeting you are invited to inform the outcome of this meeting to NGO colleagues in the field.

21. There is no provision that the auditor should consult or report to the local government (Pemda). This requires pro-active steps to address this problem to the auditor agency. The following issues should be followed up: The clarity of the scope of monitoring. In P. 38 and P.02 is only talking about assessment and monitoring, but do not talk about accreditation. If we want to address the issue of accreditation then we should convey it. Also it should include a time limit (how many days). We have to use the information from the MoF. This issue

must be explained (to provide certainty of common perception about the date of submission of objections).

22. The next discussion is the implementation of the monitoring itself. Then there is the problem of objection reporting, whether the time limits should be improved (the 20 day time limit). Is there a party that will manage the receipt of the objection?

23. Before we can make suggestions and improvements of P.38 or P.02, the different groups or individuals should strengthen themselves, to improve their institutions and create internal rules of working standards for the different groups. Example: for carrying out of monitoring, what are the monitoring limits that can be justified? Who would assess the competence and credibility?

24. JPIK is building a code of conduct so that the JPIK group also has working standards for monitoring activities. We will make the standard for objections available.

25. From Kanopi Kuningan: for western Java, especially local NGOs show an interest to play in HR certification. Kanopi provides guidance to the community over land area belonging to Perhutani. Wants to be a player or players in the independent monitoring activities because every person has the opportunity to monitor and report irregularities. But still there are limits.

26. An opportunity was presented by the consultant to the group of NGOs in West Java to become interested as a group monitors, can submit their needs for capacity building. We have the opportunity to gather material for the preparation of important points for working standards and will be discussed in greater details in following workshops. It looks better if the monitoring group in West Java form a network. When forming a network, it is expected to accommodate points discussed today as material for working standards/codes of conduct for independent monitoring. Ask JPIK willingness to share information of what has been done so far in making this to a working standard.

27. JPIK explained: with members of 29 groups regulations were drafted regarding rules of the game i.e.: how to register as a member of JPIK. Must have a document from the notary public. The person should have a written statement from chairman of the organization. Furthermore, we will invite other colleagues who are preparing codes of conduct for monitoring. Another protocol must also be prepared whether all members should be taken onboard. There should be a context of security of monitoring in the field. JPIK sharpen its own monitoring rules.

28. Re-emphasized that the importance is how the government will give recognition to these monitors. If not then the monitoring activities will not work. What power? The government should facilitate this activity, especially with institutions which still have limitations?

29. MFP: also facilitating the implementation process of independent monitoring. This is then used as ingredients to help form JPIK. Thus it is

supporting the work to build code of conduct by colleagues who has built a network (JPIK). Hope we will be able to work out a working standard that could be accepted and adopted together. If there are other monitoring network also that's OK as long as they use working standards that have been agreed upon. Intermediate traders could act also, as far as not colliding with P.02, as long as they are ready to understand standards of assessment, stipulation of independent monitoring. What is needed is competence to train these independent monitors. In the latest development 18 TOT has been trained, passed basic competency in micro teaching (by consensus). About competence of IM where none exists, at least follow P. 02.

30. KpSHK: ask how big/strong this code of conduct is: whether there are codes of conduct of existing network and which later could be compared with the code of conduct created by this meeting. What needs to be done to create a general platform?

31. GRES Garut: IM has already been done but want to get involved in improving the competence of its members. Asking also experience from other colleagues who are already doing IM.

32. It was informed that members of JPIK have undertaken some IM activities after the release of P. 38. Some has already submitted report to NAC and to LP&VI but they did not yet respond to it. There are cases where the information cannot be published. Is there a need to standardize the format of public information?

33. MFP expressed that report of objection should not necessary need to have a standard format: important things should be pointed out in the contents of the report. Proposal: the term "justifiable evidence", is replaced by: "materials that can be verified/indicated".

34. Kanopi asked if information is given indirectly, whether monitors should look for more concrete information.

35. MFP suggested that regulation P.02 need to be internalized so that there is enough time/opportunity to submit objections before issuing the certificate. What is missing: during the consultation, monitors who should have been invited were not invited but should have been invited. There is public consultation, but only for SFM activities. There is no public consultation for implementation of SVLK. Also there is no opportunity to give input before result of assessment is issued. Also there is no allowance to check the material used in certification.

36. In public summary there is no explanation of the results of assessment that has been submitted. Actually, the standard format which could be used is a format that is used by LEI and FSC.

37. Tropenbos experience in conducting assessments of HCVF, there is a mechanism for public consultations which are carried out at initial, middle and end phases before release of the results of the assessment. These public

consultations must be announced two (2) weeks in advance so there is enough time to attend the meeting of public consultations. The assessment agency will follow up objections that were raised during the public consultation or explain it.

Discussion after Lunch:

Consultants try to take/seek agreement from participants on point 2:

- I. Implementation of Monitoring
- II. Reporting Monitoring Results
- III. Use of Protocol for Monitoring Result
- IV. Choosing Independent Monitoring Institutions

1. What are the limits of monitoring results that can be accounted for; Suggestion: there are recordings, video, it will be proposed that there is initial data information that has already been tested. When new information is initial information, it should be stated in the monitoring report. Also assumptions can not used. If the opinion and information does not have supporting data, then it should be tested. What is important is the supporting data (could have come from another party).

2. Regarding information/document that can be accessed by monitors, is it any data? What type of information that could/should be accessed? Where is the data/information that could be obtained (MoF, Local Government, license holder, etc).

3. In P. 02 regarding implementation of monitoring activities, access to information from various sources which is needed for monitors has been accommodated (License holder, Local Government, MoF, etc.) (Item 4 of II Activities, Implementation of P.02) But it may need to be added: Is there penalty/sanction if the information that should be given is not given? This point should be added to P.02 within implementation of activities. Regarding type of sanctions it should be discussed later.

4. Regarding access to the field for the monitors. Suggestion: could imitate the case of journalist: reporter is protected by law so that if he can show identity card (a press card) it must be permitted; those who impede access to this information could be dealt with directly. Access to field could be made easier for independent monitor if it is done the same time as implementation of auditing if the auditor's monitoring teams conducting examination of the same unit which being monitored.

5. Suggestions: Objection shall be submitted to BUK. It should be addressed to: Secretary of Director General of BUK, (the reason: it coordinates all directorates of BUK). Objection reports can be directed to MoF addressed to Sec. Dir. Gen. of BUK, and cc to Secretary General. Regarding procedures for the submission of objections: 20 days are irrelevant. **Proposal:** it should be deleted.

6. Protocol of monitoring results: is there any party that will manage the results of the monitoring to improve the system, how to connect the results of field monitoring procedures with the processes of system/policy improvement? Minang: in one SK issued by Director General there are 3 working groups (capacity building, socialization and M & E). The decree should be revised (including the decree of the Minister of Forestry or simply SK DG). **Proposal:** improvement of the system should be done by the system developer, facilitated by this M & E team.

7. Institutional options: better an agreement in the form of networking. There are networking weaknesses: there is institutional bureaucracy, members are bound of code of conduct, and strong commitment is needed from members of the network. But for individual monitors the opportunity should be given to do the monitoring. Analyze risks and benefits.

8. Arrangement of financing component: should be included in audit component and monitoring activities. Financing monitoring activities are also proposed for inclusion in the regulations in P. 02.

9. Problems with code of conduct: problem of impartiality, it does not interfere with the implementation etc., participants were requested to send suggestion in writing to the consultants.

The meeting closed at 17.00. Follow up: to collect suggestions with the results of discussions from Semarang later (December 23, 2010).

Project coordinator explained that the points in this Minutes of Meeting will be used as an embryo in the preparation of independent monitors' codes of conduct, and will be discussed in a larger workshop to finalize the text together.

Bogor, December 21, 2010

Minutes of Meeting, Semarang, 23 December 2010

Development “Code of Conduct” for Independent Monitoring in Forestry

Participants:

1. Lasmini, MoF/ITTO
2. Mardi Minangsari, Telapak/Consultant ITTO
3. Jozsef Micski, Consultant ITTO
4. Stepri Hakim, Consultant ITTO
5. Teguh , Persepsi Jawa Tengah
6. Hari Cahyono, Paramitra-Jawa Timur
7. Nuryahya, Persepsi Madiun- jawa Timur
8. Heru S. Adi, LSM PWP-Pacitan Jawa Timur.
9. Wasisto, Suphel Solo-Jawa Tengah
10. Sungging S. – Pendamping Kelompok tani Jawa Tengah
11. Mustofa, Tuban
12. Ah. Suprayitno, Pesat-Bojonegoro Jatim
13. Warsito, Hispam Ngawi-Jatim
14. Fachrudin R., Javlec – jogya
15. Echwan Novianto, Shorea
16. Edi Suprpto, Arupa
17. Panji Anom, Bioma Magelang-Jateng
18. Nurdin Rubianto, Kel. Tani lestari, Tulungagung-Jawa Timur.

Venue: Hotel Grasia Semarang

Presentations:

- Introduction by Lasmini, Project Coordinator ITTO TFL-PD 010/09 Rev.1 (M)
- Preliminary Findings by Stepri Hakim
- Presentation Draft Code of Conduct for Independent Monitoring

Presentation Session Minang & Jozsef Micski discussed:

- I. Definition of Independent Monitoring
- II. Independent Monitoring Criteria
- III. Independent Monitoring Competency
- IV. Implementation of the Independent Monitoring
- V. Reporting Monitoring Results
- VI. Protocol for usage of monitoring results
- VII. Choosing Independent Institutions
- VIII. Code of Conduct (in principle; governance: i. Registration, ii. Implementation, iii. Reporting objection of monitor; iv. Use of monitoring results)

Record of Discussions:

I. Definition and Criteria for Independent Monitoring (IM)

In the prelude to the discussions participants expressed an opinion that the topic should not be sequential (allowing jump from one topic to another):

Some of the participants asked whether the criteria of IM in this discussion should be based on existing regulations (Decree of Minister of Forestry and Dir. Gen. BPK: P. 38 and 02/2010) or can be modified. That is a monitor should not necessarily be independent and s/he may express his/her opinion/preferences because s/he is not the decision maker. Actually the problem is not with being independent, but the important issue is the impartiality and objectivity of the results of monitoring.

It was explained that this meeting was supposed to discuss the guidelines and code of conduct for monitoring according to existing regulations however; time should be given to provide input/proposal for revision or improvement of existing regulations.

The essence of this discussion is the legality/legitimacy. IM must be registered, recognized (*Perception in Java*)

One issue is regarding intermediate traders/brokers, who are not included in the auditing process as subject of evaluation by the verification agency, but plays an important role in community-based timber supply chain. The problem with these intermediates is that at the time of verification of legality of timber the intermediates can not prove the origin of wood they have collected. Question: Should these intermediate trades be legalized through the revision of P.51 (insert "intermediate traders as one part of the supply chain")? There was a disagreement with the role of intermediate traders. Some participant responded that P.51 SKAU applies to them also, while the problem was with the village heads who do not have the capacity issuing SKAU, other than that people should not be burdened with all kinds of legalities/documents.

Tuban: We recommend that monitors have discipline, do not be dictated and have different choices so the results of monitoring can be justified objectively. There must be an internal prerequisite within the IM institution to form a network or anything else. Criteria for monitors is that there is no direct relationship with LP&VI and UM because it will be contradictory. Because those people who have a concern regarding the object in question that is being audited usually have an interest to become a monitor. **Proposal:** the wording for IM in point "c" of Dir. Gen. BPK 02/2010 should be deleted. Anyone can act as a monitor, if there is a problem of objection it can be submitted by anybody.

Associate vs. Monitor

The debate is started because there is some who agree that association should not act as monitor while others are of the opinion that the association could also act as a monitor. The problem with association is that the one who can submit an objection should be an independent citizen (but not on behalf of the institution which works as an association).

Participants who agree that the association should not be allowed as a monitor highlighted the fact that monitoring activities are not required to be done in

conjunction with auditing activities, while the auditing scheme itself is a mandatory process. Thus, participants proposed that monitoring activities should be required in the scheme of SVLK and run concurrently with the audit, so the credibility is guarded. For the time being anyone can act as a monitor, both institutions and individuals concerned with the problem in the forestry.

In assessing the performance of SFM public consultation forum is used to obtain input from parties regarding the management unit being audited.

Monitoring activities in Ngawi already started, but it is misused (sometimes used for pressure on license holder)

The debate over monitoring rights or obligations occurs mainly because of the implications if monitoring activities will be made mandatory.

Agreed:

- For the purpose of certification process (VLK & SFM) there must be a monitoring (independent)
- Anyone may become a monitor, with a note that definition of a monitor listed in P.02/2010 point “c” is deleted because it is not relevant; has limitations.

In the following discussion participants agreed that monitors who are working within a network cannot ignore the principle that anyone can make a monitoring.

II. Monitoring Procedure

Criteria and procedures for admission of new members of the network

- Registration: when outside the network, must register, and get recommendation from a minimum of 2 members, and approved at least by 50% + 1 member of the region.
- Region is at province level. For the time being this network includes 3 provinces (Central Java, DIY, East Java).
- Individuals, community groups and organizations can become members of the network. There must be clarity of status, whether to register as individual or as a representative of an institute.
- Institutions must clarify who is their representative within the network (through a letter of authorization)

Scope of monitoring:

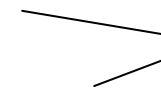
- The certification process (SFM & VLK)
- Accreditation Process LP&VI

- The submission of objections and resolving of objections

Implementation Monitoring:

- Information/documents of any kind to carry out the monitoring?
Data provided to the auditor must be accessible also to the monitors (local government data, MoF, license holders etc). Monitor should be able to validate the data given to be audited by the auditor.

How to validate (compare documents with the reality that exist:

- | | | |
|---|---|---|
| <ul style="list-style-type: none"> - Observations - Interview, - Investigation - Study of documentation |  | <p>Result: Source of evidence (recordings, photos, testimony, maps)</p> |
|---|---|---|

Result of Monitoring and Reporting of Objection

- Reporting of Objection must include supporting data that can be validated
- Monitoring result shall be submitted by the monitor to LP&VI, forwarded to the Ministry of Forestry, KAN and the Network Secretariat.
- Results of monitoring will be used for submission of an objection, as well as for improvement of the system. The government (Ministry of Forestry) as the developer and owner of the system should have a desk (or a kind of Implementing Agency) to manage the result of monitoring and also review the system.
- Settlement of objection reporting is made by the Network.

Financing of Monitoring

- Monitoring activities can be financed through various schemes:
 - Financing by government, as for monitoring of PNPM, for which the government allocates funds for monitors monitoring and preparing a community-based independent monitoring system.
 - Financing conducted independently by the monitors
 - The cost of monitoring is included into the financing component of the audit (included in the system/rules for implementing TLVS /SFM). Thus the cost of audit includes the audit, auditors' fees and costs of monitoring activities. The mechanism will be discussed further.
 - Participants agreed that the independency of monitors is not connected/related to the source of funds.
- Other proposals related to monitoring were that the consultation should be opening as much as possible (very transparent), so that public participation as monitors can be maximized.

Closing.

Participants were informed that a conclusive meeting will be held that will bring together representatives of NGOs who have attended previous meetings to agree upon a code of conduct or guideline necessary for the operation of independent monitoring. It was agreed that this meeting should take place in Jogjakarta. Date to be determined later (about week 2 or week 3 of January, 2011).

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