

An explanation of the findings of FSC's Centralized National Risk Assessment for Indonesia in the context of Indonesia's Timber Legality Assurance System

Effective 5 February 2019, organizations seeking to source controlled material from Indonesia for use as FSC Controlled Wood or for use in FSC Mix products are required to use the now-approved Centralized National Risk Assessment (CNRA) to conform with standard [FSC-STD-40-005 Requirements for Sourcing FSC Controlled Wood](#). The CNRA which was conducted by legality experts and consulted with a wide range of stakeholders resulted in the overall finding that Indonesia cannot be regarded as “low risk” for many controlled wood requirements, including legality. This means organizations will need to apply risk mitigation measures in the form of control measures to address those identified risks.

The conclusions of the CNRA on legality are at odds with the issuing of the EU's Forest Law Enforcement, Governance and Trade (FLEGT) licenses for timber and timber product exports, as the EU recognized evidence of the legal status of harvesting and domestic trade in Indonesia. In this document we explain the main reasons why FSC cannot regard Indonesian non-FSC certified timber overall as low risk, even for legality, and that indeed specific risk designations and mitigation measures are necessary.

There are three main reasons for this: 1) FSC's Controlled Wood indicators go beyond legality of harvesting and include [four other categories](#), 2) The FLEGT legality requirements are less comprehensive than the CNRA legality requirements, and 3) the precautionary approach to FSC risk assessments requires confidence that the risk of wrong-doing is low, even if there is not always direct evidence of such a risk. The result is that most legality-related indicators are found to be at-risk in Indonesia for which we present a brief explanation below. First, we will explain the general background of the FLEGT process and CNRA risk designations, then you can find more specific explanations of the differences between the FLEGT evaluation and the CNRA findings.

Background

In 2013, the Indonesian timber legality assurance system (SVLK) entered into force. This was a major step for Indonesia, as the SVLK formed the basis of the national implementation of the Voluntary Partnership Agreement (VPA) with the EU, which led to the introduction of FLEGT licenses at the end of 2016.

Indonesia is the only country that has achieved the stage of assigning FLEGT licenses, which are regarded as proof of legal sourcing in the EU and elsewhere. Besides improved enforcement by and on behalf of the authorities, the FLEGT implementation has also strengthened the role of civil society organizations in monitoring and warning against illegal actions. FSC congratulates Indonesia with all this and recognizes the progress it has made.

However, until today, there is insufficient stakeholder trust in the effectiveness of an enforced legality scheme, with respect to upholding community and indigenous peoples' rights, and in



successfully combatting corruption. There are concerns that the current scope of government control does not go far enough to ensure a low risk of noncompliance with the law. For example, while inspectors need to verify whether permits for management and harvest exist, they are not obliged to examine whether these have been obtained in the correct way, without violation of third-parties rights and without bribes. Furthermore, stakeholders claim that illegally harvested wood still enters the regulated supply chain.

We based our conclusion on many resources including literature sources, expert engagement, and public consultation. Some of the literature sources are from before 2016, but more recent sources were also included. This includes the first official [periodic evaluation](#) of the SVLK done on behalf of the FLEGT authorities, which was published in 2018. This evaluation indicates that progress has been made in Indonesia, but also points at numerous weaknesses, including conflicts with local communities and social irregularities.

Our conclusion does not mean that Indonesian non-FSC-certified wood cannot be used as controlled wood. But it does mean that companies need to do additional research, take additional actions, or limit their purchases to specific suppliers that have been verified as credible against FSC's controlled wood requirements.

There is [a procedure in place](#) for periodically revising the CNRA. This includes the option for a "fast revision", which allows for the CNRA to be revised once outside the normal revision process upon availability of credible public evidence.

General differences FLEGT VPAs and FSC risk assessments

The primary difference between FLEGT VPA process and FSC risk assessments is *scope*. FSC risk assessments consider considerably more aspects around forest management practices than the VPA process. The VPA only accounts for the legality of the timber. FSC risk assessments take a much broader view of the situation but includes legality as its first category. Furthermore, the FLEGT VPA legality standards consist of multiple levels of analysis (principle, criteria, indicator, and verifier). FSC risk assessments only consist of two (category and indicator). Therefore, FLEGT VPA compliance assessments are more specific, ruling out evidence that FSC risk assessments might consider relevant due to its broader assessment analysis.

The second important difference between the FLEGT VPA process and FSC risk assessments is FSC's use of the *precautionary approach*. FSC takes the perspective that a lack of evidence of wrong-doing is not necessarily enough to reach a finding of low risk. As a result, when evidence is mixed, FSC risk assessments must conclude a finding of "specified risk". This can partially explain differences between the FLEGT period evaluation which is only mentioning areas to improve the implementation of the FLEGT VPA and the CNRA's specified risk findings.

The third important difference between the FLEGT VPA process and the FSC risk assessment is the lack of specific, indicator-wise reporting in the period evaluation. This means that the periodic evaluation does not clearly distinguish between which indicators are doing well and



which are not, while the CNRA does. This may lead to a false sense of positive outcomes in the period evaluation.

Specific differences between Indonesia’s FLEGT VPA and CNRA

According to the [VPA between the EU and the Republic of Indonesia](#), there are five legality standards. Based on our analysis, standards 2, 3, and 4 check the same requirements as standard 1 (see [annex II of the VPA](#)). Standard 5 checks entirely different requirements. Therefore, the VPA legality standard 1 and 5, their principles, criteria, indicators, and verifiers are the basis against which we compared the CNRA. You can find clearly identified overlap between the FLEGT VPA standards and the CNRA (category 1) below.

An example of how to read the chart below: FLEGT VPA legality standard 1 principle P1 primarily covers the content of the CNRA indicator 1.1 and covers some elements of the CNRA indicator 1.2.

VPA legality standard 1 principle...	... primarily covers the content of CNRA indicator (cat. 1)...	... and covers some elements of CNRA indicator (cat. 1)...
P1 (Legal status of area and right to utilise)	1.1 (Land tenure and management rights)	1.2 (concession licenses)
P2 (Comply with the system and procedures for harvesting)	1.3 (Management and harvesting planning)	1.4 (Harvesting permits) 1.8 (Timber harvesting regulations)
P3 (The legality of the transport or the changes of ownership of round logs)	1.17 (Trade and transport)	1.5 (Payment of royalties and harvesting fees) 1.16 (Classification of species, quantities, qualities)
P4 (Compliance with environmental and societal aspects related to timber harvesting)	1.9 (Protected sites and species) 1.10 (Environmental requirements)	
P5 (Compliance with labor laws and regulations)	1.11 (Health and Safety) 1.12 (Legal employment)	
VPA legality standard 5 principle...	... entirely covers the content of CNRA indicator (cat. 1)...	... and covers some elements of CNRA indicator (cat. 1)...
P3 (Legality of the trade or the change of ownership of processed timber)	1.19 (Custom regulations)	

Our analysis concludes that the following FSC risk assessment indicators are not covered by the FLEGT VPA legality standard, and therefore do not need an explanation as to why they differ from the period evaluation: 1.6 (VAT and sales taxes), 1.7 (Income and profit taxes), 1.13 (Customary rights), 1.14 (FPIC), 1.15 (Indigenous peoples’ rights), 1.18 (Offshore trading and transfer pricing), 1.19 (Custom regulations), 1.20 (CITES), 1.21 (Due diligence/due care).



While the authors of the periodic evaluation concluded that the FLEGT VPA process and SVLK are well-implemented, and therefore the risk of illegal timber coming from FLEGT license-holders is low, the CNRA risk descriptions focuses on different aspects of risk, as described in the section on general differences.

Rather than repeating the risk factors identified in each CNRA indicator, below we have highlighted the risks that the periodic evaluation itself identified in addition to the more recent literature that critiques the FLEGT process in Indonesia. Considering the strong precautionary approach of the CNRA, these risks contribute significantly to the 'specified risk' designations.

From the [first periodic evaluation of the FLEGT VPA](#):

- There has only been one period evaluation.
- There is a weakness in public access to information.
- There is a lack of coordination between IMs on their reporting content and structures.
- The SVLK uptake is 'not uniform' across enterprise sizes.
- Reported non-compliances are not consistently acted upon in a timely fashion.
- There are known instances of non-SVLK certified material entering the supply chain.
- There are 'inconsistencies between FLEGT licenses and other export documents'.

From other recent sources:

- A [JPIK news release](#) states that between 2014 and 2017, JPIK 'found several weaknesses in SVLK practice, especially in supervision and law enforcement'. While these weaknesses may overlap with those identified in the periodic evaluation, there is no way for FSC to verify this.
- An Indonesian NGO reports that 7 sawmills were [accused of violating the SVLK](#) in Papua province in November 2017.
- A [Tribunnews news release](#) from 2017 (Indonesian only) states that 400 ha of protected forest had been felled in contravention of the law.
- Transparency International's [Corruption Perception Index](#) 2017 gave Indonesia a score of 37 points. Any score less than 50 is considered a country with high levels of corruption according to the [risk assessment framework](#).
- Other recent [media sources](#) not included in the risk assessment have also [questioned the legality of some timber in Indonesia](#).
- [Recent academic work](#) indicates that the FLEGT VPA standards do not cover all aspects that are covered by the CNRA. For example, the procedures to issue ownership rights and transport permits are not evaluated as part of the SVLK system but are included in the CNRA.