

Forest Certification in Indonesia: A Means to Achieve Sustainable Development

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Abstract- Forest management, deforestation, forest fire, forest exploitation due to the change of attitude of the people and multinational corporations possessing interest in forest business has led to environment degradation, forest deterioration in particular. Forest certification was then introduced aiming to secure the forest area, and it was initiated by international non-governmental organization namely WWF and Greenpeace. It was further developed in regulations concerning ISO, SFM (Sustainable Forest Management) Certificate for paper products, and forest certification known as Chain of Custody (CoC). The research uses secondary data. The aim is to examine the role of forest certification as a tool of achieving sustainable development from international and national law.

Keywords: International Law, Environment Law, sustainable development, forest certification, National Law

I. INTRODUCTION

Forest have significant role in reducing the risk of natural disasters, including floods, droughts, landslides and other extreme events. At global level, forests mitigate climate change through carbon sequestration, contribute to the balance of oxygen, carbon dioxide and humidity in the air and protect watersheds, which supply 75% of the freshwater worldwide.¹

There is general agreement among the experts that environmental problems are becoming increasingly world-wide and therefore demand a global approach. Stockholm Declaration 1972 remarked the first step for equitable global partnership to protect the environment, and which was further followed by Rio Declaration of 1992, establishing the concept of sustainable development. The concept of sustainable development contains promises to create world which meets the need of the present without compromising the ability of the future generation to meet their own needs.² Although there is no certain definition of the concept of sustainable development, but the term itself was already mentioned in the report of the World Commission on Economic and Development in 1987 entitled 'Our Common Future'. It defined sustainable development as

'development that meets the needs of the present without compromising the ability of future generations to meet their own needs'.³

Unfortunately in globalized world, the growth and pattern of consumption lead to increase demand of ecosystem. Globalization influenced much the economic activities pattern and causing interrelation, interdependency among states, but at the same time also competitiveness between them.⁴ Obviously, it is clear already that globalization caused both benefits and crisis. The problems such as climate change, ozone depletion, long-range transboundary air pollution created international environmental problems are said to be such crisis. In line with the adoption of Stockholm Declaration of 1972, there was general agreement among the experts that environmental problems are becoming increasingly world-wide and therefore demand a global approach...⁵

The global approach which has been carried out by states to stop the environment to deteriorate, have actually been inserted in various international instruments such as Convention on the Protection of Ozone Layer 1982, Convention on Biodiversity 1993, Convention on Climate Change 1992, WTO Convention, Kyoto Protocol. Based on the consent of the State parties, States are under obligation to realize the provisions contained therein. As judge Huber stated, that 'responsibility is the necessary corollary of a right. All rights of an international character involve international responsibilities.'⁶ Interdependency among people and among nations as a phenomenon of globalization which took place, and causing closer contact between individuals from different

³ Peter Malanczuk, Akehurst's *Modern Introduction to International Law*, Harper Colins Academic, London, 1997, p. 241.

⁴ Masrudi Muchtar, *Environmental Management & Protection (Perlindungan & Pengelolaan Lingkungan Hidup)*, Prestasi Pustaka, 2015, p. 3.

⁵ Siti Sundari Rangkuti, *Environmental Law and Environmental Policy (Hukum Lingkungan dan kebijakan Lingkungan, Nasional Airlangga University Pres dalam Syahrul Machmud, Problematic implementation of the Delic application in the perspective of environmental criminal law enforcement in Indonesia (Problematika Penerapan Delik Formil dalam Perspektif Penegakan Hukum Pidana Lingkungan di Indonesia.)* Bandung : Penerbit Mandar Maju, Bandung, Cet.I. 2012, p. 31.

⁶ Martin Dixon & Robert McCorquodale, *Cases and Materials on International Law*, Oxford University Press, New York, 2003, p. 403.

¹ www.sustainabledevelopment.UN.org/topic/forests, accessed on Aug. 15, 2019.

² World Commission on the Environment and Development 1987 – Bruntland Commission.

places in the world, increasing personal interaction, mutual cooperation and relationship between citizens of the world, constitute globalization in economic, has the meaning that the relation between economic actors are increasing. States are no longer able to stop the mobility of people to and from its territory, unable to protect the flow of information, goods and services to and from its country. The flow of capital from offshore after the adoption of free-trade agreements, and the Government policy to give permits to multinational corporations to do business in mining sectors within the protected forest area and conservation forest area, in their activities utilizing forests products, exploiting the nature of Indonesia is unavoidable, the impact of which to the environment is certainly not impossible to happen.

In globalization era, consequently the national economic system has to adopt the global economic system in accordance with the free-trade planned previously, either in colonialism or neo-colonialism era.⁷ It is also demanded by world trade organization such WTO, APEC as well within regional organization ASEAN.⁸ Should Indonesia join the world and regional trade systems, Indonesia would gradually have to make some adjustments and social changes. In view of the the local community, they have actually their own customs with various local ethics. Globalization, technological development, change of business attitude as a result of modernization and the world demand, has made the local community to gradually change and the new generation has to adjust with the new pattern.

Currently, in forest sector, 162 million hectares of forest area owned by Indonesia is deteriorating due to some failures to manage illegal logging, illegal trading of forest products, and forest/land fires happen almost annually. Forest destruction continues to take place, particularly caused by the changes of attitude of human beings and corporations having extremely high interest in forest resources but showing less responsibility. The economic pattern which was initially more subsistent, was forced to meet the production for export purposes but disregarding forest conservation.

In Indonesia, the culture to conserve and to maintain the balance of the environment exists already, known as indigenous knowledge, such as the concept of shifting cultivation, subak water system, adat rules namely awig-awig, and sasi. The adat rules and such attitude must be respected and applied, guiding what people ought to do, in particular in the interaction and managing the natural resources and the environment. Unfortunately, such indigenous knowledges experiencing erosion, the destruction of tropical forest is continuing, such as illegal logging, and more severe is

affected by globalization. Globalization has indeed created global problems. In economic sector, such as globalization in production, finance, manpower, information network and trade.⁹

Citing the theory of modernization, the implementation of modernization theory in the establishment of multinational corporations unfortunately face failure. In third world states, including Indonesia, multinational corporations in their activities have exploited the natural resources, and caused environment destruction.¹⁰ The impact of which, in trade practices, as an example, in woodcraft product industries, the validity of their product is questioned. In Indonesia, the application of modernization theory gives dominant role to the government. As a consequence, collaboration between global capitalism, state's authorities and the entrepreneurs may happened. For the purpose to maintain such coalition of interest, the interest of the people and the environment shall be easily victimized.¹¹

Gradually the international community is aware of the function of forest for the world. They have increasing concern towards green consumerism. As a result, industries of this field has to adjust themselves with strict requirements demanded by the exporting destination states. Using market mechanism, it is strictly demanded, that timber raw materials must be obtained legally, which means that timber is not obtained either from illegal logging or illegal trading. Considering that forest is one of the natural resources important to supply oxygen that human needs, one of the instrument able to push the compliance to maintain forest sustainability is by applying forest certification, using ecolabel mechanism. A system of ecolabeling, which is formerly voluntary applied to wood furniture industries has influenced the Government afterwards, to enact regulations to support and reinforce the eco-label program. The aim of this research is to examine the role of forest certification as a tool of achieving sustainable development from international and national law.

II. METHODS

This research use a normative juridical research method. Types and sources of data used secondary data comprising, primary, secondary and tertiary legal materials. The collected data is analysed based on qualitative analysis method.

III. DISCUSSION

1. Ecolabel Certification

In Indonesia, pursuant with the demand of the consumers in international trade having great attention to green

⁷Masrudi Muchtar, op.cit., p. 2

⁸For the forestry sector ASEAN, specifically developed five strategic thrusts, namely : sustainable forest management; Strengthening ASEAN cooperation and joint approaches in addressing international and regional forestry issues; ... accessed dari googleweblight.com/?lite_url=http://asean.org/asean-economic-community/asean-minis-terial-meeting-on-agriculture-and-forestry... pada 30 Juli 2018.

⁹M. ShamsulHaque , GLOBALIZATION, NEW POLITICAL ECONOMY, AND GOVERNANCE: A THIRD WORLD VIEWPOINT, Administrative Theory & Praxis Vol. 24, No. 1, 2002: 103-124 .

¹⁰F. Adji Samekto, Capitalism, Modernization and Environmental Damage (Kapitalisme, Modernisasi dan Kerusakan Lingkungan), Genta Press, Cet. I, 2008, p. 87.

¹¹Ibid., p. 88, 89, 90

consumerism, which is also applied in Japan and popularly known as Green Purchase Law (Green Keo Nyu Ha), every product made of wood, either for domestic or import purposes, shall be completed with documents concerning the legality or origin of the wood. Currently, checking are already carried out to five kinds of products, which basic materials is using wood, such as paper, stationery, materials for interiors purposes and furniture.¹²

To assure the legality of such products, application of certification in the form of ecolabelling by means of wood legality verification system was considered important. Wood Legality Verification System (further abbreviated as SVLK in Indonesia), is one kind of ecolabelling to control the chain of timber in furniture industries. SVLK is a system of ecolabelling which is able to guarantee that a certain product made of wood has clear and valid origin.¹³ In such a way, the aspiration and the prominent agenda of sustainable development shall be establishing equal sustainability to economic, social and culture and environment aspects. Through the application of SVLK certification, practices to exploit forest resources shall be changed and for enforcement aspect it shall need legal support. Basically, an ecolabel is a label which identifies overall environmental preference of a product (i.e. good or service) within a product category based on life cycle considerations. In contrast to a self-styled environmental symbol or claim statement developed by a manufacturer or service provider, an ecolabel is awarded by an impartial third party to products that meet established environmental leadership criteria.¹⁴ Ecolabel is a label, sign or certificate of a product providing information to consumers that such product in its life circle gives negative impact relatively small compared with other products of the same kind which have no ecolabel. The life circle of a product shall comprise : how to obtain the resources, how the manufacturing process, the industrial aspect, the utilization and how the disposal as well recycling process. Ecolabel shall be a symbol, a label or statement attached to the product or to the packaging or product information, technical bulletin, advertisement, publication, marketing, social media.¹⁵

Ecolabel in the context of forest products, constitutes one of the instruments to change the attitude, and to anticipate maximally forest conservation, and life equilibrium is therefore maintained because the forest is protected. Ecolabelling is launched voluntarily after considering that *command & control* system which is mandatory is unable to solve the problems faced by tropical states concerning their

forest destruction.¹⁶ Ecolabelling indicates that product and services is environmentally friendly, and aims to help identify products which contribute less impact to the environment in their life circle. Life circle in ecolabeling in general demands that every product has been in line with resources conservation and the ecosystem of the environment, commencing from : how to collect raw materials (wood for example), the transportation of raw materials to factory, transportation of product from factory to consumer, utilization of product and disposal of wastes (used product) in totality as not polluting the environment¹⁷

Considering the impact of deforestation to global climate change and realizing that demand of forest products are very high for furniture industries, for instance, therefore policy to forest conservation is considered, by applying the ecolabel program. Many countries such as European Union has enacted world trade regulation, known as EU Timber Regulation No.995/2010 (EUTR), the United States has LAA (Lacey Act Amendment), Japan has issued Green Koo Nyu Ho, and Australia establishes 'Prohibition Bill'. As a consequence, those States shall reject non-ecolabel products.¹⁸

Indonesia is one of the developing countries which depends its income from its natural resources, one of which is plywood. Indonesian Ecolabel Body (Lembaga Ekolabel Indonesia/LEI) has been appointed as the institution to carry out the Ecolabeling Program in Indonesia. This institution is set up in 1998 as a private legal entity according to Law on Limited Liability.¹⁹ This ecolabel program shall be imposed to forestry, Chain of Custody, fishery, industrial products and mining. Plywood, as an industrial product which is environmentally friendly, has the highest level, to adhere to Ecolabeling Program, considering the scarcity of tropical forest in Indonesia.

To create fair business, the ecolabel certification is performed by third party, which is independent, to declare that the management of productive forest by management unit has met the principle of management of sustainable forest formulated by LEI.²⁰ For this purpose, LEI has approved four other institutions in Indonesia to carry out certification on CoC VLW / Chain of Custody Verified Legal Wood for furniture industries namely : 1) PT TUV Internasional Indonesia; 2) PT

¹⁶Haryo Santoso, Ary Arvianto, Zaenal Fanani, Impact of Ecolabel Certification on Industrial Furniture Sustainability (Dampak Sertifikasi Ekolabel terhadap Sustainability Industri Furnitur), Prosiding SNST ke-5 Tahun 2014, Fakultas Teknik Universitas Wahid Hasyim Semarang, ISBN 978-602-99334-3-7., p. 32.

¹⁷ www.dephut.go.id., MengenaiekolabelingBidangKehutanan, dalamhttp://hukumonline.com/klinik/detail. Accessed 25 September 2018.

¹⁸Haryo Santoso, Ary Arvianto, Zaenal Fanani., *op.cit.*, p. 32

¹⁹ Sugiartiningsih, The Influence of Ecolabeling towards Excellence of PT Sriwi Compete in the International Market ("Pengaruh Ekolabeling Terhadap Keunggulan PT Sriwi Bersaing di Pasaran Internasional)", SNAB, ISSN-2252-3936, 2012,p.1469.

²⁰ Iskandar, Ecolabel Certification for Regulatory Policy in Sustainable Forest Management ("Sertifikasi Ekolabel Sebagai Instrumen Kebijakan Pengaturan (Regulatory Policy) Dalam Pengelolaan Hutan Berkelanjutan)", p. 7.

¹²<https://googleweblight.com>. Accessed Sept. 25, 2018.

¹³Ibid.

¹⁴ Introduction to Ecolabelling, available at <https://globalecolabelling.net/assets/Uploads/intro-to-ecolabelling.pdf>, Accessed Sept. 25, 2018.

¹⁵ Yayang Novendasari, EcoPengertian Ekolabel, <https://globalecolabelling.net/assets/Uploads/intro-to-ecolabelling.pdf> http://googleweblight.com/?lite_url=http://yayangiiis4.blogspot.com/2015/02/pengertian-ekolabel.html?m%3D1&ei. Accessed 2.08.2018.

Superintending Company of Indonesia (SUCOFINDO); 3) PT Mutu Agung Lestari, and 4) PT SGS Indonesia.²¹

2. National Legislation

SVLK is one of the ecolabel applied to furniture industries. SVLK in Indonesia is composed by multistakeholders to guarantee the legality of wood resource available at markets. By means of SVLK, the legality of wood in Indonesia is secured. In line with Regulation of the Ministry of Environment Number 31 Year 2009, the objective of ecolabeling shall be, to give a statement indicating the superiority of furniture products, which links to the benefit for the protection of the environment.²²

LEI has developed a system and certification standard for natural forest, plantation forest and community based forest management. Certificate on Chain of Custody shall be applied to industries of forest products. Whereas SVLK will be aimed for furniture industries, to trace the chain of wood, whether it is legal or not. In 2012, the government enacted Regulation of the Ministry of Trade of the Republic of Indonesia Number 64, which states in Article 14 that export of forest product industries shall be completed with V-legal document issued by Wood Legality Verification Institution (to be abbreviated to LVLK(in Indonesia). Every and each V-legal document shall be valid only for one time of submission of export notification to the custom office.²³ Based on this ministry regulation, the verification and technical tracing of forest product industries shall follow two phases, i.e. administration verification and physical verification. The administrative verification shall cover : verification on the legality of ETPIK²⁴ document and EPTIK non-producer, and verification on the legality of the V-legal document. While the physical verification shall cover among others inspection on : 1. The amount, types, brand and number of packaging, 2. The amount of goods, 3. Types of wood, 4. Technical criteria, 5. Adherence to tariff, 6. The monitoring of shipment container, in case the shipment is by container, 7. Attachment of seal on the container, in case the goods in the container is assessed by surveyor. More requirements to obtain SVLK is inserted in the Regulation of the Directorate General of Forestry Enterprise Maintenance Number p.8/VI-BPPHH/2012 dated December 12, 2012. Based on this regulation, it is only industries that export their products, have to possess EPTIK. This regulation is actually in

²¹Ahmad Subulas, *op.cit.*, p. 3.

²²Regulation of the Minister of Environment No. 31 of 2009 on Construction and Supervision Implementation of Environmental Management System, Ecolabel, Clean Production, and Environmentally Sound Technology in the Region.

²³Regulation of the Minister of Trade of the Republic of Indonesia No. 64/M-DAG/PER/10/2012 concerning Provision of Forestry Industry Product Exports.

²⁴ETPIK is the abbreviation of Registered Exporter of Forestry Product Industry). Ahmad Subulas Salam, Purwanto dan Suherman, "SVLK, One Type of Eco Label to Control Wood Movements in Furniture Industry in Jepara (Salah Satu Jenis Eco Label untuk Mengontrol Pergerakan Kayu pada Industri Furniture di Jepara)". Prosiding Seminar Nasional Pengelolaan Sumberdaya Alam dan Lingkungan 2013.

contradiction with Regulation of Ministry of Forestry of the Republic of Indonesia Number 45 Year 2012 which regulate that it is not only exporting company which has the obligation to have Certificate of Wood Legality, but also every holder of Enterprise License, holder of Industrial Registration License, holder of Houseware Industry or craftsmen.²⁵

As an instrument of monitoring and evaluating the implementation of the forestry sector licensing decision, in order to improve the sustainability of forest, and also functions as an instrument to control global warming, the principle of forest certification is voluntary, transparency, independency, participation, non discrimination, and accountable.²⁶ Although ecolabel certification is voluntary, but ecolabeling is an instrument which can be used to prevent the rate of forest destruction by controlling the global market system, since the global market shall only accept forestry products which has obtained ecolabel certificate. The ecolabel certification which is managed by private legal body, is actually linked with Law Number 41 Year 1999 on Forestry and Law Number 32 Year 2009, and the implementing legislation. Law Number 41 of 1999 on Forestry states that holders of forest utilization license, including holder of Forest Plantation License has to comply with the principle of benefit and sustainable, people oriented, equality, cooperation, transparency and integrated.²⁷ The objective of Law on Forestry is basically for the people's welfare by optimizing the various forest functions.²⁸

In relation with Law Number 32 of 2009 concerning Protection and Management of Environment, it is stated in Article 23(1) in conjunction with Article 3 Government Regulation Number 27 of 2012 concerning Environment License, every enterprise or activity having big impact to the environment has to make Environment Impact Analysis (AMDAL). Ecolabel certification system and ecolabel certificate is an instrument to manage and to control the business as it is demanded in AMDAL document.

3. The Concept of Sustainable Development linked with Ecolabel Certification

The introduction of ecolabel institution in running environmentally oriented trading still not found either in Stockholm Declaration of 1972 or Rio Declaration 1992, as well as in the Indonesian legal system at that time. International Standard named as ISO 14000 was initiated by business world, and was introduced to public, as a contribution to the achievement of Sustainable Development agreed in Summit Meeting at Rio de Janeiro in 1992. The ISO 14000 covers among others Environmental Management System, Environmental Audit, Environmental Work Evaluation, Ecolabel and Study on Product Lifetime which is voluntary.

²⁵*Ibid.*, p. 4.

²⁶Iskandar, *op.cit.*, p. 7.

²⁷Law on Forestry, Law Number 41 Year 1999, Art. 2.

²⁸*Ibid.*, Art. 3.

During Bali conference in May 1990, the state members of International Tropical Timber Organization (ITTO) has agreed that at 2000, all timber of tropical forest traded shall be originated from forests which are environmentally preserved. This agreement in the long run then is linked with the implementation of ecolabeling of tropical wood by member states of ITTO, including Indonesia.²⁹

In 2009, Indonesia decided to make the implementation of Timber Legality Verification System (SVLK) mandatory for all timber enterprises in order to ensure full legality compliance of Indonesian timber. This decision was intended to remove all doubts about the legality of the Indonesian timber traded internationally. SVLK was also designed to become the basis for the Voluntary Partnership Agreement (VPA) between the European Union and Indonesia. After long negotiation process, on September 2013 Indonesia and European Union had signed the VPA on Forest Law Enforcement Governance and Trade, which aims to eradicate illegal timber trading and to give assurance that only timber products legally verified shall enter into states in Europe. The agreement has to be ratified by the parties to the agreement.³⁰

The VPA reflects the Principle II of Stockholm Declaration 1972 that "the natural resources of the earth, including the air, water, land, flora and fauna and especially representative samples of natural ecosystem, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate."

There are three main principles on Sustainable Development, namely the principle of democracy, equality and sustainability. The principle of democracy stresses that development is carried out based on the consent of the people for the interest of the people. Based on this principle of democracy, development shall not be based on the will of the government or the ruling party. The equity principle contains ideas that everyone is given the same opportunity to participate in the process of development, participate in productive activities and enjoy the development. The principle of sustainable requesting the make long-term development agenda, to see the positive or negative impact of the development not within short-term.³¹

The concept of Sustainable Development placed obligations to states to make the concept into practices which is the most important thing. And the theory of deontology, maybe, can be used to explain how to make the concept of sustainable development into state practices. On the basis of deontology ethics, an act is evaluated right or wrong based on whether such act is in line with the obligation

or not.³² Related to the activity of producing furniture using wood which is obtained from illegal logging, for instance, such activity shall be wrong according to environmental ethics. Deontology ethics stresses on motivation, good faith strong character to act in accordance with the obligation.³³

IV. CONCLUSION

Ecolabel certification which is initiated by business world constitute an instrument to make the concept of Sustainable Development to become real trade practices which aim for forest conservation and eradication of deforestation.

Ecolabel certification is applied due to the demand of international trade and to combat forest destruction. Although this type of certification is voluntary in nature, and the application of this certification depend to the consent and interest of timber industries, but finally The Indonesian government support this program and enact various rules and regulation in line with the demand of international trade market, which is against illegal logging and illegal trading.

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²⁹Renhard, Harve, "Ecolabel reviewed according to legal history (Ekolabel ditinjau Menurut Sejarah Hukum)", Jurnal hukum.

³⁰Satria Astana et.al., "Cost Implications and Benefits of SVLK Implementation of Small Scale Timber Sector (Implikasi Biaya dan Manfaat Pelaksanaan SVLK terhadap Sektor Perakayuan Skala Kecil)".

³¹A. Sonny Keraf, Environmental Ethics (*Etika Lingkungan Hidup*), Penerbit PT Kompas Media Nusantara, Jakarta, 2010, p. 200-205.

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