
EUROPEAN FOREST INSTITUTE

TENDER SPECIFICATIONS

PROCUREMENT REFERENCE NUMBER 3-15.2-2018-R

**The potential contribution of legal frameworks to achieving forest related
NDC targets in Indonesia**

1. TERMS OF REFERENCE

1.1. Background

The EU REDD Facility's overarching goal is to help countries engaged in REDD+ to reduce greenhouse gas emissions from deforestation and forest degradation through improved land-use governance. The aim is to achieve long-term mitigation as well as non-carbon benefits that legitimate sustained implementation by affected stakeholders.

To support REDD+ countries as they operationalise their Nationally-Determined Contributions under the Paris Agreement on climate change, the Facility works towards three objectives:

1. Supporting the clarification and implementation of legal frameworks addressing land allocation, land use and forest conversion;
2. Enabling sustainable land-use investment and management;
3. Informing deforestation-free production and trade.

In collaboration with the European Commission and interested EU Member States and European countries, the Facility provides support in various forms including expertise, technical assistance, facilitation of stakeholder dialogue, and knowledge sharing at national and international levels. The goals of engagement are:

- To deliver targeted support for national processes to address challenges at the interface of REDD+, FLEGT and land-use governance processes;
- To enhance knowledge to inform policy development at EU and international level.

The EU REDD Facility works closely with the EU FLEGT Facility, which supports implementation of the European Union's 2003 Forest Law Enforcement, Governance and Trade (FLEGT) Action Plan. The plan aims to tackle illegal logging and trade in illegally harvested timber by addressing governance failures and weak enforcement capacities in timber-producing countries and failures in international forest products markets that allow trade in illegal timber to persist.

Key components of the FLEGT Action Plan include:

- a) Voluntary Partnership Agreements (VPAs) between the EU and timber-producing countries that allow only products that have been produced in accordance with an agreed legality standard in each timber-producing country to be exported to the EU; and
- b) The EU Timber Regulation (EUTR) which prohibits placing products containing illegally-harvested timber on EU markets by requiring operators to exercise due diligence to minimise the risk that such timber products have been illegally harvested.

The EU Timber regulation came into force in 2013 and, having ratified its VPA with the EU in 2014, Indonesia became the first country worldwide to begin issuing FLEGT licences in November 2016. By December 2016, a total of 13.6 million hectares of natural forest and 3 498 forest-based enterprises and industries had been certified under Indonesia's timber legality assurance system: the Sistem Verifikasi Legalitas Kayu, or SVLK.

The EU REDD Facility's work in Indonesia builds on experience with the VPA in supporting land and forest governance reform including through trade related initiatives. Past work has included efforts to increase transparency in forest revenue flows and develop approaches for improved land and forest governance in

West Papua. Current work includes support for a development of a jurisdictional sustainable development monitoring system for West Papua and a partnership with the Trase consortium¹ to elucidate palm oil supply chains between importing countries and producers in Indonesia, and establish jurisdictional indicators to track progress towards sustainability.

1.2. Introduction

Indonesia's annual net loss of forest and resulting emissions of greenhouse gases are the second highest in the world. Indonesia lost more than 28 million hectares of forest between 1990 and 2015 and data from the Indonesian Ministry of Environment and Forests (MoEF) shows that gross deforestation increased in 2015 due to forest fires before falling back again. Forest and agricultural commodity production are the main drivers of deforestation and forest degradation.

In 2016, Indonesia ratified the Paris Agreement and submitted its Nationally Determined Contribution (NDC), which sets an unconditional GHG emission reduction target of 29% and conditional reduction target of up to 41 % by 2030. Under the NDC, forestry and land use are intended to contribute around 60% of the targeted reduction and Reducing Emissions from Deforestation and forest Degradation (REDD+) is programmed to play an important role. Progress with REDD+ in Indonesia has, however, been hindered by interministerial coordination challenges and weak law enforcement at province and district levels. To achieve REDD+ outcomes, increased attention has therefore been given to supply chains approaches.

As the foundation of supply chain approaches, sustainability standards and corporate sustainability commitments have been instrumental in promoting progress towards social and environmental goals in agriculture and forestry in Indonesia. To achieve forest related NDC targets there is, however, a critical need for inclusion of larger geographical areas and a wider range of public and private actors. In addressing these needs, jurisdictional sustainability approaches are receiving increased attention in Indonesia and in conjunction with increased supply chain transparency and trade related measures the opportunity exists to incentivize jurisdictions in halting deforestation and transitioning to sustainable systems of production.

Eliminating illegal deforestation from supply chains has been identified as a top priority in addressing tropical deforestation² and Indonesia's VPA sets a valuable precedent in eliminating illegal timber from supply chains to the EU. Trade related measures promoting legally produced commodities may also prove more broadly applicable than measures focussing on the means of production of single commodities, and could help reduce EU driven deforestation while supporting Indonesia in reaching its NDC targets. Multiple overlapping legal frameworks and weak law enforcement in Indonesia, however, mean that the extent of illegal deforestation is unclear. The extent to which eliminating illegality from supply chains and promoting legal commodity trade can contribute to NDC targets is also therefore unclear.

By determining what can be considered illegal deforestation according to existing legal frameworks and conducting associated field level assessments, the forest related implications of applying incentives for legal commodity production and enforcing laws can be assessed. In combination with increased supply chain transparency,³ indicators of jurisdictional legal forest conversion could inform sustainable sourcing. Similarly,

¹ Transparent supply chains for sustainable economies (<https://trase.earth/>)

² Tropical Forest Alliance 2020 (2017) Commodities and Forest Agenda 2020: Ten priorities to remove tropical deforestation from commodity supply chains. World Economic Forum.

³ EFI is working in partnership with the Trase consortium (GC & SEI) on an EU funded initiative entitled "Defining and tracking 'deforestation-free' palm oil - analysis of supply chains and opportunities for area based verification." The initiative aims to elucidate palm oil supply chains between importing countries and producers in Indonesia and establish district and provincial level indicators to track progress towards sustainability in Indonesia.

agreed definitions of legality regarding deforestation could provide means to incentivise legal production through commodity trade, and promote progress towards NDC goals.

Therefore, EFI will contract an international contractor to undertake the following assignment:

1.3. Objective

The objective of this assignment is to assess the potential contribution of clarified and implemented legal frameworks to Indonesia's forest related NDC targets.

The two main outputs of this assignment will be a report and a policy brief on "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia."

1.4. Scope and tasks

The scope of this assignment includes assessment of the potential contribution of compliance with clarified and implemented legal frameworks to reducing deforestation⁴ and achieving related NDC targets in Indonesia, and the potential supporting role of trade and supply chain related measures to incentivise legal compliance. The assignment will provide a synopsis of the potential contribution of legal frameworks to achieving forest related NDC targets at the national level and more comprehensive evaluations in selected provinces and districts based on an assessment of the extent of legal and illegal deforestation to be undertaken by a national consultant under a separate contract with EFI. The assignment entails travel to Indonesia and structured⁵ and informal engagement with international and in-country stakeholders.

In carrying out the tasks described below, the work should build on experience gained in implementing the EU FLEGT Action plan and also contribute to the EU funded initiative entitled "Defining and tracking 'deforestation-free' palm oil - analysis of supply chains and opportunities for area based verification" by providing guidance on the legality of commodity production.

The assignment will comprise the following tasks:

Assessment of "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia"

1. Review recent key documents published by EU institutions and EU Member States and their partners relating to tropical deforestation and associated policy, e.g. EU "Feasibility study on options to step up EU Action against Deforestation"; European Parliament resolutions on palm oil and deforestation of rainforests; EU study on "The impact of EU consumption on deforestation.";
2. Review information on the extent to which forest conversion is addressed by the Voluntary Partnership Agreement between the EU and Indonesia (VPA) and in the context of the EU Timber Regulation (EUTR);
3. Review available information on legal and regulatory frameworks relevant to deforestation in Indonesia and their implementation;
4. Review available information on progress of initiatives to resolve land and forest related legality issues⁶ and their forest related impacts, including through reforestation and/or compensation in relation to legacy forest clearance;

⁴ In this document, the term 'deforestation' is used to denote clearance of physical forest.

⁵ Interaction with the prospective advisory committee and participation in two workshops organised by the national consultant under a separate contract with EFI.

⁶ E.g. TORA (agrarian reform), Indonesian Sustainable Palm Oil (ISPO) standard, OneMap, constitutional court ruling on customary land rights and Social Forestry program with government target of recognizing 12.7 million hectares of community land by 2019.

5. Review available information on alleged and proven cases of illegal deforestation in Indonesia extending back to 2006;
6. With support from the national contractor contracted separately by EFI (NC), develop a framework classifying illegal deforestation by type of transgression (e.g. conflict with designated land use, permit related violations, illegal land clearance methods, etc.) and legal source (e.g. cross-sectoral law, sectoral (e.g. Forestry and Environment, Agriculture, Mining) law, province or district level law);
7. Based on different possible interpretations of legal frameworks, develop a range of legality scenarios that can be used to spatially assess the potential contribution of clarified and implemented legal frameworks to Indonesia's forest related NDC targets and potential impacts on the livelihoods and socioeconomic status of relevant stakeholders;
8. Develop recommendations to support progress towards Indonesia's NDC targets and smallholder legality drawing on VPA and EUTR experience and potential to incentivise and enforce legal trade in other commodities as a means of reducing deforestation;
9. Draft a report on "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia" based on review of materials detailed above and the information presented in the NC's report on "The extent of illegal deforestation in Indonesia";
10. Prepare a policy brief on "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia" aimed at international policy makers;

Inputs to NC's assessment of the extent of legal and illegal deforestation in Indonesia

11. Support the NC in assessing in at least six districts in three or more provinces the extent of land/forest in different administrative divisions illegally used/licensed, allocated/zoned, or converted/cleared according to scenarios derived from the framework classifying illegal deforestation;
12. Review and comment on the NC's annotated table of contents and first and second draft reports on "The extent of illegal deforestation in Indonesia";

Stakeholder engagement

13. Engage in discussions with key stakeholders in land and forest governance and commodity production and trade, and with prospective advisory committee members to present and elicit guidance on work undertaken as part of these ToRs;
14. Consult stakeholders on the draft framework classifying illegal deforestation and receive inputs on planned project activities, including through active participation in the workshop on "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia";
15. Consult stakeholders on the draft materials produced by the project, including through active participation in the second workshop on "The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia";

Miscellaneous

16. Provide EFI with monthly update calls and regular updates in relation to decisions affecting the direction and/or emphasis of the work.

1.5. Methodology

- Desk study of forest related legal frameworks and their implementation, interviews with key informants;
- Interaction with NC through tele- and in-person communication, and exchange of information and report drafts;
- Participation in relevant meetings and workshops at appropriate points in time during performance of the task to seek stakeholder inputs and build interest among stakeholders as the work progresses;

1.6. Timing and deliverables

The Contractor will deliver over a period of up to nine months the following outputs:

1. An annotated table of contents for a report on “The potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia” and an outline of how the tasks will be carried out within one month of commencing the services;
2. A first draft report on “The potential contribution of ...” within three months of commencing the services. The draft report should include a literature review related to tasks 1-4 above and a draft framework classifying illegal deforestation;
3. A second draft report on “The potential contribution of ...” within six months of commencing the services. The draft report should include information from empirical assessment of illegal deforestation and from the report on “The extent of legal and illegal deforestation in Indonesia” and recommendations;
4. A draft policy brief on “The potential contribution of ...” within eight months of commencing the services;
5. Written comments on the annotated table of contents for a report on “The extent of legal and illegal deforestation in Indonesia” two months of commencing the services;
6. Written comments on the first draft report on “The extent of legal and illegal deforestation in Indonesia” within six months of commencing the services;
7. Written comments on the second draft report on “The extent of legal and ...” within eight months of commencing the services;
8. A final policy brief on “The potential contribution of ...” aimed at international policy makers within nine months of commencing the services;
9. A final report on “The potential contribution of ...” with executive summary within nine months of commencing the services.
10. Reports from kick-off meeting and workshops outlining stakeholder engagement and feedback received on implementation of tasks.

All reports are to be produced in English and the final reports will take into account comments provided by EFI on the draft reports. Following submission of the final reports EFI will arrange editing and the Service Provider will need to respond where clarifications may be required during this editing process.

The final report will be submitted in electronic version (MS Word and pdf format, with any data tables in Excel format to provide a clear understanding of the analyses done, and with all pictures, charts etc. from the report and annexes also provided separately in their original file format). When preparing graphs, charts and maps, attention should be paid to the colours and patterns selected so that they can be read in non-colour printouts. Where maps are included in reports, care should be taken to show internationally accepted borders between countries. Sources and references for information, data and statistics used should be properly cited. All tables, maps and graphs should include titles in English.

2. TENDER DOCUMENTATION

2.1. Administrative Documentation

The tender shall include the following documentation, properly filled out and signed:

- Cover letter (Annex 1)
- Identification form (Annex 2) including supporting documentation
- Bank identification form (Annex 2a)
- Declaration on Exclusion Criteria and Absence of Conflict of Interest (Annex 3)
- Nomination of Experts form (Annex 4)
- Minimum criteria declaration (Annex 5)

The consortium agreement (Annex 6) shall be included, properly filled out and signed, if the tender is submitted jointly by a consortium of economic operators. The consortium agreement (Annex 6) shall not be included if the tender is submitted by a single Tenderer proposing subcontracting of tasks.

2.2. Technical Proposal

In order to evaluate the tender against the minimum criteria and the award criteria A.I. – A.II in section 3.1. and 3.2., the Tenderer shall submit a technical proposal consisting only of the following elements:

1) A nomination of the following Experts to carry out the tasks in the Terms of Reference:

- **one Team Leader (Expert)**
- **one or more additional Experts**

The Technical Proposal shall include CV's of the nominated Experts.

The Tenderer shall be able to certify the information contained in the CV's for the nominated Experts at EFI's request.

2) A description of no more than four pages, **making reference to the Terms of Reference and the previous experience of the Experts** demonstrating understanding of:

- Land and forest sector dynamics in Indonesia and the main challenges in implementing sustainable forest management and reducing deforestation and forest degradation;
- The role of forest governance, legal compliance, land tenure, transparency and local people's rights in reaching land and forest management objectives;
- The role of international agreements and public and private initiatives in promoting environmental and sustainable development goals;
- The aims and the context of the assignment;

3) A description of no more than six pages on the Tenderer's methodology for the assignment – building upon the Terms of Reference and the experience of the Experts – addressing the following elements under separate headings:

- Overall approach to assessing the potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia;
- Approach to developing a framework classifying illegal deforestation and developing associated legality scenarios in co-operation with a national consultant and stakeholders

in Indonesia taking into account potential information and technical constraints and needs for iteration based on ground truthing;

- Timing and sequence of activities and deliverables, indicating the approximate allocation of time per team member for each activity.

2.3. Financial Proposal

The Tenderer shall submit a financial proposal, which shall be completed by using the form in annex 7 and by following the instructions therein. The maximum value of the contract covering all costs related to the implementation of the assignment including travel is 80,000 EUR.

The full general conditions applicable to the payment of fees and per diem as well as the reimbursement of costs can be found in annex 8 (draft contract).

3. EVALUATION OF TENDERS AND AWARD OF THE CONTRACT

3.1. Minimum Criteria

The **Tenderer** nominated must meet the following criteria:

N°	Criteria description
M.I.	Experience in applied policy and legal analysis in forestry, land use, climate change and international trade and development.
M.II.	Experience from last three (3) years of implementing similar services with an overall budget of at least 300,000 EUR.

The **Team leader** nominated must meet the following criteria:

N°	Criteria description
M.III.	Advanced university degree (Master's degree or equivalent) in international law, environmental law or a related field.
M.IV.	Five (5) years' demonstrated experience leading and coordinating policy and legal analyses in the context of forestry, land use, climate change and international trade and development.
M. VI.	Experience participating in multi-stakeholder approaches balancing the interests of international, national and local stakeholders representing civil society, private sector and government.
M. VII.	Experience working in two or more countries in Southeast Asia.
M.VIII.	Understanding, speaking and writing English as demanded with respect to all tasks covered by the Terms of Reference in this Tender.

One **expert** must meet the following criteria:

N°	Criteria description
M. IX.	Five (5) years' demonstrated experience conducting policy and legal analyses in the context of forestry, land use, climate change and international trade and development.
M. X.	Experience working in one or more countries in Southeast Asia.
M. XI.	Understanding, speaking and writing English as demanded with respect to all tasks covered by the Terms of Reference in this Tender.

Tenders not fulfilling the minimum criteria will be rejected.

3.2. Award Criteria

Tenders fulfilling the minimum criteria will be evaluated using the following award criteria:

A. Technical component (maximum 75 points)		
N°	Award criteria	Max points
A.I.	Understanding of:	45
i.	Land and forest sector dynamics in Indonesia and the main challenges to sustainable forest management and reducing deforestation and forest degradation.	15
ii.	The roles of forest governance, legal compliance, land tenure, transparency and local people’s rights in reaching land and forest management objectives.	10
iii.	The role of international agreements and public and private initiatives in promoting environmental and sustainable development goals.	10
iv.	The aims and the context of the assignment.	10
A.II.	Proposed methodology for the implementation of the tasks	30
i.	Overall approach to assessing the potential contribution of legal frameworks to achieving forest related NDC targets in Indonesia.	10
ii.	Approach to developing a framework classifying illegal deforestation and developing associated legality scenarios in co-operation with a national consultant and stakeholders in Indonesia.	20

The Technical component (TC) is calculated according to the following formula:

TC = A.I. + A.II.

Tenders must receive a score of more than half of the maximum Technical component to be considered qualitatively acceptable.

Tenders not considered qualitatively acceptable will not be considered further.

B. Financial component (maximum 25 points)

Tenders presenting a total financial proposal (Fo) superior to the maximum contract value of EUR 80,000 will not be considered further.

For tenders being considered, the Financial component (F) is calculated according to the following formula:

$$F = (F_{min} / F_o) \times 25$$

where

Fmin is total sum in the tender in the evaluation with the lowest total financial proposal; and

Fo is the total sum in the financial proposal being considered.

C. Most economically advantageous tender

A combined score (CS) will be calculated according to the following formula:

$$CS = TC + F$$

The Tenderer with the highest combined score (CS) for Technical component (TC) and Financial component (F) will be awarded the Contract.

Where two or more tenders have an equal combined score the contract will be awarded according to the highest score for the financial component (F).

ANNEXES

Annex 1	Cover letter
Annex 2	Identification form
Annex 2a	Bank identification form
Annex 3	Declaration of exclusion criteria and absence of conflict of interest
Annex 4	Nomination of Experts form
Annex 5	Minimum criteria declaration
Annex 6	Consortium agreement
Annex 7	Financial Proposal form
Annex 8	Model contract
Annex 9	EC per diem rates