

COMPLETION OF TEMPORARY RIGHT TO EXPLOITATION VEGETATED FOREST INDUSTRY

(Regulation of the Minister of Forestry Number P.4/Menhut-II/2009, dated January 27, 2009)

WITH THE BLESSING OF THE ONE AND ONLY GOD

MINISTER OF FORESTRY,

Considering:

- a. that based on Decision of the Minister of Finance Number 228/Kpts- II/1990 concerning Procedure and Requirements for Right to Exploitation of Vegetated Forest Industry that constitutes implementing regulation of Government Regulation Number 7 Year 1990, within the period of Year 1992 up to Year 1994 several Decisions of the Minister of Forestry on Grant of Temporary Right to Exploitation of Vegetated Forest Industry have been issued;
- b. that the holder of Temporary Right to Exploitation of Vegetated Forest Industry referred to in point b, has established joint venture company;

- c. that with the existing amendment to Government Regulation Number 7 Year 1990, and lately under Government Regulation Number 6 Year 2007 in conjunction with Number 3 Year 2008 and its implementing regulation, therefore in the context of providing legal security, assurance to run business for the holder of Temporary Right to Exploitation of Vegetated Forest Industry (HPHTI-S) and loan repayment of Reforestation Fund (DR), it is necessary to stipulate Regulation of the Minister of Forestry concerning Completion of Temporary Right to Exploitation of Vegetated Forest Industry;

In view of:

1. Law Number 41 Year 1999 (*BN No. 6412 pages 1A-6A and so forth*) concerning Forestry (SB of R.I. Year 1999 Number 167, Supplement to Statute Book Number 3888) as amended by Law Number 19 Year 2004

- (BN No. 7143 pages 26A-29A)** concerning Stipulation of Government Regulation in Lieu of Law Number 1 Year 2004 concerning Amendment to Law Number 41 Year 1999 concerning Forestry to Law (SB of R.I. Year 2004 Number 86, SSB Number 4412);
2. Government Regulation Number 27 Year 1999 **(BN No. 6442 pages 10A-12A and so forth)** concerning Analysis on Environmental Impact (SB of R.I. Year 1999 Number 59, SSB of R.I. Number 3838);
 3. Government Regulation Number 35 Year 2002 **(BN No. 6838 pages 2A-10A)** in conjunction with Number 58 Year 2007 concerning Reforestation Fund (SB of R.I. Year 2002 Number 67, SSB of R.I. Number 4207 dan SB of R.I. Year 2007 Number 131, SSB of R.I. Number 4776);
 4. Government Regulation Number 44 Year 2004 concerning Forestry Planning (SB of R.I. Year 2004 Number 146, SSB of R.I. Number 4452);
 5. Government Regulation Number 45 Year 2004 concerning Forest Protection (SB of R.I. Year 2004 Number 147, SSB of R.I. Number 4453);
 6. Government Regulation Number 6 Year 2007 **(BN No. 7529 pages 1A-21A and so forth)** concerning Forest System and Compilation of Forest Management and Forest Utilization (SB of R.I. Year 2007 Number 22, SSB of R.I. Number 4696) as amended by Government Regulation Number 3 Year 2008 (SB of R.I. Year 2008 Number 16, SSB of R.I. Number 48140);
 7. Decree of the President of the Republic of Indonesia Number 187/M Year 2004 **(BN No. 7128 pages 30A-31A)** concerning Establishment of Indonesia Bersatu Cabinet as amended several times and lately amended by Number 31/P Year 2007;
 8. Regulation of the President of the Republic of Indonesia Number 9 Year 2005 **(BN No. 7182 pages 2A-23A and so forth)** concerning Capacity, Duty, Function, Organizational Structure and Work Procedure of the State of the Republic of Indonesia as amended several times and lately amended by Number 20 Year 2008;
 9. Regulation of the President of the Republic of Indonesia Number 10 Year 2005 **(BN No. 7220 pages 8B-12B and so forth)** concerning Organizational unit and Duty of Echelon I of the State Ministry of the State of the Republic of Indonesia, as amended several times and lately amended by Number 50 Year 2008;
 10. Joint Decision of the Minister of Forestry and Minister of Finance Number 446/Kpts-II/1994 and Number 533/KMK.017/1994 concerning Provisions for Capital Participation by the State of the Republic of Indonesia and Loan Originating from Reforestation Fund for Development of Vegetated Forest Industry,
 11. Decision of the Minister of Forestry Number 375/Kpts-II/1996 in conjunction with Number 098/Kpts-II/1998 concerning Procedure for Distribution of Reforestation Fund in the context of Capital Participation by the State of the Republic of Indonesia and Loan for Development of Vegetated Forest by Joint Operation Company;
 12. Decision of the Minister of Forestry Number 4896/Kpts-II/2002 **(BN No. 6811 pages 3A-5A)** in conjunction with Number 8679/Kpts-II/2002 (BN No. 6842 page 2B) concerning Treatment of Joint HTI Company and BUMN HTI;

13. Decision of the Minister of Forestry Number SK.46/Menhut-II/2004 (*BN No. 7043 pages 3A-4A*) concerning Increase of Private Capital Participation in Company holding Business License for Utilization of Wood Forest Produce in Vegetated Forest / Right to Exploit Joint Industry of Vegetated Forest;
14. Regulation of the Minister of Forestry Number P.13/Menhut-II/2005 concerning Organization and Work Procedure of the Department of Forestry as amended several times and lately amended by Number P.64/Menhut-II/2008;

D E C I D E S :

To stipulate:

REGULATION OF THE MINISTER OF FORESTRY CONCERNING COMPLETION OF TEMPORARY RIGHT TO EXPLOIT VEGETATION FOREST INDUSTRY.

Vegetation

Article 1

What is meant in this Regulation by:

1. Temporary Right to Exploit Vegetation Forest Industry hereinafter referred to as HPHTI-S shall be right granted to private company as holder of the Right to Exploit Forest (HPH) assign to develop Vegetation Forest Industry with Transmigration Pattern.
2. Business License for Utilization of Wood Forest Produce (IUPHHK) in Vegetation Producing Forest hereinafter referred to as IUPHHK-HTI which previously called Right to Exploit Vegetation Forest (HPHT) or Right to Exploit Vegetation Forest Industry (HPHTI) or Business License for Utilization of Wood Forest

Produce (IUPHHK-HT) shall be business license to develop Vegetation Forest in producing forest established by industrial group for improvement of producing forest quality in the context of fulfilling the needs for industrial basic material.

3. Joint Venture Company shall be company established by means of cooperation between company as holder of HPH and State-owned Forestry Business Entity (BUMN) (PT. Inhutani I s/d V) in the context of developing Vegetation Forest Industri (HTI).
4. Distributing bank shall be Government Bank acting for and on behalf of the Government namely Minister of Forestry in distributing Government Capital Participation (PMP) and loan of Reforestation Fund (DR) to develop HTI.
5. Divestment shall be release or sale of shares belonging to BUMN in Joint Venture HTI company.
6. Minister shall be Minister assigned the duty and responsibility in Forestry matter.
7. Direktor General shall be Director General assigned the duty and responsibility in Forestry Produce Management.
8. Governor shall be Governor of Province.
9. Provincial Service Office assigned the duty and responsibility in Forestry in provincial areas.
10. Service Office of the Region shall be Service Office assigned the duty and responsibility in Forestry of regency.

Article 2

Completion of HPHTI-S to be IUPHHK-HTI shall be conducted based on the procedure and requirements below.

1. Director General on behalf of the Minister shall request the Joint Venture company to submit:
 - a. Statement of Commitment to continue the development activity of HTI registered at the Notary, as referred to in Attachment to this Regulation of the Minister of Forestry.
 - b. Governor's recommendation.
 - c. Analysis of Environmental Impact (AMDAL) or Environmental Management Effort (UKL) and Environmental Monitoring Effort (UPL) that have obtained approval or ratification from the competent authority in accordance with the regulations.
 - d. Evidence of completion of Contribution for Right to Exploitation of Vegetation Forest Industry (IHPHTI).
2. If the joint venture company has complied with the requirements referred to in point 1, the Minister shall instruct the Director General of Forestry Planology to prepare map of working area and submit the result thereof to the Director General.
3. If the joint venture company has complied with the requirements referred to in point 1, letters a, b and c, but not yet settle the IHPHTI since no Instruction Letter for Payment of IUPHHK-HTI is issued yet, the Director General on behalf of the Minister shall issue Instruction Letter for Payment of IUPHHK-HTI contribution based on the tariff prevailing then.
4. With the full compliance with the requirements referred to in points 2 and 3, the Minister shall issue Decision on IUPHHK-HTI to the joint venture.

Article 3

- (1) If the joint company fails to comply with the requirements

referred to in Article 2 points 1 and 3 within six (6) months after the request letter and Instruction Letter for Payment of IUPHHK-HTI Contribution are issued, the Minister shall revoke the IUPHHK-HTI and the joint venture company shall be obliged to comply with the financial obligation not fulfilled yet.

- (2) By revoking the HPHTI-S referred to in paragraph (1), all immovable goods shall become the State's property without loss compensation, except all the plants that have been planted on the work area shall become the licence holder's asset.
- (3) Failure to fell down/utilize the vegetation referred to in paragraph (2) within one (1) year as of revocation of the HPHTI-S thereof by the holder of license shall become the State property without loss compensation.
- (4) If the vegetation referred to in paragraph (3) are encumbered as loan guarantee for DR to the Government through the distributing bank (channelling banks), the Minister shall request the bank to settle the joint venture company's obligations that are still unfulfilled.
- (5) The former HPHTI-S are referred to in paragraph (1), may be allocated for HTI development by submitting application as governed in the prevailing statutory regulation after the process referred to in paragraph (4) is completed.

Article 4

If the joint venture company fails to continue the development activity on the Vegetation Forest Industry as referred to in Article 2 point 1, the Minister shall issue Decision on the Revocation of Decision on HPHTI-S.

and Auction Services Office (KPKNL).

Article 6

If the joint venture company obtained approval for divestment from the Minister and realized it in accordance with the prevailing statutory regulation, the Minister shall issue Decision on IUPHHK-HTI to private shareholder.

Article 7

This Regulation of the Minister of Forestry shall take effect on the date it is stipulated.

For public cognizance, this Regulation of the Minister of Forestry shall be announced by placing it in the State Gazette of the State of the Republic of Indonesia.

Stipulated in Jakarta

On January 27, 2009

MINISTER OF FORESTRY,

Sgd.

H. M.S. KABAN

Enacted in Jakarta

On January 30, 2009

MINISTER OF LAW AND HUMAN RIGHTS

OF THE REPUBLIC OF INDONESIA

Sgd.

ANDI MATTALATTA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA

YEAR 2009 NUMBER 12

STATEMENT LETTER

Number :

On this day, dated (.....) month Year (.....), the undersigned :

Name :

Title : President Director / Director of Joint Venture Company having the right to exploitation of Vegetation Forest Industry between PT. _____ and PT. _____,

hereby undertakes and is willing to continue the development of Vegetation Forest Industry granted under Decision of the Minister of Forestry Number _____, dated _____, concerning _____, in accordance with the prevailing statutory regulation.

This Statement Letter is solemnly made without duress by any party.

The person issuing this Statement,

(Name)

President Director / Director of PT. _____ .

Registered at _____, Notary in _____

Head of Law and Organization Bureau

sgd.

Suparno, SH

NIP. 19500514 198303 1 001

MINISTER OF FORESTRY,

sgd.

H. M.S. KABAN

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