

Legal Protection Model for Forest Preservation of Processed Timber Businesses

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Abstract-The purpose of this study is to find a model of legal protection for forest conservation of the processed wood business. The development of the business in the processed wood industry makes the forest a natural wealth that has high economic value. Forest products which have high economic value must be preserved from those who are not responsible for illegally utilizing forest products. Legal protection to preserve forests is reflected in various regulations both issued by the Ministry of Trade and Industry and from the Ministry of Environment and Forestry by requiring forest product entrepreneurs to have licenses in the processed wood business. Processed wood entrepreneurs (furniture) who are members of the Small and Medium Industries (IKM) who will export their furniture must have SVLK (Timber Legality Verification System) document, but in its implementation it is still not effective. The research method used is the sociolegal research approach. The results of the study showed that the ineffectiveness of legal protection for forest preservation of processed wood business was caused by several aspects, namely legal aspects, economic aspects, and cultural aspects, therefore the importance of establishing a model of legal protection for forest preservation of the justice-based processed wood business, both from the substance aspect the law, the legal structure and the legal culture, so that the protection of the preservation of the forest will be realized in synergy with the processed wood business in a statutory regulation.

Keywords: *legal protection, forest conservation, processed wood business*

I. INTRODUCTION

Forest is one of the natural resources owned by a nation, which has a high economic value of processed wood products. The impact of the processed wood business that brings high economic value, it is not uncommon for people to get illegal wood that is sold freely. To anticipate the existence of illegal logging, there are provisions governing business licenses in the forestry sector to prevent damage to the forest environment. Efforts to preserve the environment in the forestry sector and business competition in the processed wood sector in the global era are two concepts that require regulation.

One of the regulations to protect the preservation of forestry and processed wood business is by implementing

SVLK (Timber Legality Verification System). The application of wood legality standards especially processed wood with SVLK becomes a necessity for wood export consumption. The regulations governing SVLK change each time, the latest is stated in Ministerial Regulation Number 12 / M-DAG / per / 2/2017 concerning Amendment to Regulation of the Minister of Trade Number 84 / M-DAG / PER / 12/2016 concerning Provisions on the Export of Forestry Industry Products. These provisions stipulate that the process of obtaining wood from upstream to downstream must be V-legal, in the sense of having legality as evidenced by the existence of V-legal documents. To get a V-legal, a business actor must have the legality of his business, one of the most important requirements is a Trading Business License (SIUP), Disturbance Permit (HO), AMDAL documents, Company Registration Certificate (TDP). The benefits of implementing SVLK not only provide legal protection and competitiveness for entrepreneurs of processed wood products in the free market, but also provide legal protection for forest conservation, but in practice, the application of SVLK is still not effective^[1].

Effectiveness of the effectiveness of a rule in practice, especially SVLK in the community of business people by knowing how much the rule is implemented and beneficial to the business community as well as aspects of forest conservation. The model of legal protection for forest preservation with the processed wood business becomes very important to be developed to realize equitable synergy both for forest preservation, as well as in the processed wood business.

II. RESEARCH METHOD

This research is grouped in the realm of socio legal study is a non-doctrinal legal research that studies law with the approach of law and social sciences. Research location in Jepara, Semarang, Boyolali is a city that produces processed wood in this case furniture, Furniture in Central Java is a superior product. Data collection techniques through primary data and secondary data. Qualitative data analysis techniques.

III. FINDINGS AND DISCUSSION

A. The Concept of Legal Protection of Forest Conservation

Forests are a source of life in which there are various ecosystems that sustain a variety of living things. Forests are said to be the lungs of the world, because forests

produce oxygen that is needed for the life of living things. Indonesia is an archipelago that has a forest area of 120.6 million ha or 63 percent of its land area.[2] Forest has a crucial aspect in maintaining the water system, absorbing and receiving carbon dioxide, preventing erosion, preventing floods and landslides, regulating the policy of maintaining air temperature and humidity, maintaining soil fertility and material resources for human needs.[3]

Forests in the global era experience overexploitation, this is due to the demands on the need for resources used by humans to support their needs and survival. Excessive exploitation results in an imbalance of ecosystems whose impacts will be detrimental to living things. Inequality that occurs can be prevented through a component that is obeyed by all elements of the community, namely through the establishment of regulations for protecting forest preservation.

Forest Protection is regulated in Article 1 number 9 of the Minister of Environment and Forestry Regulation Number: P.13 / MENLHK / SETJEN / KUM.1 / 4/2019 concerning Assistance for Development Activities in the Forestry Sector, which states that Forest Protection is an effort to prevent and limit damage to forests, forest areas and forest products caused by human actions, livestock, fires, natural resources, pests and diseases as well as maintaining state, community and individual rights to forests, forest areas, forest products, investments and other instruments related to forest management. This provision provides an understanding that forests are protected by means of prevention and restriction on matters that are at risk of causing forest damage, this is a crystallization of values normalized in the form of regulations implicit in the repressive legal protection concept.

Social Forestry is a system of sustainable forest management implemented in state forest areas or customary forests / customary forests implemented by local communities or customary law communities as the main actors to improve their welfare, environmental balance and social cultural dynamics in the form of village forests, community forests, plantations community, community forest, customary forest and forestry partnership. The form of legal protection in forest preservation in Indonesia is to form a mentoring team which is tasked with providing continuous counseling to the community in forestry development activities to increase the success and sustainability of forestry development and community empowerment and welfare. This assistance aims to provide direction in preparing and increasing community capacity at the site level so that they can actively participate in forestry development activities, so as to increase the success and sustainability of forestry development as well as community independence and prosperity.

Assistance is carried out to realize the success of development activities in the forestry sector carried out by the community. Development activities in the forestry sector carried out by the community include (a) Conservation of Living Natural Resources; (b) Forest Protection; (c) Forest Utilization; (d) RHL; (e) Social Forestry; and (f) other forestry development activities. Companion of development activities in the forestry sector

consists of (a) Civil Servants' Extension Workers; (b) PKSM; (c) MCC; and / or other parties. The concept of this assistance makes the community as an object in participation in protecting environmental sustainability, in addition to that in the concept contained in the Minister of Environment and Forestry Regulation Number: P.13 / MENLHK / SETJEN / KUM.1 / 4/2019 concerning Assistance for Development Activities in the Forestry Sector placing elements that are in direct contact, namely the Government, State-Owned Enterprises, Private-Owned Enterprises, Cooperatives, Non-Government Organizations, Foundations, Community Organizations, Universities, and Individuals to participate in preserving the forest.

The concept of forest protection and preservation at the business level especially processed wood in Indonesia still has weaknesses in its implementation. Forest protection is implemented in a document called V-Legal obtained through a system called the Timber Legality Verification System (SVLK). This system aims to trace the origin of processed wood that has been processed by companies or individuals in order to obtain certainty from where the origin of the wood is obtained. SVLK in its implementation has a weakness that is not all processed wood entrepreneurs have sufficient funds to issue V-Legal which is used as a basis for legal certainty in the ownership of processed wood. This weakness is detrimental to small and medium entrepreneurs (MSMEs) engaged in processed wood, because in its handling it requires large funds and time that is not short. The high cost of V-Legal issuance contained in the SVLK causes the processing of processed wood business to be hampered, besides that many illegal logging practices are found due to the implementation of SVLK

B. Regulation of Processed Wood Business in Indonesia

The processed wood business is a business product from the forest which in this study is a furniture product. Furniture is a superior product in Central Java province. The furniture industry requires wood raw materials that come from the forest. The furniture sector is the second largest contributor to exports after textiles, in 2018 the realization of furniture exports in Central Java reached USD 1.4 billion.^[4]

Furniture producers who are members of the Small and Medium Industries (IKM) are optimistic that the furniture industry continues to experience growth, even Indonesia can become a leader for the furniture industry in the ASEAN region, if managed properly. The competition in the furniture industry is getting tougher by the participation of foreign furniture industry players such as Malaysia, Vietnam and China and producing countries in European and American friends, which makes the market bigger and wider. The importance of optimization as an effort to expand the marketing of processed wood furniture is not only centered on traditional export markets such as the United States but also the Middle East and European markets. The furniture industry is a labor-intensive

industry that provides employment and contributes significant foreign exchange to the country.^[5]

However, there are still counterproductive policies that make the furniture and craft industry in Indonesia less developed, one of which is due to the timber verification and legality system (SVLK) imposed by the government. This makes the price of raw materials for the wood industry uncompetitive compared to Indonesian competitors such as Malaysia and Vietnam because taking care of the SVLK and several supporting licenses require a very large cost. The SMEs are also incorporated in the Indonesian Furniture and Crafts Industry Association (HIMKI). HIMKI has sought to ask the government to abolish SVLK for the furniture and craft industry. The implementation of the SVLK policy has an impact on the non-optimal performance of national furniture exports, given the complexity and costly processing of these documents.^[6]

SVLK is actually an advantage of processed wood products from Indonesia, it cannot be revoked, but for the trimming process requested by SMEs and the wood business we will coordinate again with related parties, including cost subsidies to obtain SVLK. The policy issued by the Ministry of Environment and Forestry is standardization, so that processed wood products in this case furniture can be accepted in the international market.^[7]

Ministerial Regulation Number 12 / M-DAG / per / 2017 concerning Amendment to the Minister of Trade Regulation Number 84 / M-DAG / per / 2/2016 concerning Provisions on the Export of Forestry Industry Products. The provision stipulates that the process of obtaining wood from upstream to downstream must be V-Legal, in the sense of having legality as evidenced by the existence of V-Legal. SVLK is actually an advantage of processed wood products from Indonesia, it cannot be revoked. The Minister of Cooperatives and Small and Medium Enterprises stated that "we will coordinate with the relevant parties, including the cost subsidies, to obtain SVLK for trimming the process requested by SMEs and the timber business. The policy issued by the Ministry of Environment and Forestry is a standardization so that processed wood products in this case furniture can be accepted in the international market."^[8]

C. Legal Protection Model for Forest Preservation of Equitable Processed Timber Businesses

The validity of the Timber Legality Verification System in a positive legal level provides legal protection both for forest preservation and in the processed wood business as stipulated in Ministerial Regulation Number 12 / M-DAG / per / 2/2017 concerning Amendments to Regulation of the Minister of Trade Number 84 / M-DAG / PER / 12/2016 concerning Provisions on the Export of Forestry Industry Products. In addition, it is also stated in the Minister of Environment and Forestry Regulation Number P.95 / Menhut-II / 2014 concerning Performance Assessment of Sustainable Production Forest Management and Timber Legality Verification to Permit Holders or Private Forests. Timber legality from upstream to

downstream must be fulfilled for wood processing businesses, but in practice in this policy, it is not fair for small wood processing businesses to implement SVLK rules, when their products will be exported. The provisions of this SVLK, in the field of small-scale processed wood business actors who will export their products through expeditions, are large-capitalized companies that already have business legality and already hold SVLK certificates.^[9]

This shows that the SVLK regulation applies only to processed timber companies with large capital. The enactment of the law in the concept of a welfare state to present welfare as a social right of citizens, requires that the state has the ability to support the economic growth needed by business actors related to this study of processed wood business that does not differentiate whether businesses are large or small capital. Law makers should be able to form laws that reflect justice for all members of society. Jeremy Bentham, better known as an individual utilitarian, said that a law should be able to provide maximum happiness for the majority of the community. John Stuart Mill, who is in line with Bentham argued that an act should aim to achieve as much happiness as possible^[10], meanwhile, Rudolf von Jhering, who later became better known as a social utilitarianism figure, argued that law is a tool for society to achieve its goals. The law as a means to control individuals, so that their goals are in accordance with the objectives of the society in which they are citizens.

In connection with the philosophical foundation in realizing the concept of the welfare state as described above, it is interesting to put forward Gustav Radbruch's view of the basic value of law (Idee des Rechts).^[11] Gustav Radbruch made a major contribution on the topic of legal certainty. With the phenomenon of modern law, Radbruch talks about the existence of a legal ideal (Idee des Rechts). This legal ideal guides humans in the life of law. Radbruch said that the legal ideal, supported by the presence of three basic values (Grundwerten), namely justice (gerechtigkeit), expediency (Zweckmaessigkeit) and legal certainty (rechtssicherheit). The three basic values are not always in a harmonious relationship with each other, but rather confront, contradict, tension with each other. Justice can collide with legal expediency and certainty, demands for expediency can collide with justice and legal certainty and so on.

Radbruch's discussion of the ideals of the law becomes more prominent when placed in the background of the presence of modern law. The emergence of a modern legal system according to Satjipto Rahardjo,^[9] is a response to the new (capitalist) economic production system, because the old system can no longer serve developments from the impact of the working of the capitalist economic system.

The legal construction of timber legality verification standards in Ministerial Regulation Number 12 / M-DAG / per / 2/2017 concerning Amendment to the Regulation of the Minister of Trade No. 84 / M-DAG / PER / 12/2016 concerning Provisions on the Export of Forestry Industry Products gives full authority to the Institution Independent

who prioritizes evidence in this case relating to wood documents to be exported. Verification of timber legality by an Independent Institution is carried out in stages by examining wood documents from upstream to downstream, without involving the relevant agencies, this can cause irregularities.

The model that will be made is to add provisions that regulate the legal nature of the existence of a supervisory institution to monitor the implementation of the SVLK issuance. Structurally the law by adding infrastructure in this case the supervisory institution originating from the relevant Dinas. Culturally in law, it is necessary to build public awareness in this case the business of the processed wood / furniture industry to fulfill the regulations governing marketing to the markets of European countries by having business legality, so that they can export independently without going through international expeditions. The processed wood / furniture industry remains a superior product in Central Java Province.

The model constructed must also pay attention to the environmental legal system that cannot be separated from the big framework of the national legal system that originates from Pancasila and the 1945 Constitution. Article 44 of Law No. 32 of 2009 stipulates that Every compilation of laws and regulations at the national and regional levels must pay attention to the protection of environmental functions and the principles of environmental protection and management in accordance with the provisions stipulated in Law No. 32 of 2009. Here it appears that the national legal system is directed and required to be oriented towards the environment, especially forest areas (green law or eco-law system).

IV. CONCLUSION

Legal protection for forest preservation in the main legal business level is processed wood, namely the enactment of Ministerial Regulation Number 12 / M-DAG / per / 2/2017 concerning Amendment to the Minister of Trade Regulation Number 84 / M-DAG / PER / 12/2016 concerning Export Provisions Forestry Industry Products .. Forestry Industry Products must go through a Timber Legality Verification System (SVLK) which demands that the processed wood must be clearly originated from upstream to downstream, this guarantees legal certainty by issuing V-Legal or preventing illegal logging. and environmental damage. However, in applying the standardization of wood, SMIs are disadvantaged because of the high cost and large quota that makes it difficult for SMEs to sell their processed products.

The ineffectiveness of legal protection for forest preservation of processed wood business is due to several aspects, namely legal aspects, economic aspects, and cultural aspects, therefore it is important to build a model of legal protection for forest preservation of the processed timber business based on justice, both in terms of legal substance, legal structure as well as its legal culture, so that the protection of the forest preservation will be realized in synergy with the processed wood business in a statutory regulation.

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