

**ELUCIDATION OF
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CONCERNING
FORESTRY**

GENERAL

Forest as the blessing of the One Almighty God granted to Indonesian nation is invaluable natural resource that must be thanked for. His blessing is deemed as a mandate, therefore, forests must be managed and utilized with high level of morality as the realization of gratitude to the One Almighty God.

Forest as national development capital, provides actual benefits for the life and livelihood of Indonesian nation, either ecological, social-cultural, or economic benefits, in a balance and dynamic manner. Therefore, forests must be administered and managed, preserved and utilized incessantly for the welfare of Indonesian society, both the present and future generation.

In its capacity as one of the determinants of life-supporting systems, forest has endowed mankind with numerous benefits, therefore, its existence must be preserved. Forest plays the role of the harmonizing and balancing factor of the global environment, so that it has a very significant relation to the international world, by remain prioritizing the national interests.

In line with Article 33 of the 1945 Constitution as the constitutional basis setting forth that earth, water and natural resources contained therein shall be controlled by the State and used for people's maximum welfare, forestry management shall always contain the spirit of democracy, be equitable and sustainable. Therefore, forestry management must be conducted with the principles of benefit and sustainability, democracy, justice, togetherness, transparency and unity based on noble morality and responsibility.

State's control over forests is not ownership, instead, the State shall authorize the Government to regulate and administer all matters pertaining to forests, forest areas and forest products; to stipulate forest areas and or change the status of forest areas; to regulate and stipulate legal relationship between people and forests or forest areas and forest products, as well as to regulate legal actions pertaining to forestry. Furthermore, the Government shall have the authority to grant approvals and rights to other parties to conduct activities in the field of forestry. However, for certain important matters having broad scale and impact as well as strategic value, Government must take people's aspirations into account through the approval of the People's Representative Assembly.

In order to maintain the fulfillment of the balance of environmental, social-cultural and economic benefits, Government shall stipulate and maintain the area adequacy of forest area within river basins and or islands in proportionate distribution.

Forest resources play significant role in supplying raw materials for industries, source of income, creating employment and job opportunities. Forest products are commodities that can be changed to processed products in order to obtain added value as well as to open work and business opportunities.

The aforementioned effort for processing forest products shall not be allowed to incur destruction to forests as a source of raw materials for industries. In order to maintain the balance between the capacity for supplying raw materials and the processing industries thereof, the regulation, supervision and development of forest product final processing industries by the minister having responsibilities in the field of forestry. Forest utilization shall not be limited only to the production of timber and non-timber forest products, instead, it must be expanded to the utilization of other aspects, such as germ plasm and environmental services, so that forests can be optimally utilized.

Seen from the productive function point of view, the preference to people is the main key to the success of forest management. Therefore, forest management practices that are oriented only on timber and not taking into account the rights of and involving community must be changed to management oriented on all forestry resources potentials and based on community empowerment.

In line with the prevailing laws and regulations concerning Regional Government, the implementation of some operational administration shall be delegated, while the national and macro forest administration shall be conducted by the Central Government.

Anticipating the development of community aspirations, in this law, forests in Indonesia are categorized into state and right forests. State forests shall be forests located on land not bearing any right upon land by virtue of Law Number 5 Year 1960, including forests which previously are controlled by customary law communities, called as communal forests, tribal forests, or other names. The inclusion of forests controlled by customary law communities into the category of state forests is as the consequence of the State's right to control and administer as an authority organization of all people in the principle of Unitary State of the Republic of Indonesia. Therefore, customary law communities, insofar as they actually exist and the existence of which is recognized, may conduct forest management and forest product collection activities. While right forests shall be forests located on lands bearing rights upon lands by virtue of Law Number 5 Year 1960 concerning Basic Provisions of Agrarian Principles, such as ownership right, land use title and utilization right.

In order to obtain the optimum benefits from forests and forest areas for the people's welfare, principally, all forests and forest areas can be utilized by taking into account the nature, characteristics, and weaknesses thereof and it shall be prohibited to change the main functions thereof. The utilization of forests and forest areas must be adjusted to the main functions thereof, namely the conservation, preservation and production functions. In order to maintain the sustainability of forests' main functions and condition, forest and land rehabilitation and reclamation shall also be conducted in order not only to restore the quality of forests but also to improve the empowerment and prosperity of community, so that community participation is the key to the success thereof. The harmony of the aforementioned three functions is very much dynamic and the most important thing is to keep them in synergy in the utilization thereof. In order to maintain the quality of environment, the utilization of forests shall as much as possible avoid conservation of a productive natural forest into a plant forest.

Forest utilization shall be conducted by granting of area utilization license, environmental services utilization license, timber forest products utilization license, non-timber forest products utilization license, timber forest products collection license, by charging the recipients with responsibilities for all kinds of disruption to forests and forest areas entrusted to them.

In the context of the development of equitable people's economy, small- and medium-scale business as well as cooperatives shall obtain the broadest opportunity in the utilization of forests. State-owned enterprises (BUMN), Regional government-owned enterprises (BUMD) and Indonesian private enterprises (BUMS Indonesia) as well as cooperatives receiving business licenses in the field of forestry must cooperate with the local community cooperatives and gradually empower them to become solid, independent and professional cooperatives having equal position with other economic enactors.

The results of forest utilization as set forth in laws and regulations constitute a part of the state revenues from natural resources, specifically the forestry sector, by taking into account the balance of the utilization for the interests of the Central Government and Regional Governments. In addition to the obligation to pay contribution, provision or reforestation fund, license holders must also set aside their investment funds for human resources development, including research and development, education and training as well as counseling; and forest conservation investment funds.

In order to ensure the status, function, condition of forests and forest areas, forest preservation shall be conducted, namely by preventing and limiting forest destruction caused by human or animal conducts, fire, natural disasters, pest and diseases. Included in the definition of forest preservation are maintaining and keeping the rights of the state, community and individuals over forests, forest areas and forest products as well as investments and instruments related to forest management.

Sustainable forest administration requires qualified human resources having the mastery of science and technology based on the belief and devoteness to the One Almighty God, through the sustainable organization of research and development, education and training as well as counseling on forestry. However, the organization of human resources development through science and technology must take into account the traditional wisdom as well as the social and cultural condition of community.

In order to enable the implementation of forest administration to achieve its purposes and objectives, Government and Regional Government must conduct forestry supervision. Community and or individuals shall participate in the supervision over the implementation of forestry development, either directly or indirectly, so that community can have sufficient knowledge of plans concerning forest allocation, forest product utilization and forestry information.

Furthermore, this Law also provides for criminal provisions, compensation, administrative sanctions and settlement of disputes for any person conducting violation to the law in the field of forestry. Such heavy criminal and administrative sanctions are expected to incur daunted effect on the violators of the forestry law. Certain Civil Servants (PPNS), whose scope of duties and responsibilities covers forest administration, shall be granted special authorities as investigators as intended in the Criminal Code.

Based on the above explanation, it is founded that Law Number 5 Year 1967 regarding Principle Provisions of Forestry has not provide adequate legal

foundation for the improvement of forestry development, therefore it is deemed necessary to replace the aforementioned law, so that stronger and more comprehensive legal foundation can be provided for the present and future forestry development.

This law covers broad regulation on forest and forestry, including some provisions related to the conservation of biological natural resources and their ecosystems. Following the stipulation of Law Number 5 Year 1990 regarding the Conservation of Biological Natural Resources and Their Ecosystems, all provisions set forth in the aforementioned Law Number 5 Year 1990 shall not be provided for in this law.

ARTICLE BY ARTICLE

Article 1

Self-explanatory

Article 2

The organization of forestry based on benefits and sustainability shall be intended that every implementation of forestry administration shall take into account the balance and sustainability of the environmental, social and cultural as well as economic aspects.

The organization of forestry based on democracy and justice shall be intended that every organization of forestry must provide equal chances and opportunities for all citizens in accordance with their capacities, so that it can improve the prosperity of all people. Therefore, the granting of forest management authority or forest utilization licenses must avoid monopoly, monopsony, oligopoly, and oligopsony practices.

The organization of forestry based on togetherness shall be intended that forestry organization shall apply joint venture scheme, so that synergic inter-relation and inter-dependence can be established between the local community and State-owned Enterprises or Regional Government-owned Enterprises and Indonesian Private Enterprises in the context of the empowerment of small- and medium scale enterprises as well as cooperatives.

The organization of forestry based on transparency shall be intended that every forestry organizational activities shall involve community and take the community aspirations into account.

The organization of forestry based on integrity shall be intended that every forestry organization shall be conducted integrally by taking into account the national, other sectors' and local community's interests.

Article 3

Self-explanatory

Article 4

Paragraph (1)

Referred to as "natural resources contained therein" shall be all forest products as intended in Article 1 number 13.

The aforementioned forest products can be in the following forms:

- a. vegetation products and its derivatives, such as: wood, bamboo, rattan, various kinds of grass, mushrooms, medicinal plants, saps, etc., as well as parts of plants or produced by plants in forests;
- b. animal products and its derivatives, such as wild animals and their breeds, hunted animals, beautiful animals, and other kinds of animal, as well as the parts and products thereof;
- c. non-biological materials ecologically forming one ecosystem unit with biological materials in a forest, among other things, in the form of sources of water, fresh air, and other materials other than mining materials;
- d. services obtained from forests, among other things, in the form of tourism services, natural beauty and uniqueness services, hunting services, etc.;
- e. products directly obtained from processing raw materials obtained from forests, which is the primary production, among other things, in the form of logs, sawed logs, plywood, and pulp;

Mining materials located in forests shall also be controlled by the State, but not provided for in this law, however, the utilization thereof shall comply with the prevailing regulations by taking this law into account.

The definition "controlled" does not necessarily mean "owned", instead, a definition containing obligations and authorities in the field of public law as set forth in Article 4 paragraph (2) hereof.

Paragraph 2

The implementation of Government's authorities pertaining to significant and strategic matters having national as well as international impacts shall be conducted with the approval of the People's Representative Assembly.

Sub-paragraph a

Self-explanatory

Sub-paragraph b

Referred to as certain areas shall be non-forest areas, which can be in the form of forest or non-forest.

Sub-paragraph c
Self-explanatory

Paragraph (3)
Self-explanatory

Article 5

Paragraph (1)

State forests can be in the form of communal forests, namely state forests which management has been delegated to customary law communities (*rechtsgemeenschap*). The aforementioned communal forests were previously called as people's forests, tribal forests, lordship forests, or other names.

Forests managed by customary law communities are included in the definition of state forests as a consequence of the State's right to control as the highest level of people's power organization and the principle of the Unitary State of the Republic of Indonesia. The inclusion of communal forest in the definition of state forest shall not nullified the rights of customary law communities to conduct forest management activities, insofar as they actually exist and the existence of which is recognized.

State forests managed by villages and used for the prosperity of the village shall be called village forests.

State forests primarily used for community empowerment shall be called community forests.

Titled forests located on lands bearing ownership title are usually called as people's forests.

Paragraph (2)
Self-explanatory

Paragraph (3)
Self-explanatory

Paragraph (4)
Self-explanatory

Article 6

Paragraph (1)

In general, all forests have the function of conservation, preservation and production.

Each forest area has different condition in accordance with the physical condition, topography, flora and fauna, as well as biological variety and ecosystem thereof.

Paragraph (2)

Referred to as the basic function of forests shall be the main function borne by a forest.

Article 7

Natural Preservation Forest Areas as intended in this law shall be parts of natural preservation areas set forth in Law Number 5 Year 1990 located within forest areas.

Natural Conservation Forest Areas as intended in this law shall be parts of natural conservation areas set forth in Law Number 5 Year 1990 located within forest areas.

Provisions set forth in Law Number 5 Year 1990 providing for natural preservation areas and natural conservation areas shall be applicable for natural preservation forest areas and natural conservation forest areas set forth in this law.

Article 8

Paragraph (1)

Referred to as special purposes shall be forest utilization for the purposes of research and development, education and training as well as religious and local cultural interests.

Paragraph (2)

Self-explanatory

Paragraph (3)

Self-explanatory

Article 9

Paragraph (1)

City forests may be located on either state or titled lands in urban areas with adequate area within a stretch of land.

Urban area shall be a group of housing areas having the role as center of services or a form of special characteristic of urban life within a development region and or national region. Therefore, an urban area is not always similar to a Municipality administrative region.

Paragraph (2)

Government Regulation concerning technical policies on city forest development shall include, among other things, the following provisions:

- a. type of city forest,
- b. form of city forest,
- c. planning and implementation,
- d. direction and supervision,

- e. proportionate area of city forest to the area of the region, size of population, level of pollution, etc.
This Government regulation shall be the guidelines for the stipulation of Regional Regulation.

Article 10

Self-explanatory

Article 11

Self-explanatory

Article 12

In its field implementation, forest area stipulation need not always be preceded by forest administration activities, because stipulation of a wide forest area will take a long period of time.

In order to obtain clarity on the function of a certain part of a forest, forest administration activities can be conducted at least following the designation thereof.

Article 13

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Forest inventory at the national level shall serve as the reference for the implementation of inventory at the lower levels.

Inventory, at all levels, shall be conducted on both state forests and titled forests.

Paragraph (4)

Referred to as forest resources balance shall be an information that can present the reserve of forests resources, losses and utilization of forest resources, so that at a certain time, the tendency can be known, whether they are in surplus or deficit if compared to the previous time.

Paragraph (5)

Forest inventory shall be a part of forestry planning, so that the materials of its regulation can be included in a Government Regulation setting forth the provisions on forestry planning.

Such Government Regulation shall include, among other things, the following provisions:

- a. procedure,
- b. implementation mechanism,
- c. supervision and control, and
- d. information system.

Article 14
Self-explanatory

Article 15
Paragraph (1)
Forest area designation shall be the preparation for forest area stipulation, which among other things in the following form:

- a. preparation of designation map giving directions on outer boundaries;
- b. putting up temporary perimeters furnished with perimeter alleys;
- c. making perimeter trenches in dangerous locations; and
- d. announcement on forest area boundaries plan, specifically in locations bordered with titled lands.

Paragraph (2)
Self-explanatory

Article 16
Paragraph (1)
Self-explanatory

Paragraph (2)
Self-explanatory

Paragraph (3)
Forest administration shall be a part of forestry planning, so that the materials of its regulation can be included in Government Regulation setting forth provisions on forestry planning.
The aforementioned Government Regulation among other things includes criteria or requirements of forests and forest areas in accordance with their basic functions.

Article 17
Paragraph (1)
Referred to as provincial forest management area shall be all forests within a provincial region that can be managed continuously.

Referred to as regency/municipal forest management area shall be all forests within in regency/municipal region that can be managed continuously.

Referred to as management unit shall be the smallest forest management unit in accordance with the basic function and allocation thereof, that can be managed efficiently and continuously, among other things preserved forest management unit (KPHL), production forest management unit (KPHP), conservation forest management unit (KPHK), community forest

management unit (KPHKM), communal forest management unit (KPHA), and river basin area management unit (KPDAS).

Paragraph (2)

The stipulation of management area establishment at the level of management unit must also take into account the relationship between community and forests, aspirations and traditional wisdom of community.

Paragraph (3)

Self-explanatory

Article 18

Paragraph (1)

Referred to as forest coverage shall be land coverage of vegetation with certain composition and density, so that the forest functions can be realized, among other things, micro climate, water administration, and animal preservation as one forest ecosystem.

Referred to as optimization of benefits shall be the sustainable continuity of environmental, social and economic benefits.

Paragraph (2)

By considering that Indonesia is a tropical country, the most part of which has high level of rainfall and rain intensity, as well as wavy, hilly and mountainous land configuration, which is sensitive to the disruption of water administration continuity, such as floods, erosion, sedimentation, and drought, the forest areas within each river basin area and or island is stipulated in the minimum area of 30% (thirty percent) of the land area. Furthermore, Government shall stipulate the area of forest area for each province and regency/municipality based on the biophysical, climate, population and social economic conditions of the local community.

Based on the aforementioned considerations, provinces and regencies/ municipalities having forest area more than 30% (thirty percent) shall not allowed to freely reduce their forest area from the stipulated area. Therefore, the minimum area shall be prohibited from being used as a reason for conserving the existing forests, instead, it shall be used as a call for awareness of the importance of forests for living quality of community. On the other hand, provinces and regencies/municipalities having forest area less than 30% (thirty percent) shall be required to add their forest area.

Article 19

Paragraph (1)

Integrated research shall be conducted in order to ensure the objectivity and quality of the result, therefore research activities shall be organized by governmental institutions having the competence and scientific authority together with other relevant parties.

Paragraph (2)

Referred to as "having significant impact and broad scope as well as strategic value", shall be changes affecting the biophysical condition, such as change of climate, ecosystem, and disruption to water administration, as well as social economic impact to the present and future generations.

Paragraph (3)

The Government Regulation shall include, among other things, the following provisions:

- a. criteria of forest function,
- b. scope of area,
- c. the parties implementing the research, and
- d. procedure for changes.

Article 20

Paragraph (1)

The preparation of forestry plan shall not only refer to the provisions of Article 13 as the main reference, but must also take into account the provisions of Article 11, Article 14, Article 16, Article 17 and Article 18.

Paragraph (2)

Self-explanatory

Paragraph (3)

The preparation of forestry plans is a part of the forestry planning. The Government Regulation on forestry planning shall include, among other things, the following provisions:

- a. types of plans,
- b. procedure for the preparation of forestry plan,
- c. planning system,
- d. planning process,
- e. coordination, and
- f. evaluation.

Article 21

Forests are mandate of the One Almighty God, therefore forest management shall be conducted based on noble morality for the maximum prosperity of people. Therefore, the implementation of each component of forest management must take into account the cultural values of community, aspirations and perception of community, as well as people's rights, and therefore it must involve local community.

Forest management is principally the authority of the Government and Regional Government. Remembering the various regional peculiarity and social as well environmental conditions which are very much related to forest sustainability and the interests of community requiring special management ability, the implementation of forest management in certain regions can be delegated to State-owned Enterprises (BUMN) engaging in the field of forestry, either in the form of public company (Perum), Service company (Perjan) or Limited liability company (Persero), under the supervision of the Minister.

In order to realize a sustainable forest management, supporting institutions shall be required, among others, financial institutions supporting the forestry development, research and development institutions, education and training institutions as well as counseling institutions.

Article 22

Paragraph (1)

Forest administration is the activity of forest management unit engineering, the implementation of which must take into account the rights of the local community, occurred because of its prosperity, and the condition of the forest.

Forest administration includes the classification of forest resources in accordance with the types of ecosystem and potentials contained therein, in order to obtain the maximum benefits for community continuously.

Paragraph (2)

Self-explanatory

Paragraph (3)

The division of blocks into compartments is intended to facilitate the administration of forest management and to be able to provide bigger business opportunity for the local community.

Management intensity shall be the level of forest management diversity in accordance with the respective function and condition of each forest area.

Management efficiency shall be the implementation of forest management for achieving an optimal and economic target in a simple way.

Paragraph (4)

The preparation of forest management plan shall be conducted by taking into account the aspirations and cultural value of community as well as environmental condition.

Paragraph (5)

The Government Regulation shall include, among other things, the following provisions:

- a. provisions on the procedure for forest administration,
- b. forest utilization,
- c. time span, and
- d. regional considerations.

Article 23

Forests, as national resources, must be used optimally for community so that it shall not be allowed to be focused on a certain person, group, or class. Therefore, forest utilization must be distributed equitably through the improvement of community participation, so that community shall become more empowered and developed.

The optimal benefits can be realized if forest management activities can result in high quality and sustainable forests.

Article 24

Natural preserve shall be natural preservation area, which due to its natural condition has peculiarity of flora and fauna as well as the ecosystem thereof, that must be preserved and its development shall take place naturally.

National Park shall be natural conservation area having original ecosystem, managed with zoning system and used for research, scientific, educational, cultural, tourism and natural recreation purposes.

National Park shall be managed into the following zones:

- a. core zone shall be the part of a national park which is under absolute protection and shall not be allowed to be changed by human activities;
- b. jungle zone shall be the part of a national park functioning as the supporting zone for the core zone;
- c. utilization zone shall be the part of a national park used as recreational center and tourist object.

Article 25

Self-explanatory

Article 26

Paragraph (1)

Area utilization in a preserved forest shall be all businesses using an area without prejudice to the main function of the area, such as:

- a. mushrooms cultivation,
- b. animal breeding, and
- c. medicinal and decoration plants cultivation.

Utilization of environmental services within a preserved forest shall be business using the potentials of environmental services

without damaging the environment and lessening its main function, such as:

- a. utilization for natural tourism,
- b. water utilization, and
- c. utilization of its beauty and comfort.

Collection of non-timber forest products within a preserved forest shall be all activities for collecting non-timber forest products without damaging the main function of the area, such as:

- a. collecting rattans;
- b. collecting honey, and
- c. collecting fruits.

Utilization and collection businesses within a preserved forest shall be intended to improve community's welfare and also to promote community's awareness for maintaining and improving the preservation function as a mandate to realize the sustainability of natural resources and environment for the present and future generations.

Paragraph (2)
Self-explanatory

Article 27

Paragraph (1)
Business license for area utilization implemented by individuals, local community or cooperatives can be in cooperation with State-owned Enterprises, Regional Government-owned Enterprises, or Indonesia Private Enterprises.

Paragraph (2)
Self-explanatory

Paragraph (3)
Self-explanatory

Article 28

Paragraph (1)
Area utilization within production forests shall be conducted for utilizing the growing space so that the environmental, social, and economic benefits can be obtained optimally, such as plant cultivation under forest stand.

Utilization of environmental services within production forests shall be all kinds of businesses using the potentials of environmental services without damaging the environment and lessening their main functions.

Utilization of forest products within production forests can also be in the form of natural forest utilization and plant forest utilization businesses.

Plant forest utilization business may be in the form of similar plant forests and or various plant forests.

Plants produced by the utilization of plat forest shall constitute assets that can be used as security.

Business license for forest product collection within production forests shall be granted for collecting forest products, both in the form of timber and non-timber, with certain limitations of time, area and volume, by taking into account the principles of sustainability and justice.

Collection activity shall include harvesting, skidding, transporting, processing and marketing, granted for a certain period of time.

Paragraph (2)

Self explanatory

Article 29

Self-explanatory

Article 30

Cooperation with local community cooperatives shall be intended that the people residing in and around forests can directly enjoy and obtain benefits of the forest in order to improve their welfare and quality of life as well as promoting a sense of belonging. In such cooperation, traditional wisdom and primary values, inherent in the community's culture that has taken root, can be stipulated as mutually accepted regulations.

The obligations of Indonesian State-owned enterprises, Regional Government-owned Enterprises, and Private Enterprises to cooperate with cooperatives shall be intended to empower the local community cooperatives so that they shall gradually become strong, independent, and professional.

Community cooperatives that have become strong, independent and professional shall be treated equally to Indonesian State-owned enterprises, Regional Government-owned Enterprises, and Private Enterprises.

In the event that local community cooperatives have not been formed, Indonesian State-owned enterprises, Regional Government-owned Enterprises, and Private Enterprises shall participate in promoting the immediate formation of the aforementioned cooperatives.

Article 31

Paragraph (1)

Referred to as the aspects of forest conservation shall comprise of:

- a. environmental continuity,
- b. production continuity, and
- c. the implementation of fair and transparent social and cultural functions

Referred to as the aspect of business certainty shall encompass:

- a. certainty of scope,
- b. certainty of business time, and
- c. certainty of legal guarantee for conducting business.

In order to achieve the principle of justice, fairness and continuity, it is necessary to conduct reorganization of forest management licenses.

Paragraph (2)

Government Regulations shall include, among other things, the following provisions:

- a. limitation of area,
- b. limitation of business license, and
- c. arrangement of business location .

Article 32

Specifically for holders of large-scale utilization business license in addition to the obligation to safeguard, maintain and conserve forest located in their business area, they shall also be obligated to empower the local community in and around the forest where they conduct their business.

Article 33

Paragraph (1)

Self-explanatory

Paragraph (2)

Referred to as the processing of forest products shall be the initial processing of forest products.

Paragraph (3)

In order to maintain the balance of the provision of raw materials in the form of forest products for the demands of raw materials of forest product processing industry, the regulations, directions and development of forest product processing industry shall be set forth by the Minister.

Article 34

Forest area management for special purposes shall be management with special purposes, such as research and development, education

and training, as well as for social cultural interests and application of traditional technology (indigenous technology). Therefore, the implementation must take into account the history of community development and indigenous institutions, as well as the sustainability and preservation of ecosystem.

Article 35

Paragraph (1)

Forest utilization business license contribution shall be levy imposed on the holders of forest utilization business license upon certain forest areas, which is conducted once at the time the aforementioned license is granted. The amount of the aforementioned contribution shall be stipulated with progressive tariff in accordance with the area of the relevant forest area.

Forest resources commission shall be the levy imposed as the compensation for the intrinsic value of forest products collected from state forests.

Reforestation funds shall be the funds collected from the holders of business license for forest product utilization from natural forests in the form of timber in the context of reforestation and rehabilitation as well as the supporting activities thereof.

Performance bond shall be funds belonging to the holders of forest utilization business license, as guarantee for the implementation of their business license, which can be withdrawn by them upon the fulfillment of the sustainable forest utilization business requirements.

Paragraph (2)

Forest preservation investment funds shall be the funds allocated for financing all kinds of activities implemented in the context of securing the forest preservation, among others conservation expenses, forest preservation expenses and forest fire treatment expenses. Such funds shall be managed by an institution formed by business enactors in the field of forestry jointly with the Minister. The management of the funds and the operation of the aforementioned institution shall be under the coordination and supervision of the Minister.

Paragraph (3)

Self-explanatory

Paragraph (4)

The Government Regulation shall include, among other things, the following provisions:

- a. imposition procedure,
- b. payment procedure,
- c. management procedure,

- d. appropriation procedure, and
- e. supervision and controlling procedure.

Article 36

Paragraph (1)

The utilization of titled forest having production functions may be conducted through activities for producing forestry products in accordance with the potentials and carrying capacity of the land.

Paragraph (2)

The utilization of titled forest having preservation and conservation functions shall be implemented in accordance with the provisions set forth in Article 24, Article 25 and Article 26. The Government shall provide compensation to the party entitled to the forest, if such forest is changed into a forest area in accordance with the applicable laws and regulations.

Article 37

Paragraph (1)

Communal forest shall be subject to the same provisions as state forests, insofar as the products of such forest are traded.

Paragraph (2)

Self-explanatory

Article 38

Paragraph (1)

The interests of development outside the field of forestry that may be implemented in preserved forest and production forest shall be determined selectively. Activities that can result in the serious damage of and the loss of the function of the forest concerned shall be prohibited.

The interests of development outside the field of forestry shall be activities of strategic purposes that cannot be avoided, such as, among other things, mining activities, and construction of electricity, telephone, and water installations, religious requirements, as well as defense and security.

Paragraph (2)

Self-explanatory

Paragraph (3)

Essentially, open mining operations cannot be conducted in forest areas. Open mining operations is possible in production forests under selective special provisions.

Paragraph (4)

Self-explanatory

Paragraph (5)
Self-explanatory

Article 39

Government Regulations contain the following regulations, among other things:

- a. licensing procedures,
- b. performance of utilization activities,
- c. rights and obligations, and
- d. control and supervision.

Article 40

Rehabilitation of forest and land shall be conducted in stages, in the effort for the restoration as well as development of the functions of forest and land resources, both in terms of production function as well as its preservation and conservation functions.

Efforts to improve the carrying capacity as well as the productivity of forest and land shall be intended so that forests and land shall be able to play a role as a life-supporting system, including the conservation of land and water, in the context of flood and erosion prevention.

Article 41

Paragraph (1)

Reforestation and tree-planting activities are part of forest and land rehabilitation. Reforestation activities shall be conducted in forest areas, whereas tree-planting activities shall be conducted outside forest areas.

Forest and land rehabilitation shall prioritize critical land especially those located upstream in river basins, so that their water table function and flood and drought prevention functions can be maintained to its utmost.

Rehabilitation of mangrove forests and bogs shall require the same attention as those of other forests.

Paragraph (2)

Rehabilitation activities may not be conducted in nature preserves and core zones of national parks. This prohibition is intended to maintain their distinctiveness, natural state, uniqueness, and representation of flora and fauna as well as its ecosystem.

Article 42

Paragraph (1)

Referred to as specific biophysical condition shall be condition of flora, which is specifically fitted to a certain area, or habitat, hence their existence supports the ecosystem of the forest area being rehabilitated.

The technical application of forest and land rehabilitation must take into account specific locations, hence changes to the ecosystems can be prevented as early as possible.

Forest and land rehabilitation shall be conducted with the participation of the community.

Paragraph (2)
Self-explanatory

Paragraph (3)

The Government Regulation shall contain, among other things, the following provisions:

- a. priorities for the regulation of river basins,
- b. planning,
- c. central as well as regional inter-sectoral coordination,
- d. the role of related parties, and
- e. the use and selection of types of plants and technology.

Article 43

Paragraph (1)
Self-explanatory

Paragraph (2)
Government support shall be in the form of technical, financial, guidance, saplings and other assistance, in accordance with the capabilities of the Government.

Article 44

Paragraph (1)
Self-explanatory

Paragraph (2)
Self-explanatory

Paragraph (3)
The Government regulation shall contain, among other things, the following aspects:

- a. technical,
- b. procedural,
- c. financial,
- d. organizational,
- e. evaluative, and
- f. control and supervision.

Article 45

Paragraph (1)
Self-explanatory

Paragraph (2)
Self-explanatory

Paragraph (3)
Referred to as changes to the surface of the land shall be the changes to nature in forest areas.

Referred to as the changes to the canopy of the land shall be the change in vegetation initially existent in forest areas.

Paragraph (4)
The Government Regulation shall contain, among other things the following aspects:
a. patterns, technical, and method,
b. financial,
c. implementation, and
d. control and supervision.

Article 46
The conservation function of nature is related to: the conservation of biological as well as its ecosystem, land conservation, water conservation, as well as air conservation; shall be regulated in accordance with the prevailing provisions of the laws and regulations.

Article 47
Self-explanatory

Article 48
Paragraph (1)
Self-explanatory

Paragraph (2)
Self-explanatory

Paragraph (3)
The obligation of license holders to protect forests shall include safeguarding from human activities, cattle, and forest fire.

Paragraph (4)
Self-explanatory

Paragraph (5)
Self-explanatory

Paragraph (6)
The Government Regulation shall include, among other things, the following provisions:
a. principles of forest protection,
b. authority of special police,

- c. administration of forest product distribution
- d. delegating operational authority to regions,

Article 49

Self-explanatory

Article 50

Paragraph (1)

Referred to as people shall be subjects of the law, such as private persons, legal entities, as well as business entities.

Forest protection infrastructure, for example, fences bordering forest areas, fire breaks, observation towers, and inspection roads.

The means of forest protection, for example, fire extinguishers, prohibition signs and transportation.

Paragraph (2)

Referred to as forest damage shall be the occurrence of physical changes, the physical or biological characteristics of which caused the forest top be disturbed or cannot perform its functions.

Paragraph (3)

Sub-paragraph a

Referred to as working the forest area shall be the working on land in the forest area without a license from the authorized official, among other things for trade, agriculture, and for other endeavors.

Referred to as using the forest area shall be using of the forest area without having obtained a license from the authorized officials, among other things for tourism, cattle herding, camping or using the forest area, or using the forest area not in accordance with the license issued.

Referred to as squatting a forest area shall be the control of a forest area without erecting dwellings, buildings and other constructions.

Sub-paragraph b

Referred to as clear cutting shall be opening a forest area without obtaining the permission of the authorized official.

Sub-paragraph c

In general the aforementioned distance shall be sufficient both for securing the interests of land as well as water conservation. Exempt from the aforementioned provision shall be granted by the Minister, with due observance of the interests of the people.

Sub-paragraph d

In principle, forest burning shall be illegal.

Limited forest burning shall be permitted for special purposes or conditions that cannot be avoided, among other things, controlling forest fires, eradicating pests and disease as well as plant and animal habitat management. Implementation of the aforementioned limited burning must have the permission of the authorized official.

Sub-paragraph e

Referred to as the authorized official shall be central government or regional government officials authorized by the law to grant licenses.

Sub-paragraph f

Self-explanatory

Sub-paragraph g

- a. Referred to as general investigation shall be the general geological and geophysical investigations on the land, the water and the air, with the intention of obtaining a general geological map or to obtain signs of the presence of mining materials.
- b. Referred to as exploration shall be all geological mining investigations to determine the presence of mining material and its location in a more accurate manner.
- c. Referred to as exploitation shall be mining activities to extract mining materials and utilizing them.

Sub-paragraph h

Referred to as “equipped” shall be in every transporting, control, or the ownership of forest products, must at the same time be equipped with the valid papers as evidence.

In the event that between the document contents concerning the validity of the document differ from the physical condition either in terms of type, number or volume, the aforementioned forest products shall be deemed as not having the following valid papers.

Sub-paragraph i

The officials authorized shall determine special places for cattle herding activities and forest areas.

Sub-paragraph j

Referred to as heavy equipment for transportation shall be, among other things, in the form of tractors, bulldozers, trucks,

logging trucks, trailers, cranes, barges, motor board, helicopters, jeeps, tugboats, and ships.

Sub-paragraph k

Not included from this provision shall be residents carrying tools such as machetes or other similar tools, in accordance with the cultural traditions and the local characteristics.

Sub-paragraph l

Self-explanatory

Sub-paragraph m

Self-explanatory

Paragraph (4)

Laws regulating the taking, carrying, and or transporting protected plants or animals shall be Law Number 5 Year 1990 concerning conservation of biological resources and its ecosystem

Article 51

Self-explanatory

Article 52

Paragraph (1)

The quality of human resources and the control of science and technology play a vital role in achieving an everlasting forest.

Paragraph (2)

Traditional wisdom possessed by the Indonesian community shall be cultural heritage, both in the form of arts and or technology as well as values that are the tradition or culture of society. The aforementioned heritage is a social capital for the improvement and development of human resources and the control of forestry science and technology.

Paragraph (3)

Germ plasm shall be the substance carrying the traits that may be in the form of whole organs or parts of plants or animals or microscopic organisms.

Germ plasms shall be natural wealth that is very valuable for the development of science and technology to support national development.

Theft of germ plasms shall be the taking of or the utilization of germ plasm illegally or without permission.

Article 53

Paragraph (1)

Science and technology culture shall be the awareness of the importance of science and technology articulated in every attitude and behavior of society, which is consistently willing and able to understand, control, create, stipulate, and develop science and technology and their daily lives.

Paragraph (2)

Self-explanatory

Paragraph (3)

Referred to as Government shall be research and development departments, which are responsible in the field of forestry, together with the non-departmental research organizations.

Referred to as university shall be state and private universities.

Referred to as the business community shall be the research and development units of Indonesian State-owned enterprises, Regional Government-owned Enterprises and Privately-owned enterprises

Referred to as community shall be individuals or groups, among other things, religious boarding schools, other religious organizations, or Non-Governmental Organizations.

Paragraph (4)

In order to promote and create a conducive environment, the Government shall conduct initiatives and coordination for the organization of research and development, among other things through policies oriented at creating adequate incentives and disincentives.

Article 54

Paragraph (1)

The Government shall develop the results of research in the field of forestry into a practical technology package, to be utilized by the community in the effort to improve efficiency and productivity of the forest utilization and management business.

Paragraph (2)

In order to ensure the innovation, discovery and development of science and technology, legal guarantees are required so that their discoverers can derive benefits from their discoveries.

Referred to as protecting shall be the protection against theft of patent rights, copyrights, trade marks, or any other type of rights that are special rights possessed by the researcher or research and development agency.

Paragraph (3)

Self-explanatory

Article 55

Paragraph (1)

Self-explanatory

Paragraph (2)

All efforts at the utilization and development of science and technology should be the manifestation of the thanks to the one almighty God and directed in the interest of man as individuals as well as social animals.

Paragraph (3)

Organization of education and training may cooperate with international institutions.

Referred to as community shall be individuals or groups, among other things, religious boarding schools, other religious institutions, or non-governmental organizations.

Paragraph (4)

Considering that the Government does not only conduct the organization of forestry education and training, the participation of the business community is very much needed. In order to achieve such matter, the Government must take the initiative and coordinate the promotion and the creation of conducive situation.

Article 56

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

Considering that the Government cannot organize forestry enumerations, the participation of the business community is very much needed.

In order to achieve the aforementioned matter, the Government must take the initiative and coordinate in the promotion and creation of a conducive situation.

Article 57

Paragraph (1)

The organization of forestry education and training as well as counseling shall require adequate and continuous amount of funds, for the acceleration of the development of human resources and the control of science and technology to close the

gap of backwardness. Therefore a sufficient amount of investment funds shall be required.

In order to manage the aforementioned funds, the business community in the field of forestry together with the Minister shall form an organization. The management of funds and operation of the aforementioned organization shall be under the coordination and supervision of the Minister.

Paragraph (2)

The provision of the aforementioned forest area for the location of the research and development, education and training as well as business development in order to empower such forestry research, education and training as well as counseling institutions.

Paragraph (3)

In order to maintain the balance of the supply of forest products to the demand of raw materials for upstream forest product processing industry, therefore the Minister shall regulate the regulation, enumeration, and development of upstream wood processing industry.

Article 34

The management of forest areas for special purposes shall be the management with special purposes in mind, such as research and development, education and training, as well as for socio-cultural interests and the application of traditional technology (indigenous technology). For this purpose, the historical development of the community and indigenous institutions, as well as the perpetuity and maintenance of the ecosystem must be taken into account.

Article 35

Paragraph (1)

License contributions for forest utilization shall be fees applied to holders of Forest utilization license holders for a certain forest area, which is applied once at the time such license is issued. The size of the fee shall be determined progressively based on the size of the area.

Provision of forest resources shall be fees applied as compensation for the intrinsic value of the of the forest products taken from state forests.

Reforestation funds shall be funds collected from business license holders for the utilization of forest products derived from natural forests in the form of wood, in the context of reforestation and forest rehabilitation. The aforementioned funds shall be used to finance reforestation and rehabilitation activities as well as their supporting activities.

Performance guaranty funds shall be funds of the forest utilization license holder, used to guarantee the implementation of the business license in the event that their business activities shall be deemed satisfactory to the provisions of the everlasting forest utilization business.

Paragraph (2)

Forest conservation investment funds shall be funds directed to finance all types of activities conducted in the context of ensuring the conservation of forests, among other things, conservation costs, forest protection costs, handling costs of forest fires. An institution formed by the business in the field of forestry together with the Minister shall manage the aforementioned funds. The Minister shall oversee the coordination and supervision of the operational management funds of the aforementioned institution.

Paragraph (3)

Self-explanatory

Paragraph (4)

The Government regulation shall contain, among other things, the following provisions:

- a. procedure for application,
- b. procedure for payment,
- c. procedure for management,
- d. procedure for usage, and
- e. procedure for control and supervision.

Article 58

The Government Regulations contain, among other things, the following provisions:

- a. institution,
- b. procedures for cooperation,
- c. licensing,
- d. regulations on foreign researchers,
- e. financing and empowerment,
- f. arrangement, management of forest areas, research and development, education and training, as well as guidance,
- g. information system, and
- h. supervision and control.

Article 59

Referred to as forestry supervision shall be the supervision over the compliance of the organizing and supervising apparatus with regard to all provisions concerning laws in the field of forestry.

Article 60

Self-explanatory

Article 61
Self-explanatory

Article 62
Self-explanatory

Article 63
Self-explanatory

Article 64
Referred to as having national repercussions shall be management activities on national life, for example, illegal logging, theft of timber, smuggling of timber, slash and burn (shifting) agriculture, and illegal mining in forests.

Referred to as having international repercussions shall be forest management having international impact, for example, forest fires, forestry product labeling research and development, denudation of forests, as well as various violations of international conventions.

Article 65
The Government Regulation shall include, among other things, the following provisions:
a. procedures and mechanism for supervision,
b. supervising institution,
c. object to supervision,
d. follow-up of supervision.

Article 66
Paragraph (1)
Self-explanatory

Paragraph (2)
The authority delegated shall be for the operational implementation of forestry management.

Paragraph (3)
The Government Regulation shall contain, among other things, the following provisions:
a. the types of matters which authority shall be delegated,
b. working procedure and relationships,
c. the mechanism for accountability, and
d. supervision and control.

Article 67
Paragraph (1)
The existence of the customary law community shall be acknowledged, in the event that it satisfies the following elements:

- a. the communities are still in the form of associations (*paguyuban/ rechsgemeenschap*);
- b. there are institutions in the form of customary law institution;
- c. clearly encompassed in the jurisdiction of customary law;
- d. there is an institution and apparatus of law, specifically customary law courts, that are still adhere to;
- e. forestry levies are still conducted in the surrounding forest areas to their daily sustenance

Paragraph (2)

Regional Regulations shall be set forth by taking into account the results of the research by experts in the field of customary law, the aspirations of the local community, and customary law figures in the area concerned, as well as office and other parties concerned.

Paragraph (3)

The Government Regulation shall contain, among other things, the following provisions:

- a. research procedures,
- b. parties taken into account,
- c. research materials, and
- d. criteria for the evaluation on the existence of the customary law community.

Article 68

Paragraph (1)

In reference to enjoying the quality of the environment, shall include obtaining social and cultural benefits residing in and around forests.

Paragraph (2)

Self-explanatory

Paragraph (3)

The change of status or function of forests may have the effect of severing the relationship between the forests and he community or even the possibility of the loss of their livelihood.

In order to avoid any distress resulting from of the change of status and function of forests, the Government and the party receiving the license to manage forests shall be obligated to arrange for adequate compensation, among other things in the form of new livelihoods and their participation in the effort of managing the surrounding forests.

Paragraph (4)

Self-explanatory

Article 69

Paragraph (1)

Referred to as maintaining and safeguarding shall be the prevention and overcoming theft, forest fires, incursion of cattle, mining, resident and other things.

Paragraph (2)

In the implementation of forest rehabilitation activities for the purpose of preservation and conservation, the community can request assistance, service and support in the form of technical assistance, training as well as financial assistance.

Accompaniment is made possible because of social benefits, such as flood and drought control, erosion prevention, as well as the improvement of the condition of the water table.

The existence of Non-Governmental Organizations shall be intended as partners so that a strong, independent and dynamic social infrastructure shall be established.

Article 70

Paragraph (1)

Self-explanatory

Paragraph (2)

Self-explanatory

Paragraph (3)

The forestry observer forum shall be a partner of the Government and Regional Governments in improving the participation of communities in the management of forests and functioning to formulate and manage the perceptions, aspirations, and innovation of the community as input for the Government in the context of policy formulation.

Membership of the forum, among other things, comprises of forestry professional organization, Non-Government Organizations in the field or forestry, public figures as well as forestry observers.

Paragraph (4)

The Government Regulation shall contain, among other things, the following provisions:

- a. institutions,
- b. the forms of participation, and
- c. procedures for participation.

Article 71

Self-explanatory

Article 72
Self-explanatory

Article 73
Self-explanatory

Article 74
Self-explanatory

Article 75
Self-explanatory

Article 76
Paragraph (1)
Referred to as certain actions shall be actions which must be conducted by the losing party in accordance with the court decision.
Paragraph (2)
Self-explanatory

Article 77
Paragraph (1)
Referred to as the Criminal Code shall be Law Number 8 Year 1981 concerning the Criminal Procedures.

Referred to as certain Civil Service Officials shall include Civil Service Officers in the Central Government having the duties and responsibilities in forest management.

Paragraph (2)

Sub-paragraph a
Self-explanatory

Sub-paragraph b
Self-explanatory

Sub-paragraph c
Self-explanatory

Sub-paragraph d
Self-explanatory

Sub-paragraph e
Self-explanatory

Sub-paragraph f

Apprehend and detain persons suspected of and is rightly suspected of committing crimes in connection with forests, forest areas, and forest products.

In the context of maintaining the smooth implementation of duties in certain jurisdictions, implementation of coordination with POLRI shall be conducted with due adherence to the Criminal Code (KUHP) and shall be adjusted to prevailing conditions in the field.

Sub-paragraph g
Self-explanatory

Sub-paragraph h
Termination of investigations must be notified to POLRI investigators and public prosecutors.

Paragraph (3)
Civil Service Investigators shall notify POLRI Investigators with regard to the initiation of investigations, and the results of investigations shall be handed over to Public Prosecutors through POLRI investigators. This is intended to ensure that the results of the investigations satisfy the terms and provisions.

The coordination relationship mechanism between Civil Service Investigators and POLRI Investigator shall be conducted in accordance with the prevailing laws and regulations.

Article 78

Paragraph (1)
Self-explanatory

Paragraph (2)
Self-explanatory

Paragraph (3)
In addition to imprisonment and fines to the guilty party, violations to Article 50 paragraph (3) sub-paragraph d, shall also be subject to additional fines.

Paragraph (4)
Self-explanatory

Paragraph (5)
Self-explanatory

Paragraph (6)
Self-explanatory

Paragraph (7)
Self-explanatory

Paragraph (8)

Criminal provisions set forth in this paragraph shall be violations of activities that are generally committed by the people. Therefore criminal sanctions applicable here are relatively lenient and shall be directed towards guidance.

Paragraph (9)

Self-explanatory

Paragraph (10)

Self-explanatory

Paragraph (11)

Self-explanatory

Paragraph (12)

Self-explanatory

Paragraph (13)

Self-explanatory

Paragraph (14)

Included as legal entities and or business entities shall be, among other things, partnerships, firms, cooperatives, and other forms.

Paragraph (15)

Included as transporters shall be, among other things, ships, barges, trucks, trailers, pontoons, tugboats, sailing vessels, helicopter, and other things.

Article 76

Self-explanatory

Article 80

Paragraph (1)

Self-explanatory

Paragraph (2)

Administrative sanctions applicable shall be, among other things, in the form of fines, revocation of license, termination of activities, and or subtraction of area.

Paragraph (3)

The Government Regulation shall include, among other things, the following matters:

- a. provisions for compensation and administrative sanctions,
- b. forms of sanctions, and
- c. implementation supervision.

Article 81
Self-explanatory

Article 82
Self-explanatory

Article 83
Self-explanatory

Article 84
Self-explanatory

**SUPPLEMENT TO THE OFFICIAL GAZETTE OF THE REPUBLIC OF
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