

**GUIDELINES FOR IMPLEMENTATION OF
AUCTION OF FOREST PRODUCTS FOUND, SEIZED, AND CONFISCATED**
(Regulation of the Minister of Forestry No. P.02/Menhut-II/2005 dated January 13, 2005)

THE MINISTER OF FORESTRY,

Considering:

- a. that, due to government organization and market dynamics and utilization of timber, Decree of the Minister of Forestry No. 319/Kpts-II/1997 on Guidelines for Enforcement of Joint Decree of the Minister of Finance, the Minister of Forestry, the Attorney General of the Republic of Indonesia, and Chief of the Indonesian Police No. 51/KMK.01/1997, No. 72/Kpts-VI/1997, Kep. 010/JA/2/1997, and No. Pol:Kep/01/I/1997 on Auction of Found, Seized, and Confiscated Timber for Type of Timber other than Mixed Rimba, has no longer been relevant;
- b. that, to maintain the right of the State to forest products so that they will not be damaged in a short time and causing their economic value to be low for found, seized, and confiscated forest products, implementation of auction needs to be accelerated;
- c. that, in relation to the above matters, it is deemed necessary to stipulate guidelines for implementation of auction of forest products found, seized, and confiscated by Regulation of the Minister of Forestry.

In view of:

1. Ordinance on Goods Found of 1889, Statute Book of 1889 No. 175 as already amended and supplemented by Statute Book of 1949 No. 338;
2. Vendu Reglement, Statute Book of 1908 No. 189 and Vendu Instruksi, Statute Book of 1908 No. 190;
3. Law No. 8/1981 on Criminal Procedural Law;
4. Law No. 5/1990 on Conservation of Biological Resources and the Ecosystem;
5. Law No. 20/1997 (BN No. 6101 p. 9A-14A, etc.) on Non-Tax State Revenues;
6. Law No. 41/1999 (BN No. 6412 p. 1A-6A, etc.) on Forestry as amended by Law No. 19/2004 (BN No. 7143 p. 26A-29A);
7. Law No. 2/2002 on The Police of the Republic of Indonesia;
8. Law No. 10/2004 (BN No. 7169 p. 14A-21A, etc.) on Establishment of Laws;

9. Law No. 16/2004 (BN No. 7158 p. 18A-28A) on Office of Prosecution of the Republic of Indonesia;
10. Law No. 32/2004 (BN No. 7183 p. 1A-11A, etc.) on Regional Administration;
11. Law No. 33/2004 on Financial Equilibrium Between Central and Regional Government;
12. Government Regulation No. 45/2004 on Forest Protection;
13. Presidential Decree No. 102/2001 on Structures of Organization and Duties of Departments;
14. Presidential Decree No. 187/M/2004 (BN No. 7128 p. 30A-31A) on Establishment of United Indonesia Cabinet;
15. Presidential Instruction No. 9/1970 on Sale and or Transfer of Goods Owned/Controlled by the State;
16. Joint Decree of the Minister of Finance, the Minister of Forestry, the Attorney General of the Republic of Indonesia, and the Indonesian Police Chief No. 51/KMK.01/1997, No. 72/Kpts-VI/1997, Kep.010/JA/2/1997, and No. Pol:Kep/01/I/1997 (BN No. 5982 p. 9A-11A) on Auction of Timber Found, Seized, and Confiscated for Types of Timber Other Than Mixed Rimba;
17. Decree of the Minister of Forestry No. 123/Kpts-II/2001 on Structure of Organization of the Department of Forestry as amended latest by Decree of the Minister of Forestry No. SK.307/Menhut-II/2004.

D E C I D E S :

To stipulate:

REGULATION OF THE MINISTER OF FORESTRY ON GUIDELINES FOR IMPLEMENTATION OF AUCTION OF FOREST PRODUCTS FOUND, SEIZED, AND CONFISCATED.

CHAPTER I
GENERAL PROVISIONS

Article 1

Hereinafter referred to as:

1. Object of Auction is timber and non-timber forest product as a result of finding, seizure, and confiscation.
2. Found Forest Product is forest product, which, based on inspection, is found inside or outside the forest and which identity of the party who owns or controls

- or transports them, either name or address, is unknown.
3. Seized Forest Product is forest product, which is seized based on criminal procedural law as evidence in a criminal case.
 4. Confiscated Forest Product is forest product, which is confiscated for the State based on a final and binding court verdict.
 5. Cost of Administration is cost arising as a result of administration of found, seized, and confiscated forest products being the obligation of the winner of auction consisting of costs of discharge of logs, transportation, securing, test measure, auction preparation, honor for parties who have rendered services in an effort to save state assets and or lease of log storage place (TPK) and mooring expense of the transporting vessel at the seaport.
 6. Auction Price is the highest bid price paid by winner of auction.
 7. Draught Survey is a method of determining of quantity of goods loaded to a vessel by calculating total load of the vessel when they are on the vessel based on Archimedes law.
 8. State Auction Body is a government institution having duty, power, and responsibility to implement auction.

CHAPTER II

OBJECT OF AUCTION, BIDDER, AND APPLICANT

Article 2

Objects of auction include timber and non-timber forest products found, seized, and/or confiscated including animals, wild plants, forest products from conservation forests or timber forest products from protected forests.

Article 3

- (1) Auction Participant/Interested Party for timber and non-timber forest products is individual and or business entity doing business in the field of forestry.
- (2) The Auction Participant, as set forth in paragraph (1), must:

- a. Have Number of Registered Exporter for Products of Forestry Industry (ETPIK) from the Department of Trade; and
- b. Become member of the Forestry Industry Revitalization Agency (BRIK).

Article 4

- (1) Bidder of found forest product as object of auction is Head of the local Forestry Institution.
- (2) Bidder of seized forest product as object of auction is Investigator or General Prosecutor.
- (3) Bidder of confiscated forest product as object of auction is the local Office of Prosecution.

Article 5

- (1) The bidder, as set forth in Article 4, shall submit proposal to the local State Auction Body for implementation of auction.
- (2) The proposal, as set forth in paragraph (1), shall be completed with:
 - a. Quantity, type, and volume of timber and non-timber forest products that will be auctioned;
 - b. Basic auction price determined by the Minister of Forestry;
 - c. Cost of administration determined by the Minister of Forestry.
- (3) Auction of seized forest products shall be done through the following actions:
 - a. If the case is under examination by investigator or general prosecutor, the forest products shall be sold in auction by the investigator or the general prosecutor witnessed by the suspect/defendant or his proxy;
 - b. If the case is under examination of the court, the forest products shall be sold in auction by the general prosecutor at the permission of the judges examining the case and witnessed by the defendant or his proxy;
 - c. If the case has obtained final and binding court verdict and the forest products are confiscated for the state, they will be sold in auction by the prosecutor enforcing the verdict.

CHAPTER III
BASIC AUCTION PRICE, COST OF ADMINISTRATION,
AUCTION FEE, AND POOR COMPENSATION

Article 6

- (1) The basic auction price of timber or non-timber forest products shall be determined by the Minister of Forestry once in every 6 (six) months.
- (2) The basic auction price, as set forth in paragraph (1), shall be used as means to evaluate the fairness of bidding price by the interested party/auction participant.
- (3) In case that the basic auction price for the current period has not been decided, the basic auction price of the previous period shall prevail.

Article 7

- (1) The basic auction price, as set forth in Article 6, does not include cost of administration, auction fee, and poor compensation.
- (2) The cost of administration, as set forth in paragraph (1), shall be determined by the Minister of Forestry once in every 6 (six) months.
- (3) In case that the cost of administration of the current period has not been determined, the cost of administration of the previous period shall prevail.

Article 8

- (1) Honorarium for parties who have rendered services in the effort of saving of state assets, shall be 25 (twenty-five) % of cost of administration.
- (2) Honorarium for parties who have rendered services in the effort of saving of state assets, as set forth in paragraph (1), shall be delegated to the Governor of the local Province to be further stipulated.

CHAPTER IV
IMPLEMENTATION OF AUCTION

Article 9

- (1) Found, seized, and or confiscated forest products may immediately be proposed to be sold in auction through the State Auction Body by the bidder, as set forth in Article 4.

- (2) Auction of found, seized, and or confiscated forest products, as set forth in paragraph (1), shall be completed with:
 - a. Quantity, type, and volume of forest products that will be auctioned;
 - b. Basic auction price determined by the Minister of Forestry;
 - c. Cost of administration determined by the Minister of Forestry.

Article 10

- (1) Prior to implementation of auction of found, seized, and confiscated forest products, the local State Auction Body shall at least announce the auction to the public on the announcement boards of the State Auction Body, local forestry institution, and the bidding institution.
- (2) The announcement, as set forth in paragraph (1), shall contain:
 - a. Time and place of implementation of auction;
 - b. Quantity, type, and volume of forest products auctioned; and
 - c. Qualifications for auction participant as set forth in Article 3.
- (3) The auction participant, as set forth in Article 3, shall be given an opportunity to look at the forest products that will be auctioned.
- (4) The interested party, as set forth in paragraph (3), shall file bid as auction participant to the local State Auction Body.

- (5) Designation of winner of auction of forest products auctioned shall be based on the highest bid price proposed by auction participant.

Article 11

- (1) If basic auction price is not reached, auction must be repeated up to 3 (three) times.
- (2) If auction is not possible to be implemented because it is estimated that auction fee is higher than price of forest products auctioned, or does not reach basic auction price and auction has been implemented 3 (three) times or there are no interested parties while

the forest products have economic value, the buyer will directly be appointed by the Minister of Forestry.

- (3) If the found or confiscated forest products do not have economic value and no buyers are interested to buy the forest products, while the forest products could still be utilized:
- a. They will be delivered to social institutions by Governor of the local Province after obtaining approval from the Minister of Forestry; or
 - b. They will be delivered by the Minister of Forestry to the Governor of another province in urgent needs due to natural disasters and the Governor shall submit proposal to the Minister of Forestry.
- (4) The social institution, as set forth in paragraph (3) clause a, is social institution having domicile in that Province, does not seek profit, and is not under a government institution.
- (5) The delivery of found or confiscated forest products, as set forth in paragraph (3), will be further notified to the Minister of Finance.

CHAPTER V PROCEEDS OF AUCTION

Article 12

Proceeds of auction of forest products shall directly be paid to the state treasury by the bidder within a period of not later than 7 (seven) working days after the auction.

Article 13

- (1) The proceeds of auction of seized forest products will be deposited with a state bank and shall be used as substitute evidence of forest products to be brought to court.
- (2) If, based on a final and binding court verdict, it is ruled that the evidence is confiscated for the state, proceeds of auction shall be paid to the state treasury within a period of not later than 7 (seven) working days.
- (3) If, based on a final and binding court verdict, it is ruled that evidence be returned to the person or to those from whom the forest products are seized or to

the most entitled person or parties, the proceeds of auction shall be handed to the concerned parties by a Certificate of Delivery.

Article 14

- (1) Confiscated forest products, which have not been auctioned, must immediately be auctioned not later than 7 (seven) working days after a final and binding court verdict.
- (2) The proceeds of auction of confiscated forest products, as set forth in paragraph (1), shall immediately be paid to the state treasury by the State Auction Body organizing the auction within a period of not later than 7 (seven) working days after the auction.
- (3) Payment of the proceeds of auction of confiscated forest products, as set forth in paragraph (2), shall be further notified by the State Auction Body to the prosecutor as decision enforcer completed with evidence of payment.

CHAPTER VI MEASUREMENT OF OBJECT OF AUCTION AND EVIDENCE

Article 15

- (1) In the framework of acceleration of inspection into quantity (volume and or weight), timber forest products on a ship (on board or inside/in the hold of a ship), except on board, inside/in the hold of a motor boat made of wood, the implementation of measurement shall be based on draught survey method.
- (2) Measurement by draught survey method shall be done by an independent surveyor determined by the Minister.
- (3) Result of measurement by draught survey method, as set forth in paragraph (1), may be used by investigator as basis for requesting permission to the local District Court to do seizure and auction of forest products.

Article 16

- (1) For further investigation process, the forest products, as set forth in Article 15, must be 100% (one hundred percent) measured by the authorized measuring officer.

- (2) Implementation of measurement of forest products, as set forth in paragraph (1), shall be based on the provisions of the laws in force.
- (3) Relating to the plan of implementation of auction by the State Auction Body, result of the measurement, as set forth in paragraph (1), shall be delivered to the State Auction Body where auction is implemented.

Article 17

- (1) In case that the result of measurement, as set forth in Article 16, is higher than the result of measurement by draught method survey, as set forth in Article 15, the winner of the auction must pay the shortage of payment of auction price.
- (2) In case that the result of measurement, as set forth in Article 16, is smaller than the result of measurement by draught survey method, as set forth in Article 15, the excess of payment of auction price will not be returned to the winner of auction and shall be construed as state revenue.

CHAPTER VII PROCESS OF INSPECTION OF ASSUMPTION OF FOUND FOREST PRODUCTS

Article 18

- (1) On assumption of found forest products, a Certificate of Goods Found shall be made by the officer who finds the forest products or the officer who receives the found forest products from third party.
- (2) The Certificate of Goods Found shall contain:
- Heading;
 - Day, date, month, and year of making of the certificate of goods found;
 - Name and title of the officer who finds the forest products;
 - Quantity, type, and volume of the forest products;
 - Location/place where the forest products are found;
 - Time of finding of the forest products;
 - Closing sentences;
 - Signature of the finding officer or signature of officer who receives the forest products from third party.
- (3) Within a period of not later than 2 (two) working days

since the forest products assumed to be found are found by the officer or received by the officer from third party, shall further be delivered to the local Forestry institution.

- (4) Within a period of not later than 2 (two) working days since receipt of the forest products assumed to be found, as set forth in paragraph (3), the Forestry institution shall inform the public at large through the announcement board at its office where the forest products are found.
- (5) The information or announcement, as set forth in paragraph (4), shall contain:
- Time and place of finding of the forest products;
 - Type, quantity, and volume of the found forest products;
 - Whoever feels to be entitled as owner may file a claim by bringing along documents that evidence that he is the legal owner;
 - Time for submission of claim shall be 7 (seven) calendar days since the announcement.

Article 19

- (1) If, within a period of 7 (seven) calendar days since the announcement, as set forth in Article 18 paragraph (5) clause d, there is a person who files claim to be the owner, the person shall submit written evidences showing his legal ownership.
- (2) If result of the inspection into the written evidences and physical signs of the forest products indicates that he is the owner, the forest products must be delivered to him by making Certificate of Delivery of Forest Products.
- (3) If from the result of inspection, as set forth in paragraph (2), the claim is proven untrue (or doubtful), the claim will be rejected and the forest products shall be assumed as found forest products.

CHAPTER VIII FOLLOW-UPS

Article 20

After process of auction has been completed, the bidder shall make a complete and hierarchical report on the implementation of auction to the Minister of Forestry,

the Minister of Finance, the General Attorney of the Republic of Indonesia, and the Indonesian Police Chief.

Article 21

- (1) The winner of auction is obliged to pay cost of auction consisting of:
- a. Auction price of object of auction;
 - b. Cost of administration;
 - c. Auction fee and poor compensation.
- (2) The cost of administration, as set forth in paragraph (1) clause b, shall be delivered by the winner of auction to the bidder, except the honorarium to the parties who have rendered services in the effort of saving of state assets, shall be delegated to the Governor of the local Province to be further stipulated.
- (3) Auction fee and poor compensation, as set forth in paragraph (1) clause c, shall be delivered to the State Auction Body implementing the auction.

Article 22

Winner of auction of found, seized, and or confiscated forest products shall not be imposed with Forest Resource Provision (PSDH) and or Reforestation Fund.

Article 23

Administration of auctioned forest products shall be based on Regulation of the Minister of Forestry on Forest Product Administration.

Article 24

- (1) Designated winner of auction shall file proposal for issuance of certificate of validity of forest products (SKSHH) to Head of the Provincial Forestry Agency where auction is implemented by enclosing excerpt of minutes of auction, evidence of payment of proceeds of auction, cost of administration, auction fee, and poor compensation.
- (2) Within 2 (two) working days since receipt of application for issuance of certificate of validity of forest products (SKSHH), as set forth in paragraph (1), Head of the Provincial Forestry Agency shall order Head of the Regental/Municipal Agency to give services for issuance of SKSHH.

- (3) Based on the order of Head of the Provincial Forestry Agency to give services for issuance of SKSHH, as set forth in paragraph (2), Head of the Regental/Municipal Forestry Agency, within a period of not later than 2 (two) working days, shall order the Officer of the local SKSHH Issuer where the forest products are auctioned to issue SKSHH.
- (4) The SKSHH shall be issued by the authorized Officer after the winner of auction has completed the requirements, as set forth in Article 21 and after ratification of the forest products by the institution in the field of Forestry not later than 5 (five) working days since receiving of order of Head of the Regental/Municipal Agency.
- (5) The winner of auction shall not transport or move the forest products acquired from auction without being completed with SKSHH, as set forth in paragraph (1).

CHAPTER IX

DEVELOPMENT, CONTROL, AND SUPERVISION

Article 25

Officer who performs supervision, control, and development of auction of found, seized, and confiscated forest products shall be officer of the Department of Forestry.

CHAPTER X

CLOSING

Article 26

- (1) With the enforceability of this Regulation, Decree of the Minister of Forestry No. 319/Kpts-II/1997 and other regulations in contradiction with this Regulation shall be declared inapplicable.
- (2) This Regulation starts to be applicable from the date it is stipulated.

Stipulated in Jakarta

On January 13, 2005

THE MINISTER OF FORESTRY

Sgd

H.M.S. KABAN, SE, M.Si.