

DTE

Forest fires - again, see page 6



Down to Earth International Campaign for Ecological Justice in Indonesia

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For more information contact us at dte@gn.apc.org

office: 59 Athenlay Rd, London SE15 3EN, England, email: dte@gn.apc.org tel/fax: +44 16977 46266 website: <http://dte.gn.apc.org>

Ladia Galaska road network: construction continues, controversy rages

NGOs have stepped up their campaign to halt construction of the Ladia Galaska road project which cuts through the Leuser Ecosystem in Aceh - one of world's richest areas of tropical rainforest.

Floods hit four districts in Aceh on May 7-8, in the western area downstream of the Ladia Galaska road project, leaving one person dead, sweeping away four houses and forcing thousands to leave their flooded homes. Heavy rains had caused the region's three major rivers - Krueng Seunagan, Krueng Meurebo and Krueng Tripa - to overflow. Local environmental group, WALHI Aceh, said the roads in the Ladia Galaska network cut across two of these watersheds. WALHI repeated warnings that more disasters would follow if the authorities insisted on pushing ahead with the project.

The controversy over Ladia Galaska was reignited three years ago when Aceh governor Abdullah Puteh revived plans for the road network to link the Gayo highlands to the east and west coasts. Plans show 450km of main roads, plus over 1200km of minor roads. The project will fragment the 2.6 million Leuser Ecosystem, which encompasses Gunung Leuser National Park. It will open access to more forest exploitation in areas already severely under pressure from organised illegal logging. The police, military and members of the local political elite are all known to be deeply involved. Even the presidential edict on controlling illegal logging in the Leuser Ecosystem (InPres No5/2001), has had no effect. At least a quarter of the forests in the Leuser Ecosystem are degraded.

Hold governor accountable

In an open letter, a 24-member environmental and human rights NGO alliance urged President Megawati to hold the Aceh governor to account for the flood disaster. The Indonesian NGO Alliance against the Ladia Galaska Road Network said Abdullah Puteh should also be told to account for the Rp 400 billion (US\$44 million) of public money spent on the Ladia Galaska project since 2001 - large-scale corruption is suspected - and for approving a deeply flawed environmental impact study in 2003. The letter asked Megawati to order the project's suspension and consider alternative routes proposed by members of her cabinet and NGOs.

The Alliance is convinced that powerful national and local business interests are forcing the pace and direction of decision-making on the Ladia Galaska road network. The NGOs point to disagreement within parliament over the project. Parliamentary commission VIII, whose responsibilities include environmental issues, opposes the project, while commissions IV and IX, responsible for regional infrastructure and the national budget, are pushing for it to go ahead. The military and police in Aceh, known to be profiting from illegal logging, are in favour of the Ladia Galaska project. They also see the scheme as a means of tightening their grip on people suspected of belonging to Aceh's independence movement, GAM. Some prominent local and national political

figures have accused NGOs who oppose the road network as being anti-development and pro-GAM.

Environment minister Nabel Makarim has expressed publicly his opposition to the road project. He said the road development would destroy Leuser's biodiversity and increase illegal logging there, as well as make it easier for members of the Free Aceh Movement (GAM) to move around. The head of the national development planning agency has spoken out against Ladia Galaska and Indonesia's most eminent environmental professor, Otto Soemarwoto, said that the environmental impact study was

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Gunung Leuser National Park declared World Heritage Site

Around the date that WALHI's lawsuit was dismissed, UNESCO announced that three parks in Sumatra had been declared World Heritage Sites. They are the Gunung Leuser National Park - a 890,000 hectare area within the 2.6 million hectare Leuser Ecosystem. The other two are the Kerinci Seblat and Bukit Barisan Selatan national parks.

The news was received with dismay by SKEPHI, which had been pushing for the whole Leuser Ecosystem to be included. (DPA 6/Jul/04; <http://www.eu-ldp.co.id/>)

seriously flawed. Former environment minister and senior Indonesian statesman Emil Salim has also criticised the project for not meeting the needs of the people of Aceh. In an open letter to the Indonesian press, he called for any road developments to be in the northern part of the province where tourism, industry and agriculture would bring more benefits to the local economy and to communities.

In early July, forest conservation network SKEPHI, a member of the NGO Alliance, issued a press release listing nine 'crimes' committed by governor Puteh. These included presiding over an increase in illegal logging in Aceh - despite a logging moratorium; wasting money on Ladia Galaska when it would be better spent on humanitarian programmes and post-conflict development; presiding over corruption of project funds; setting a precedent for illegal road-building through Gunung Leuser National Park; and besmirching Indonesia's image internationally. SKEPHI also suggests ways for President Megawati to improve that image: by immediately dismissing governor Puteh from his post; preventing more spending on the Ladia Galaska project; investigating corruption in the province since Puteh became governor; stopping all work on the project; and ordering a comprehensive study of all road construction needs in Aceh.

WALHI to appeal court case ruling

Early July saw the Banda Aceh District Court's dismissal of WALHI's lawsuit against governor Puteh, and other officials. The NGO argued that the government had violated the 1997 environment law by permitting work on the project to start in 2002 before an environmental impact assessment (EIA) had

been carried out. The EIA was eventually submitted in 2003. The case was dismissed on the grounds that the project had not officially started until 2003. The judges also said the witnesses had provided no hard evidence of WALHI's claim that the Ladia Galaska project would damage the protected forests.

WALHI called the ruling 'ridiculous' and said it would appeal.

Earthquakes and landslides warning

One of WALHI's expert witnesses during the case was Eko Soebowo, a scientist from Indonesia's Institute of Sciences, LIPI. He said that six of the nine planned routes in the road network would cross a fault line and would be prone to earthquakes, landslides and collapse. The previous month, a LIPI researcher had told a seminar on the road project that that some sections of the road would be prone to natural disasters. Adrin Tohari, member of a government-appointed team* given the task of assessing the Ladia Galaska scheme, said that different sections of the road would be liable to localised landslides, generalised landslides and earthquake damage. One of the conclusions in the team's final report was that the project would have little effect on the hydrology of the area. The NGO consortium Greenomics withdrew from the team because it strongly disagreed on this point and did not want to be party to decisions taken on misleading information. Meanwhile, an official at the ministry for resettlement and regional infrastructure said that construction was proceeding only in non-controversial sections of the road.

*This team also included Bestari Raden, arrested in March this year, while visiting Aceh as part of the team's work - see box.

(Source: WALHI Aceh press release 11/05/04; Open letter from NGO Alliance Against the Construction of Ladia Galaska Road 13/05/04; *Jakarta Post* 10&11/Jun/04, 5&6/Jul/04; SKEPHI press release 1/Jul/04; *Kompas* 22/Jun/04, 9/Jul/04)♦



Bestari Raden on trial

The indigenous and environmental activist Bestari Raden, whose March arrest is believed to be linked to his opposition to the Ladia Galaska road scheme, is still in detention in Aceh. He is being tried on a charge of 'treason' [*makar*] for his alleged involvement with the Free Aceh Movement (GAM). The charge carries a maximum jail term of 20 years. A second charge of organising the burning down of a logging camp, carries a maximum sentence of six years.

Bestari's defence lawyers have asked for his case to be dismissed on the grounds that the evidence was insubstantial, but the judges have said that the case is to proceed. Witnesses have been called for both prosecution and defence.

For background see *DTE* 61:10 or <http://dte.gn.apc.org/61IND.htm>, <http://dte.gn.apc.org/cbest3.htm> and Amnesty International website www.amnesty.org.

Urgent Action:

Please press members of your government and your ambassador to Indonesia to take action so that:

- ♦ the charges against Bestari Raden are dismissed;
- ♦ key members of the local government, administration, police and military are investigated for involvement in illegal logging;
- ♦ work on the Ladia Galaska road network is halted.

Please also continue to send faxes to the Indonesian ambassador in your country, the Indonesian Forestry Minister and President Megawati.

Megawati Soekarno Putri
 Presiden Republik Indonesia [President]
 Istana Merdeka
 Jakarta 10110 Indonesia
 Email presiden@ri.go.id
 Fax +62-21 345-2685 or 380-5511 or 5268726 or
 Fax Sekretariat Presiden 344-2223
 Telex 44283 BIGRA IA or 44469 DEPLU IA

Menteri Kehutanan [Forestry Minister]
 M. Prakosa
 Gedung Pusat Kehutanan Manggala
 Wanabhakti Blok I Lt.4
 Jl. Gatot Subroto Senayan Jakarta 12070
 Tel +62-21 5731820/0218
 Fax +62-21 570 0226

forests

'Illegal logging' - defining legality, undermining rights

Efforts to secure protection for local communities under a new timber trade standard may be undermined by an emergency decree on illegal logging.

In 2002, the Indonesian and British governments signed a Memorandum of Understanding (MoU) to combat illegal logging and the illegal timber trade. Two years on, after a stop-start, lengthy and somewhat patchy process of consultation, the two governments are getting closer to agreeing what they mean by 'legal' and 'illegal'.

Lobbying by civil society organisations led the UK government's Department for International Development (DFID) to conclude that it was necessary to spell out what 'legal' and 'illegal' mean in a confusing and contradictory Indonesian legal context. A response was required to the demands of indigenous peoples' organisations, grouped in AMAN (the Alliance of Indigenous Peoples of the Archipelago), and supported by many NGOs, that the definition of legality required a radical rethink. According to AMAN, the narrow definition applied by the Indonesian government denies the rights of indigenous peoples since their customary rights are not adequately recognised under existing forestry and other laws. Indigenous peoples in Indonesia have long demanded restoration of their rights to control lands and resources in their customary areas. Their own definition of 'illegal' covers most of the timber operations considered as 'legal' by the government. This is because, in the majority of cases, indigenous communities never gave their consent to the industrial logging of their forests.

The Indonesian government has refused to consider any change to the status quo. It insists that any discussions on forest use and tenure take place within the framework of the 1999 Forestry Law. However, it has become increasingly concerned that international buyers are refusing to accept Indonesian timber due to protests and direct action by environmental campaigning groups in Europe and the USA. So, last year there were two multi-stakeholder regional meetings (in Pelalawan, Riau and Berau, East Kalimantan) followed by a national workshop to clarify what 'legal' timber is. Forestry department officials kept a tight rein on these consultations and the drafting process.

Principles of Legality for Forestry Operations and Timber

"Timber is legal when the validity of its origin, logging permit, logging system and procedures, administration and transport documentation, processing, and trade or transfer are verified as meeting all applicable legal requirements.[1]"

Principle 1. Land tenure and Use rights

The legal status of, and tenure rights to the Forest Management Unit^[2] are clearly defined and its boundaries have been properly gazetted. The Company^[3] has documented, legally established rights to harvest timber within those boundaries, and harvests timber only within those boundaries.

Principle 2. Physical and Social Environmental Impact

The Company has an Environmental Impact Assessment (AMDAL) covering the Forest Management Unit that was prepared in the prescribed manner, and can demonstrate that it complies with all legal, physical, social and environmental requirements stated in the AMDAL, as well as all legal requirements for monitoring and reporting on implementation of the AMDAL.

Principle 3. Community Relations and Workers Rights

The Company complies with all its legal responsibilities in ensuring the well-being of communities affected by its activities in the Forest Management Unit, its provision of services to local communities, and the well-being and safety of its workers and contractors employed in the Forest Management Unit.

Principle 4. Timber Harvesting Laws and Regulations

The Company conducts all forest planning, harvesting and other activities within the Forest Management Unit in compliance with relevant government regulations.

Principle 5. Forest Taxes

The Company pays all relevant legally prescribed fees, royalties, taxes and other legal charges related to its use of the Forest Management Unit and the timber extracted from it.

Principle 6. Log Identification, Transfer and Delivery

The Company ensures that all logs transported from the Forest Management Unit are properly identified, have correct associated documentation and are transported in accordance with government regulations.

Principle 7. Timber Processing and Shipping

Timber processing facilities and shipping companies have valid licenses and operate in accordance with applicable government regulations.

[1] Final summary by participants at Stakeholder Consultation in Jakarta, June 2003

[2] "Forest Management Unit" refers to the defined area of land from which the Company claims to have right to harvest timber and is subject to evaluation.

[3] "Company" refers the legally established body that claims authority to perform the forest, transport or processing operations under evaluation.

The draft Legality Standard, including principles, criteria and indicators and guidance notes can be accessed at www.illegal-logging.info/

The result is a draft 'Legality Standard', which was made public in May 2004. The standard is aimed at "making it easier for buyers to differentiate between legally and illegally produced Indonesian timber products". Its goal is to promote the legal timber trade and discourage illegal trading. It consists of seven broad principles of legality, accompanied by criteria and indicators and guidance notes to help auditors verify compliance with each indicator.

However, as all the principles, criteria and indicators are specifically aimed at Forest Concession Holders (HPH), the legality status of timber which comes from community forests (*hutan rakyat/hutan adat*) still remains unresolved, where these also need to access the timber market.

Field testing in Kalimantan

The Legality Standard is due to be field-tested in July by the US-based conservation organisation, The Nature Conservancy, in the East Kalimantan timber concession of PT Sumalindo, where SGS/URS will carry out the legal verification. An independent assessment of the social aspects of this pilot verification will then be carried out by Dr Marcus Colchester, director of the UK-based NGO,

Forest Peoples Programme, during August and September. The findings are then to be discussed in a national workshop involving NGOs and other interested parties.

An emerging issue in the discussion between TNC, civil society organisations (CSOs) and the MoU team is the involvement of CSOs in the process of carrying out the MoU's Plan of Action as an independent monitor.

Language on *adat*

AMAN, plus a number of Indonesian CSOs, have been involved in the legality discussions, but largely on an *ad hoc* and informal basis. Their inputs have ensured that some wording on *adat* (customary) rights and the principle of free, prior informed consent has been included in the draft criteria and indicators.

For example, on Principle 1, land and tenure rights, criterion 1.2.1 states that a company must hold a valid timber harvesting licence (HPH, HPHTI, IUPHHK) "that has been approved by the Department of Forestry and that has been issued only with the free and prior informed consent of all affected communities."

On Principle 3, community relations and workers rights, criterion 3.1 states that the company "has identified all communities affected by its activities in the Forest Management Unit and has obtained their free and prior informed consent to carry out those activities". Criterion 3.2. states that the company "has identified and documented the traditional rights of communities affected by its activities in the Forest Management Unit and can demonstrate that it respects those rights."

This language is to be welcomed in that it does offer the hope of some protection for indigenous and local communities in forest areas, and offers better prospects than the Indonesian government's BRIK approach (see DTE 60:13). Nevertheless, civil society organisations remain very concerned that the draft standard does not go nearly far enough in protecting indigenous peoples' rights to land and resources. The standard is, after all, aimed at promoting the timber trade, rather than protecting Indonesia's fast-dwindling forests or promoting the rights of indigenous and local communities. CSOs argue that substantial changes to Indonesian laws and policies are needed if the roots, rather than just the symptoms, of the deforestation crisis are to be addressed.

The illegal logging *Perpu*

The limited gains achieved under the draft Legality Standard could be wiped out if a new emergency law on illegal logging comes into effect.

Plans for a government regulation in lieu of a law (*Perpu*) to tackle illegal logging

FoE: UK govt fails on timber promise

While DFID officials work to define legality in Indonesia, NGOs have criticised the UK government's own record on timber purchasing.

In May, campaigners from Indonesia and Papua New Guinea attacked the British Government for its failure to honour its promise to tackle its purchase of illegally and unsustainably logged timber. Letters delivered to Environment Secretary Margaret Beckett highlighted the devastating impact of destructive logging on local communities. Four years ago, the UK government made a commitment to buying only "legal and sustainable timber". Central government contracts account for 15% of timber use in the UK. In a press release, Friends of the Earth England, Wales & Northern Ireland said that since then, the government has "taken minimal steps to implement this promise and assigned it no significant funding." "The definition of 'legal and sustainable' timber has not yet even been set and there has been virtually no impact on Government timber purchasing."

Last year Greenpeace revealed that illegally-sourced Indonesian timber may have been used in construction of the UK government's new Home Office building - see DTE 58:9 or <http://dte.gn.apc.org/58for.htm>.

(FoE press release 21/May/04; Greenpeace 2003 report on Indonesia-UK timber links, *Partners in Crime*, is at www.saveordelete.com) ♦

Indonesia in EU voluntary scheme

The European Union has set up a scheme to encourage timber producing countries in Asia and Africa to certify their exports. Greenpeace, which believes the scheme is too weak, has called for an EU ban on illegal wood imports. The group says that Indonesia Malaysia and Ghana will take part in the scheme first. Greenpeace also criticised the fact that the only processed timber product to be covered by the licensing scheme was plywood, whereas paper, pulp and other wood products were not included. The European Commission has said that the participating countries would face a huge administrative burden and has set aside 30 million Euros to help. (Reuters 20/Jul/04) ♦

Indonesia's forests are under pressure from:

- ♦ Destructive logging by 'legal' companies;
- ♦ 'Illegal logging' outside concessions to supply over-capacity in the forest industries;
- ♦ Illegal logging to supply demand from industries in Malaysia, China and elsewhere;
- ♦ Mining and quarrying operations - the Megawati government has permitted 13 mining companies to restart operations in protection forests - see page 16;
- ♦ Conversion to cash plantations such as oil palm - despite a moratorium on conversion of natural forests since 2000;
- ♦ Logging by companies licensed by regional governments in defiance of the central authorities;
- ♦ Forest fires - in damaged, logged-over areas and deliberately set by plantation companies to clear forests. ♦

were announced by forestry minister Prakosa in March this year (see DTE 61:16). The latest draft of this regulation, circulated in June, covers felling, transporting, storing, possessing and distributing illegal timber. It sets out a system of penalties for people (defined as individuals, groups or corporations) involved in illegal logging. These include the death penalty or life imprisonment for financing illegal logging; 5-15 year jail terms for ordering, encouraging or carrying out illegal logging and fines of Rp10-100bn (approx USD1-10 million); and 5-7 years plus fines of Rp100-500 million for officials who ignore cases of illegal logging.

Crucially, for indigenous peoples, the *Perpu* reverts to the narrow definition of legality contained in the 1999 forestry law (No 41). This excludes the respect for *adat* rights and the requirement for free, prior informed consent which appear in the draft Legality Standard. Clause 50 (3) of the 1999 law merely states that "all people are forbidden to fell trees or harvest or collect forest products within forests without rights or permission from the officials responsible." Since indigenous rights in forest areas are extremely weak under prevailing Indonesian laws, including law 41/1999, this means that members of indigenous communities could be treated as criminals in their own customary forests.

NGOs have criticised the *Perpu* for its narrow definition of legality. There have been no consultations with civil society groups on its content. The Indonesian Center for Environmental Law (ICEL) questions whether the regulation, if passed, would have any impact on illegal logging when other attempts to control the runaway destruction have failed. ICEL argues that the two main reasons existing law enforcement initiatives have failed are the lack of sufficient investment in law enforcement and the "lack of integrity" in local authorities, the police and judiciary. In 2001, of the 1,031 cases where someone was caught in anti-illegal logging operations, not one resulted in court action, says ICEL. In 2002, none of the 971 cases resulted in prosecutions and in 2003, only one out of 15 cases has gone to court.

ICEL proposes that what is needed is a 'one-roof enforcement system' under the Department of Forestry in Jakarta. It argues that the *Perpu* is justified because the rate of deforestation is so high and the social and environmental impacts are so serious that the situation is "an emergency...which requires immediate action" or an "extraordinary crime" as set down in the Indonesian Constitution. However, it urges the government to guard against misuse of emergency funding. It also wants the regulation to be strengthened in several ways, including broadening the definition of criminality; legal penalties; burden of proof;

witness protection and legal formulation for action against companies.

As DTE went to press, Indonesian NGO discussions over the merits and dangers of the *Perpu* were ongoing. The regulation was still in draft form, and had not been signed by the President. It remains to be seen whether the regulation will be pushed through in this period of presidential transition and political uncertainty.

(Source: A Legality Standard for Timber Products from Indonesia, Draft Number 1.0; 26/May/04; ICEL press statement 12/May/04; Rancangan Peraturan Pemerintah Pengganti Undang-Undang nomor _ Tahun 2004 tentang Pemberantasan Tindak Pidana Penebangan Pohon di Dalam Hutan Secara Ilegal)

For a DTE summary of the draft *Perpu* with notes see <http://dte.gn.apc.org/cper04.htm>. The 2002 Indonesia - UK agreement (MoU) is at <http://dte.gn.apc.org/CfMoU.htm>. For NGO statements and DTE's press release on this, see <http://dte.gn.apc.org/camp.htm#for.♦>

Chronic over-capacity drives forest destruction

Indonesia has the world's fastest rate of deforestation at 3.8 million hectares per year - the official figure is around 2 million per year. One of the biggest drivers of forest destruction is over-capacity in the country's wood-based industries, which include sawmills, plymills and pulp and paper mills. The industry puts current capacity at 30-40 million cubic metres per year - a 1999 independent set it at over 100 million m³ per year. Some companies have gone bankrupt and closed down since then, but the current annual capacity is still thought to be more than 80 million m³.

In July, Jakarta's forestry department announced a 5% cut in the legal allowable cut in natural forests for next year to 5.45 million m³ down from 5.74 million m³ this year. The medium term aim is to get the quota down to 2 million m³ per year, with companies sourcing raw materials from timber plantations or log imports. The government wants wood processing capacity reduced to 20 million cubic metres per year. It has also set up a forest rehabilitation scheme and is trying to stimulate the expansion of Indonesia's 2 million hectares of industrial tree plantations through new regulations intended to attract private investment. But with plantations still yielding only minimal amounts of wood, the companies are turning to illegal supplies to

New Social Forestry regulation

Indonesia's forestry ministry has issued a new regulation to back up the social forestry policy launched by the President in July last year. The new regulation - P01/Menhut-II/2004 on Empowering Local Communities in and/or around Forests through Social Forestry - was issued on July 12, 2004. A ministry press release says that Social Forestry is intended to "create a sustainable forest resource and increase local peoples' prosperity". It is described as a forest management system in which local people are the implementers and/or main partners. 'Empowering local people' is defined as increasing people's capacity and autonomy (*kemandirian*), while 'local people' are "...communities living in and/or around forests based on their dependence on forests for livelihood, and based on their history, ties to the place where they live, and the arrangement of their social rules in an organisation/institution....". Social forestry, according to the ministry, does not change the status or function of a forest area or give ownership rights over forests.

(Forestry ministry press release S.406/II/PIK-1/2004)♦

maintain production instead of cutting it. Many companies are being encouraged to keep up production in order to service huge foreign and domestic debts amassed during the last years of the Suharto era. At the same time, regional governments are promoting new projects (pulp mills in South and Central Kalimantan for example) which will only worsen the chronic over-capacity problem. (*Asia Pulse/Antara* 18/Jun/04; *Jakarta Post* 2/Jul/04; *Asia Times* 7/Jul/04)♦



Forest fires

The burning season started early in Sumatra this year, but Jakarta has been too preoccupied with the elections to take action on forest fires.

Thick smoke blanketed parts of Sumatra and Kalimantan for several days during June and July, resulting in the now familiar symptoms of delayed flights and the authorities handing out face masks. Local governments are preparing lawsuits against plantation companies and farmers were blamed for the land-clearing blazes.

The first indications of the annual dry-season hazard came from Riau where, despite relatively heavy rains, the number of fires began to increase and 'haze' affected parts of mainland Riau in mid-February. Riau's environment management agency relies on reports on hotspots in the province from nearby Singapore. Together with the local agriculture and forestry offices, it is responsible for monitoring and taking action against fires on forest lands under a decree issued by Riau's governor early last year.

In Singapore, concerns about the fires in Sumatra rose as the annual haze became evident and air quality deteriorated. By mid-June, there were over 400 'hot spots' in Sumatra, mostly in Riau and Jambi. The Malaysian authorities were saying that the pollution problems were the worst since 1997-8 when thick smoke from burning forests blanketed Singapore and parts of Malaysia and Indonesia for several months. They issued warnings of unhealthy air in some cities including Kuala Lumpur, Penang and Malacca, and warned residents to stay inside. The Malaysian government has not published the air pollution index for the last five years for fear that publicising the 'haze' will affect its valuable tourism industry.

Thick haze blanketed the city of Jambi from dusk until dawn for much of June. However, the fires have, to date, been worst in Riau. There were 435 hotspots in the province on one day in June. Riau's dwindling forests are under severe pressure from oil palm plantations and small-scale agriculture. There are also extensive tracts of peatland, where fires generate most smoke and are most difficult to extinguish. Last year, the environmental NGO WALHI unsuccessfully tried to sue Riau governor, Saleh Djasit, for his lack of action over forest fires in the province. Of the ten illegal burning cases where the local government said it was taking legal action in 2003, only one has so far reached the courts. An environment agency official said that illegal burning in Riau had destroyed 1,008 hectares of forest in the past six months.

Prosecutions

The Riau authorities have announced that they are preparing to prosecute another ten companies in the province, in lawsuits costing Rp 2 trillion (US\$213 billion), for using fire for land clearance. Officials from the environment ministry reported five Riau companies suspected of starting fires to the national police. The plantations and industrial timber estates have not been named. Nevertheless, an official spokesman outlined one case in Minas where the director of a plantation allegedly ordered 1,200 hectares of land to be cleared by burning.

Indonesia's forestry law (No.41/199) bans the use of fire to clear forest land, but the new Plantations Act, passed in July, allows up to 10 years' imprisonment and Rp10 billion in fines for people who 'deliberately or out of negligence' burn for land clearance. Plantation companies are worried: fire is by far the cheapest method of land clearance and it is a common ploy for company managers to claim that fires in their concession areas were started by local people or natural causes. Benny Tjoeng, vice president of one of Indonesia's biggest oil palm companies - PT Astra Agro Lestari - wants the government to define clearly what is meant by 'deliberate' and 'negligence' in connection with burning.

In the international news, Indonesia's illegal burning problem has been overshadowed by spectacular forest fires in US. In Indonesia, the annual outbreak of 'hot spots' and acrid haze is hardly considered newsworthy. Local officials put the blame on small-scale farmers for using fire to clear land for farming. Environmental NGOs accuse the large-scale plantation companies and industrial timber estates. Everyone says that there is much corruption and turning a blind eye to the evidence. "We keep urging government to apply stern policies, but so far there is no significant solution," said Ade Fadli - WALHI's forest campaigner.

Jakarta has been far more concerned with the general and presidential elections to take much notice. Vice President Hamsah Haz brushed off questions from the international press saying that it was up to the regional authorities, not central government, to take effective action. However, local media reported in late June that the environment minister Nabel Makarim has ordered staff to investigate cases so that the guilty companies and individuals can be brought to justice soon. The minister said at least 20 million

Indonesians were directly affected by the haze.

Some local authorities have attempted to extinguish the fires by sending out staff to affected areas and the forestry department has redeployed some of its 10,000 forest police to tackle the fires. In some places, local people have put out blazes where their own forests and crops are threatened. But the most effective form of fire control has been the rain. The dry season in Sumatra and Kalimantan usually lasts from May to September and this year it is unlikely to be prolonged by El Niño. Heavy showers had extinguished most of the hot spots in central Sumatra by the second week in July. Expects think that fires are unlikely to recur before early August.

The deputy environment ministers of Indonesia, Malaysia, Singapore and Brunei met in Riau in mid-July as part of ASEAN's attempt to control forest fires and the resultant air pollution in the region. The working group meeting was also attended by environment management agencies from Riau, Jambi, West Kalimantan and North Sumatra plus environmental NGOs. Their agenda was to evaluate progress and to prepare for an ASEAN ministerial meeting on fires later this year. Indonesia has yet to ratify the Haze Agreement, signed in 2002 by ASEAN members.

(Riau Pos 26/Feb/04; Straits Times 5/May/04; Reuters 14/May/04, 23/Jun/04; Media Indonesia 20/Jun/04; AP 24/Jun/04; Kompas 18/Jul/04; Jakarta Post 26/May/03, 23/Jun/04, 25/Jun/04, 19/Jul/04, 22/Jul/04; walhinews 14/Jul/04; CNA via Joyo 16/Jul/04; Bisnis Indonesia 8/Jul/04)♦



The impact of fires, West Kalimantan, 2002. (DTE)

pulp

NGOs oppose South Kalimantan pulp mill

A group of thirty Indonesian and international NGOs have called for the cancellation of South Kalimantan's first pulp mill project. This is their 'open letter to actors of the forestry, pulp & paper and banking sectors in Europe.'

June 4, 2004

No support for the planned pulp mill of United Fiber System in Indonesia

We, the undersigned organisations, want to express our deep concern regarding plans to build a pulp mill in the province of South Kalimantan, Indonesia.

We expect the new mill to follow suit with other Indonesian mills whose development plans suggested responsibility and profitability while in practice these mills bring about environmental, social and economic havoc. The planned pulp mill would be operated by a company called PT Marga Buana Bumi Mulia, a joint venture by United Fiber System, Singapore, and China National Machinery & Equipment Import & Export Corporation. Thus far we are aware of involvement by Jaakko Pöyry (Finland), which made the pre-feasibility study, CellMark (Sweden), which has been mentioned as a buyer of pulp (90% of production) and whose owners are investors in UFS, ÅF-IPK (Sweden), which assessed environmental impacts of the mill, and Vivendi Water (France), supplier of the water treatment plant.

Eka Chemicals (Sweden) has withdrawn from the project.

A new pulp mill has to be viewed against the background of the forest situation in Indonesia. There is a huge overcapacity in the pulp industry. According to government policies, the pulp industry should be based on plantations.

When the existing, modern pulp mills were engineered and constructed by western companies, they were supposed to quickly establish plantations and become self-sufficient regarding their raw-material base. This has not materialized in most cases, as the pulp companies have expanded their capacities and focused on wood procurement from natural forests instead.

Approximately 75-80% of wood used in the pulp industry in Indonesia originates in natural forests, half of the use being from somehow illegal sources. Use of natural forests as a resource base leads to wide-

spread deforestation. Every single one of the big pulp mills in Indonesia has caused either major social problems, pollution or deforestation, in most cases all of these.

Economically, pulp and paper companies are heavily indebted and have caused massive losses to their lenders and to the Indonesian government. The planned pulp mill in South Kalimantan claims to avoid deforestation by using readily established plantations in the near-by areas. However, the company does not have enough plantations in place to feed the planned 600,000 t/y pulp mill at present, and with the present pace of planting, they never will. The pulp-wood plantation companies in South Kalimantan are far from fulfilling their planting targets and yield predictions, and the annual planted area has been minimal after 1999. Without sustainable plantations established before the mill construction starts, there is no reason to believe that the project would be on a sustainable basis. We do not find company's claims of not converting natural forests to either make way for plantations or for pulping convincing given its record in plantation establishment and previous plans of large-scale conversion of natural forest. Since South Kalimantan has already lost most of its forests, wood procurement of the planned mill potentially has severe effects on the remaining natural forests. Furthermore, the lack of raw material is an economic problem in the long term since the mill can not operate without sufficient fibre resources after running out of natural forests and plantations.

Probably much of the deforested areas that the project will use for plantation establishment consist of bushy areas with natural forest regeneration potential.

"Reforestation" of such areas to pulp plantations accelerates loss of biodiversity in the area. The establishment of plantations has resulted, and will result if the plantations are extended, in land conflicts with the local people.

Land tenure situation in the existing and planned plantation areas should be mapped and conflicts solved before further plantation establishment. In addition, establishment of the pulp mill is seen as a threat by the

community in the mill site near Java Sea due to its potential effect on water quality. The community depends on fishing as their source of living.

The main supplier of the planned pulp mill, plantation company ex-Menara Hutan Buana, has been found guilty of defrauding governmental reforestation funds by inflating its annual planting figures. Its licence was already once revoked by the Ministry of Forestry in 2002. However, the licence of the company was handed over to United Fiber System that has taken over the plantation and company infrastructure and changed its name into Hutan Rindang Buana. The status of the licence is disputable and the whole issue points in the direction of high-level corruption.

The new mill project presents itself as environmentally and socially progressive, claiming to be transparent. Yet despite requests, United Fiber System has not released the Environmental Impact Assessment (EIA) of the mill project. In Europe, the EIA of such a project would be a public document, and the project's policy of not distributing it raises further questions about the environmental sustainability of the project.

In this situation, building a new pulp mill can not be justified. It cannot be justified from the national-level point of view, with problems related to deforestation, overcapacity, illegal logging, and land tenure unresolved. Nor it is acceptable from the local and provincial point of view, with land conflicts, corruption, criminal companies, and deficit of natural forests and plantations present. We urge you to make sure for your part that this project does not materialize.

(Open letter signed by 32 NGOs - including Down to Earth - 4/Jun/04, posted circulated by WALHI, footnotes not included. For further background see DTE 56:3 and 58:6)♦



land

New plantation law - more land conflicts predicted

Indonesia's new plantation law, aimed at providing legal certainty for investors, will do nothing to address conflicts between local communities and companies. It could well make things worse.

The Plantations Bill was endorsed by Indonesia's national parliament on 12th July, two years after it was tabled. The bill purports to set out the rules for developing plantations professionally, and sustainably, based on the principle - enshrined in Indonesia's 1945 Constitution - that natural resources should be managed optimally for the welfare of the people. It describes the functions of plantations as: increasing income, human and community development, unifying the nation, regional development and preserving natural resources and the environment. The bill covers planning; control over land; business, management and marketing; research and development; human resources; finance and supervision.

In Indonesia, 'plantations' mean oil palm, rubber, coconut, cashews, tea, coffee, cacao and other commercial crops, but not timber plantations (HTI). The aims of stimulating investment in the plantation sector are difficult to square with sustainability and environmental protection.

Under the bill, plantation companies receive 35-year concessions, which can be renewed for a further 25 years with the minister's approval. The regional administrations provide licences for companies to operate and concessions are issued by the National Land Agency (BPN). The minister of agriculture has the power to determine the maximum and minimum area to be used for plantations, based on type of commodity, availability of land and population density.

Criticism

As a editorial in the influential *Jakarta Post* put it: "Judging by its primary objectives of bringing about fairness to farmers/smallholders, enhancing sustainable plantation-management practices and building up an internationally competitive plantation industry, the plantation bill ... is by no means a good law." (15/Jul/04)

Different sections of civil society have attacked the bill for its failure to protect the interests of small-scale farmers and indigenous communities and for giving big business too much power. Clauses in the draft law limiting land holdings to 20,000 hectares



Oil palm plantation, West Kalimantan (DTE)

in a single province and 100,000 ha in total have been omitted in the final version.

Some NGOs consider that the 35-year extendable concession period is tantamount to giving companies ownership of public land - a situation that is bound to lead to more land conflicts with local communities whose own rights to the land are not given

Protests

In June, thousands of farmers from Central Java, West Java and Banten provinces joined students and workers grouped under the Agrarian Reform Movement Alliance (AGRA) in a demonstration against the plantations bill. Alliance leader Erpan Faryadi said his organisation was demanding land reform under the 1960 agrarian law. The protestors also called for a stop to violence against peasants, and demanded the release of peasant and indigenous leaders who had been jailed for defending people's interests to land and natural resources.

Dita Indahsari, chair of the labour organisation FNPBI, said the bill would create tension between small farmers and large companies - a scenario which has brought military and police intervention. She said the protesters therefore rejected militarism and opposed presidential candidates with a military background.

sufficient legal recognition.

On the crucial question of customary rights (*hak ulayat*), the bill says:

"when giving rights over land for plantation development, attention should be paid to the customary rights of communities governed by custom, as long as these still exist in reality and do not conflict with the national interest." (Article 9(3))

Since there are no clear procedures for recognising *hak ulayat* or 'the national interest', this kind of language offers almost no protection for indigenous communities*. Like so many other pieces of legislation, the bill fails to address the fundamental problems with land tenure in Indonesia.

Sanctions

The bill sets down a maximum prison term of 10 years and up to Rp 10 billion in fines as sanctions aimed at stopping plantation companies using fire to clear land. However, there is concern that this could be used against indigenous communities using controlled burning techniques as part of their traditional farming systems (see also fires article, page 6). Other crimes include the illegal occupation of land - which could be used to target peasant farmers and indigenous communities whose rights over lands are not adequately recognised. One member of parliament, Sayuti Rahawarin from the Daulatul Ummah Party (PDU) raised the key issue for indigenous peoples: "We have numerous reports of big plantations taking over tribal land. The bill should stipulate that such companies should have their concessions revoked," he argued.

Ivan Valentina Ageung of the RACA Institute said that the government should have reviewed all existing legislation relating to agrarian and natural resource management. "Traditional land owners need recognition from the government to protect their land from big plantation companies", he said.

NGOs have criticised the fact that the key Agrarian Reform and Natural Resources Management decree (No IX, 2001) has not been used as the basis of the plantations law. The decree, which was passed

by the MPR, Indonesia's highest legislative body, paved the way for reform of all sectoral laws affecting land and natural resources, and afforded some protection for the rights of 'peoples following customary law'(see DTE 52:3).

Security

The new law states that local communities should be involved in security at the plantation to create a sense of ownership and responsibility towards the operation.

Until now, many companies, including plantation developers, have chosen (or been obliged to) pay for military or police security guards. This has led to a climate of intimidation and fear around projects where community-owned resources have been appropriated by the company without consent. As is the case with mining companies, plantation companies have benefited from this system, whilst denying responsibility for human rights abuses committed by the guards in their employ. It remains to be seen whether the new arrangement will encourage better practice, but concerns have already been raised that involving local people could create divisions and 'horizontal conflict' between surrounding communities. The wording on this in the draft plantations law (article 20(1) and explanatory notes) may have been inspired by the problematic 'community-based' security approach being attempted by British oil

multinational BP at the Tangguh gas project in West Papua - see DTE 60: for more details and concerns raised over this approach.

(Source: RUU Perkebunan/Draft Plantations Law [no date] *Jakarta Post* 10/Jun/04, 7,12&13/Jul/04; press release, Kesatuan Aksi untuk Hak-hak Petani (KUHAP): *TOLAK Rancangan Undang-undang Perkebunan*, 31/Jan/03; *Tempo*interaktif 9/Jul/04)

* A 2002 study on legal tenures in Indonesia also notes that *hak ulayat* cannot be recognised on lands overlapping concessions; that recognition of the right is subject to regulations that do not exist and that no compensation is payable when the land is expropriated in the national interest. See Colchester, Sirait and Wijardjo, *Obstacles and Possibilities, the Application of FSC Principles 2 & 3 in Indonesia* p.124. ♦



Calls for Agrarian conflict resolution Commission

Indonesia's National Commission for Human Rights (Komnas HAM) and NGOs have called for a national commission to resolve agrarian conflicts. Komnas HAM admits that it is not able to deal with land disputes across the country due to lack of expertise, staff and powers.

The NGOs - WALHI, KPA, HuMA and Bina Desa - and Komnas HAM have drafted a 15-article presidential decree to establish the commission, which provides for the resolution of land disputes dating back to 1967. This is the date when the most cases of land disputes arose, according to Rikardo Simarmata of HuMA. In that year Suharto, who had seized power two years before, enacted laws on forestry, mining, and foreign investment which allowed the political and military elite, plus foreign investors to take control of the country's rich natural resources.

The draft decree would also provide for the establishment of an agrarian court to resolve land disputes fairly within one year of receiving a submission.

(Source: *Jakarta Post* 24/Jun/04) ♦

(continued from page 10)

Conflict in Conservation, Conservation in Conflict

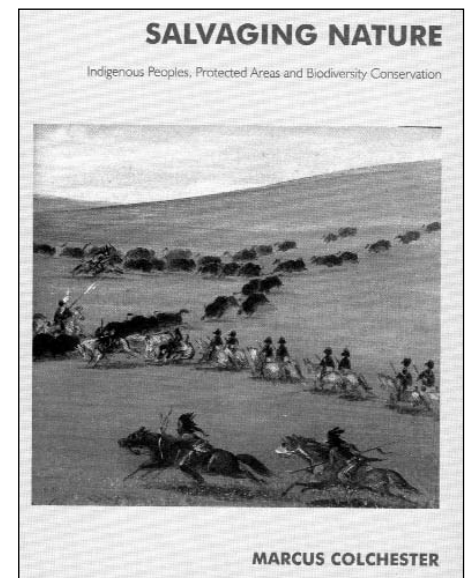
The first National Parks in Indonesia were based on a 'colonial' model. Prejudice against 'natives' and the notion that nature had to be conserved as 'wilderness', set aside by the State for recreation purposes, required the removal of inhabitants.

This 'colonial' model of conservation has been used in the rest of the world and for over a century provided the dominant paradigm for establishing protected areas. The impacts on indigenous peoples have been dire. Ironically, as many conservation organisations now agree, the impact on the environment has also been severe. Creating protected areas by expropriating indigenous territories, destroying indigenous cultures and making enemies of the local communities not only creates horrendous management problems, but also often disrupts viable, biodiversity enhancing customary systems of land use. Top-down conservation of this kind also exacts a heavy political cost, weakening customary institutions and reinforcing the power of the State, which may all too often lead to abuse of power and human rights violations.

Since the 1980s, conservationists have made an effort to correct their approach and have sought new means of accommodating indigenous peoples in protected areas, through establishing Biosphere Reserves, promoting Buffer Zones, experimenting with Integrated Conservation and Development Programmes and implementing Co-Management schemes. Too often these initiatives have failed to bring lasting benefits to local communities, largely because they have not built on customary institutions, have failed to recognise indigenous land rights and have not entrusted the indigenous peoples with management authority.

In the mid-1990s, a more serious policy shift was promised, which was welcomed by indigenous peoples. In a few areas, rights have been restituted, indigenous authority re-established and new partnerships based on trust between indigenous peoples and conservationists have been forged. In Indonesia, Lore Lindu National Park is often cited as a progressive example in adopting new approach in conservation; the management gave recognition to local people who live within the park, but at the end it failed to address basic community needs. Unfortunately, surveys show that these new policies, which accept indigenous

peoples' rights, are being applied in only a few areas*. Most national conservation laws and policies are stuck in the old model of 'Fortress Conservation'. ♦



*See Marcus Colchester, *Salvaging Nature, Indigenous Peoples, Protected Areas and Biodiversity Conservation*, 2003. (Available from Forest Peoples Programme £10.00. Contact info@forestpeoples.org)

conservation

Indonesian CSOs slam privatisation of conservation

The following is part of a statement by the Indonesian Forum for Environment (WALHI), the Mining Advocacy Network (JATAM) and Alliance of Indigenous Peoples of the Archipelago (AMAN) to the seventh meeting of parties to the Biodiversity Convention (COP 7), Kuala Lumpur, February 2004.

Conservation is an integral part of resource management. In biodiversity, it plays a crucial role, as our life and livelihoods depend on how we conserve nature. As a global common good, the responsibility for biodiversity conservation is a global responsibility. ...[C]ountries and global governance should ensure the best measures to maintain it for the best interest of all peoples. Therefore, any conservation efforts to conserve biodiversity should not be an effort to give benefit to certain outside interest groups, but should benefit all people, in particular indigenous peoples and local people who live within conservation areas and depend on them.

In the past 15 years, the conservation community has made concerted efforts to develop principles and guidelines designed to reconcile indigenous rights with conservation initiatives. The Convention on Biological Diversity imposes obligations on governments to respect, preserve and maintain indigenous peoples' knowledge, innovations and practices, and to protect and encourage their customary use of natural resources. It is now possible to point to international human rights instruments and treaties, and to the jurisprudence of the United Nations human rights committees which interpret them, and state with confidence that international law now recognizes the rights of indigenous peoples to: self-determination; freely dispose of their natural wealth and resources; in no case be deprived of their means of subsistence; own, develop, control and use their communal lands, territories and resources, traditionally owned or otherwise occupied by them; the free enjoyment of their own culture and to maintain their traditional way of life; free and informed consent prior to activities on their lands; represent themselves through their own institutions; exercise their customary law and restitution of their lands and

compensation for losses endured. However, all these matters only look good on paper.

The great majority of protected areas violate these rights. For example, it is estimated that

Biodiversity meeting, Malaysia

COP 7 in Kuala Lumpur was attended by over 2,300 participants including representatives of 161 governments, UN agencies, NGOs, indigenous and local communities, academia and industry. For a report of the meeting, focussing on indigenous people's perspectives see www.forestpeoples.org. There was a strong and well-informed indigenous participation at this conference, headed by the International Indigenous Forum on Biodiversity (IIFP).

Achievements at COP 7 were an acknowledgement that full respect for the rights of indigenous and local communities is a key issue in protected area planning, establishment and management. (Previously CBD language acknowledged indigenous peoples' rights only in a restricted sense). The other achievement was the explicit recognition of the outcomes of the 5th World Parks Congress in Durban, September 2003, including the "new paradigm for protected areas". These recommend that governments and others respect the rights of indigenous people, stop involuntary resettlement from protected areas, ensure that protected areas are established only with the free prior and informed consent of indigenous peoples, enact laws to recognise indigenous rights and establish processes for providing restitution for past injustices (see DTE 59:8).

more than 24 million hectares in Indonesia have been declared as protected areas yet in the great majority of cases the rights of indigenous peoples to own, control and manage these areas have been denied. People still have to fight for their rights on their land and their way of living. No one knows how many people these protected areas have displaced and little has been done to ameliorate the suffering and poverty that has resulted.

Many governments still prefer to do fortress conservation. In many southern countries, governments hand out management and development of conservation areas to third parties, such as business or conservation organisations.

The reason is classic and simple: governments decide that they cannot afford to do conservation. This might be true in some cases, but giving out concessions to the third parties to develop and manage conservation areas won't solve the problem either. Giving out such licenses to third parties without recognizing the rights of people living in the area will ignite conflict among stakeholders. While governments have to bear responsibility for reducing conflicts between local communities and conservation 'concessionaires', the concessionaires make money by selling this "collaborative management with full support from the government"- as an addition to their scientific justification - to their donors.

Biodiversity should not pay for itself, because we cannot afford to lose it. By giving it to the market mechanism and commodifying it, we are selling our future. If we continue to do biodiversity conservation in this way, our life and livelihoods will be under threat. Biodiversity forms a web of life and it is our life that is at stake.

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GM agriculture

Indonesia to sign biosafety instrument

NGOs in Indonesia have worked hard to convince their government that it should do more to protect farmers and consumers from the risks of genetically modified crops. Now their efforts have borne fruit.

Indonesia's parliament began the process to ratify the Cartagena Protocol on Biosafety in July 2004 - a move that should ensure greater protection against the potential negative impacts of genetically modified organisms (GMOs). The Protocol, which came into force in September 2003, commits parties to ensuring that "the development, handling, transport, use, transfer and release of any living modified organisms are undertaken in a manner that prevents or reduces the risks to biological diversity, taking also into account risks to human health". A key element is the precautionary approach, which provides for preventative measures where negative impacts have not been scientifically proven. The protocol also sets out an "advance informed agreement procedure" to help countries make informed choices before agreeing to the import of GMOs.

Indonesian civil society organisations, which have been pressing for ratification of the protocol for several years, welcome the move. They hope that, after ratifying the protocol, Indonesia will then consult the public to draft regulations on GMOs and strengthen the agencies involved in regulating GMO research and use. Tejo Wahyu Katmiko of Konphalindo said ratification would also give consumers the right to information. Up to now, consumers have had inadequate protection from GM products, whether legal or illegal, he said.

The Sulawesi cotton fiasco

Indonesia has had an unhappy experience with growing GM crops commercially so far. In December 2003, the government announced the end of 2 years of commercial GM cotton production in South Sulawesi, which had resulted in crop failure and indebtedness for farmers and the hurried exit of the seed company. US-based multinational Monsanto stopped supplying seeds to farmers in the province in February last year and closed down its office there, saying its cotton business in Sulawesi was no longer economically viable. The company was also faced with the prospect of legal action by farmers.

Bt cotton was grown commercially in South Sulawesi in 2001 and 2002 by farmers who were told by Monsanto and local government officials, that they would achieve much higher yields than they did with

non-GM varieties. Despite a vigorous campaign by concerned NGOs and farmers groups to stop the import and sales of seed, the Minister of Agriculture belatedly issued a decree to approve the limited release of Bt cotton in seven districts. This was challenged in the courts by the NGO Coalition for Biosafety and Food Safety on the grounds that the decree did not consider the consequences of using GM products. It also violated the 1997 environment law because

During the first year, the South Sulawesi Bt cotton crop suffered from the effects of drought and was attacked by pests the seed was not designed to resist. As a result, yields were much lower than expected. Farmers who had bought the seeds on credit ended up indebted to the company. 70% of the 4,438 farmers growing the cotton could not repay the credit. Researchers found that farmers planting Bt cotton had lower incomes in 2002 than farmers planting non-Bt cotton.



Burning GM cotton in Sulawesi

(YLK)

no environmental impact assessment was conducted. The court ruled against the Coalition later in 2001 and the case is currently awaiting a hearing at the Supreme Court.

"The company didn't give the farmers any choice, they never intended to improve our well-being, they just put us in a debt circle, took away our independence and made us their slave forever. They try to monopolise everything, the seeds, the fertilizer, the marketing channel and even our life."

(Santi, Bt cotton farmer, South Sulawesi, FoE International*)

Then the company doubled the price of seeds in the second planting season, while the selling price for the cotton crop decreased. The indebted farmers were obliged to agree to the higher prices because the company could refuse to buy the crops if they didn't.

Some angry farmers refused to buy more seed and burned the cotton fields in protest; others felt they had no choice but to continue with Bt cotton. In the end, many farmers refused to pay the outstanding credit and demanded compensation for the losses from Monsanto.

Monsanto has admitted that the US Justice Department is investigating its operations in Indonesia. Specifically, it is looking into allegations that a Monsanto employee facilitated an improper \$50,000 payment to an Indonesian government official in 2002. The alleged bribery was uncovered while the Justice Department was following

up a disclosure by Monsanto, of financial irregularities in its Indonesian business operations. The US's Foreign Corrupt Practices Act prohibits bribing of foreign officials and can impose a maximum fine of \$2 million per violation while an individual faces up to five years imprisonment.

(See Lim Li Ching, *How GM crops destroy the Third World* 29/April/04 at <http://www.indsp.org/chinghoc.php> for a good detailed summary of the Sulawesi Bt cotton case, plus DTE 57:16, DTE 51:15; DTE 50:16 & DTE 49:3 for more background.

Other sources:
<http://www.biodiv.org/biosafety/background.asp>; *Jakarta Post* 7&12/Jul/04; *Berita Bumi* 15/Jul/04; 'Kronologis Komersialisasi Kapas Transgenik Bt di Indonesia', *Berita Bumi* 8/Apr/04 - www.bertiabumi.or.id/, AP 22/03/04; *Wall Street Journal* 22/Mar/04; See also: Jhamtani H. *Bt cotton in Indonesia: a case for liability*, Paper presented at the Third World Network side event Liability and Redress: Lessons from Real Life during the First Meeting of the Parties to the Cartagena Protocol on Biosafety, 26 Feb 2004, Kuala Lumpur, quoted in Lim Li Chang, above).

*Friends of the Earth International. *Genetically modified crops; A decade of failure*, Feb 2004 and Lim Li Ching, *How GM Crops Destroy the Third World*, Talk to Independent Science Panel Briefing, House of Commons (London), 29 April 2004. <http://www.indsp.org/chinghoc.php>

Other GM crops in the pipeline

In May, a civil society group including farmers organisations and NGOs, the People's Coalition for Food Sovereignty (KRKP), urged the Indonesian government to follow Venezuela's example of rejecting GMOs in

GM crops in Indonesia

Crop	Trait	Status		Institution(s) Involved
		Lab	Field trials	
Corn	Roundup Ready Herbicide resistance	Yes	Yes	Monsanto
Corn	PinII Insect resistance	No	Unavail.	RIAB/ABSP
Corn	Bt Insect resistance	Yes	Yes	Monsanto
Corn	Bt Insect resistance	Yes	Unavail.	Pioneer
Cotton	Roundup Ready Herbicide resistance	Yes	Yes	Monsanto
Peanut	Virus resistance	Yes	Unavail.	RIAB/ACIAR
Potato	Bt Insect resistance	Yes	Yes	RIV/RIAB/MSU
Rice	Bt and GNA Insect Resistance	No	Unavail.	P3B LIPI
Soybean	Roundup Ready Herbicide resistance	Yes	Yes	Monsanto

Approved crops

Crop	Trait	Type of Approval		
		Food	Feed	Environment
Corn	Roundup Ready Herbicide Resistance	No	No	Yes
Cotton	Bt Insect Resistance	No	No	Yes

Source: <http://www.isaaa.org/kc/bic/globalstatus/auview.asp?id+28>

the country's agricultural system. But despite its bad experience with GM cotton, the multi-billion dollar biotech industry is unlikely to leave Indonesia in peace. According to Asia's key biotech research agency, ISAAA, GM corn, peanut, soybean, potato and rice are under development in Indonesia and limited field-testing has been done on herbicide resistant corn, cotton and soybean as well as insect-resistant corn, cotton and potato.

Indonesia is one of an expanding list of 21 countries worldwide growing GM crops, joined last year by the Philippines and Brazil. The leading GM crop growers are the US (42.8% of the global area of GM crops) followed by Argentina (13.9%).

(Source: ISAAA: <http://www.isaaa.org/kc/Global%20Status/gmreview/countries.htm> and <http://www.isaaa.org/kc/bic/globalstatus/auview.asp?id+28>; *Berita Bumi* 12/May/04 For background on ISAAA see DTE 49:5)

FAO slammed for pro-GM bias

A report issued by the Food and Agriculture Organisation of the UN has drawn sharp criticism from NGOs who say it presents a biased view of GM crops and serves as a public relations tool of the biotech industry. A letter signed by 650 civil society organisations worldwide, addressed to the report's author, said the report failed to recognise the inherent problems with GM crops which lead to the industrialisation of agriculture and the concentration of wealth and threaten agricultural biodiversity. See www.grain.org for the full letter and reply from the report's author.

The right to food

The NGO BioTani PAN Indonesia, has criticised the Indonesian government over its lack of commitment to the United Nations

(continued on page 15)

The Cartagena Protocol

The Cartagena Protocol, a supplementary agreement to the Convention on Biological Diversity, was signed in Montreal, 29 January 2000 and came into force on 11 September 2003. Indonesia passed the 1994 Biodiversity Conservation law to ratify the CBD.

The first meeting of the countries that have signed up to the protocol (COP-MOP) was held from 23 to 27 February 2004 in Kuala Lumpur.

For more information see <http://www.biodiv.org/biosafety/>

politics

When the elections are over...

This year, political life in Indonesia has been dominated by elections for national and regional parliaments, regional representatives council and, finally, for a new president. Choosing the president will take several more months as there has been no clear winner in July's first round. But once the election dust settles, what will be the difference for the vast majority of Indonesians? How much hope is there that the new government will take effective steps to reduce poverty, resolve conflicts and address the fundamental issue of control and access to land and natural resources?

WALHI: bleak outlook whoever wins elections

Indonesia's biggest environment network, WALHI, has predicted that the next president and his or her government will not offer any solutions to the country's environmental crisis. In its 'Political Statement' for the 2004-2009 period, WALHI says that the enthusiasm and optimism of five years ago have been reversed. The hope of creating a democratic, just and sustainable Indonesia has been dashed by a corrupt political elite which has subjugated itself to international capital, as represented by the World Bank, IMF, multinational companies and industrialised nations. The statement paints a bleak picture of a country entrenched in political, economic, socio-cultural and ecological crisis.

The ecological crisis, says WALHI, arose because the state, investors and the "modern" system has reduced nature to a set of commodities to be engineered and exploited for short-term economic gain. The expansion of monocultures, forest exploitation and mineral extraction has already caused ecological devastation. Privatisation of natural wealth, both for commercial and conservation purposes, has prevented ordinary people's access to and control over their sources of livelihood. Yet it is they who suffer the negative impacts of forest fires, floods, droughts, pollution and the



parties' flags in the April parliamentary election campaign (DTE)

water crisis.

The programmes of all five presidential candidates are dominated by a development paradigm of achieving economic growth by exploiting natural resources. They and their running mates "have no environmental vision". WALHI says it will fight for environmental rights as a fundamental human right. It asserts that the organisation will take a stance of opposition towards whoever wins the elections. Finally, the statement calls on all Indonesians, especially the victims of natural disasters, investment, corruption, violence and other human rights violations to "organise, build up people power, and adopt an independent and critical position towards the future government."

(Source: Pernyataan politik WALHI terhadap pemerintahan periode 2004-2009, 2/Jul/04)

Ten agenda points to attain justice

A group of 59 Indonesian NGOs issued a joint declaration to remind the new government of the most basic issues that need immediate attention. These include: political education needed to fight the authorities' "deception and manipulation";

fighting corruption, including bringing former President Suharto to trial; a halt to the theft of natural resources; protection for women; pro-people living space; restoration of land ownership rights; a stop to impunity for human rights violators; an end to militarism, to the "politics of thuggery" and militias; and fair taxation to close the widening gap between rich and poor.

According to Binny Buchori, Executive Director of the International NGO Forum on Indonesian Development (INFID), the declaration could also help the public decide which presidential candidates to vote for and serve as a tool for NGOs monitoring and evaluating the next government. The summary statement by the Jakarta Social Forum is on INFID's website at http://www.infid.be/statement_10agenda.htm. Source: INFID's Short News Overview No.V/18 June 18-Jul 16, 2004.

What the two top candidates say

Susilo Bambang Yudhoyono - former security minister under Megawati and retired army general:

- ♦ says he will help the economy by increasing oil and mining exploration, boosting the agricultural sector and improving and creating new tourism destinations;
- ♦ supports capital punishment for drug dealers, corrupters and gross human rights abusers;
- ♦ says there should be a review of pending corruption cases, and suspended or ignored cases should be reopened - then he will take stern measures;
- ♦ says he will maintain the military's territorial structure (the system that places military personnel in every province and district, right down to village level) but that the military should not be involved in politics; he also promises to increase Indonesia's defence budget so that the police and military "will have enough funds to settle

(continued next page)

Results

The provisional results of the elections as of July 29 were:

1. Susilo (SBY)	33.59 %
2. Megawati	26.25 %
3. Wiranto	22.18 %
4. Amien Rais	14.94 %
5. Hamzah	3.05 %

(Source: <http://tnp.kpu.go.id/>)

Since no candidate has scored over 50% of votes in the first round, voters will choose between Democratic Party (PD) leader Susilo Bambang Yudhoyono and Megawati (PDI-P) in a second round in September.

economy

Mid-term CGI meeting 2004: is transition period the beginning of reform?

The 2004 CGI mid-year review meeting went almost unnoticed, as the country was in the final run up to Indonesia's first direct presidential election.

The meeting of Indonesia's main creditors, grouped in the Consultative Group on Indonesia (CGI) was held in Jakarta on June 2, 2004. It highlighted the introduction of the Indonesian government's Transition Plan: a policy continuity to ensure a smooth shift between the current government and the next one. The Transition Plan is a medium term development agenda for the period of 2006 to 2010. Its main objectives are (1) pushing reform in democracy and political institutions, (2) improving the wellbeing of Indonesia's people through economic development and growth and (3) strengthening the unity and integrity of Indonesia through conflict resolution, national reconciliation and more effective regional autonomy.

While congratulating the government of Indonesia on economic progress, the meeting urged Indonesia to improve investment climate and to take stronger action in poverty reduction.

INFID wants pro-poor policy

In the meeting, the Indonesian NGO Forum on Indonesian Development (INFID), representing Indonesian civil society,

reiterated its call to re-examine the existence and role of the CGI. This drew attention to the review of the CGI by carried out by the National Development Planning agency (Bappenas), in November 2003. One recommendation was the move from a donor-led CGI towards an Indonesia-led CGI, in order that the country should genuinely own its development agenda. Concerns that the CGI is donor-driven have been repeatedly raised by civil society groups. Donors are seen as only interested in improving the investment climate and boosting the commercial sector.

INFID also calls CGI to ensure that its decisions furthered Indonesia's progress towards the global Millennium Development Goals (MDGs) set by the UN. Despite all the rhetoric, a coherent pro-poor macro economy policy remains to be seen. It is timely for the CGI to revisit Indonesia's debt burden and its impact on the poor - who number over 50% of the population.

INFID also called on CGI member countries to commit themselves to MDG 8 - to allocate 0.7% of their respective annual GDP for funding their overseas development assistance activities.

Certainly, one of the biggest challenges for the new government of Indonesia will be the implementation of good governance, with combating corruption and nepotism as the prime focus. None of the three post-Suharto governments has demonstrated any convincing efforts to eradicate systemic and extensive corruption.

The next CGI meeting may see some new faces among the Indonesian delegation; maybe not. As change often has to be fought for, the Indonesian delegation also shares the responsibility of reform in the CGI. How much longer can Indonesia afford a status-quo CGI?

(Sources: CGI Mid-Year Review Meeting, June 2, 2004, see <http://web.worldbank.org/>; INFID's comment on the Mid-term CGI Statement June 2nd, 2004 about PRSP; Gol & WB Press Release: CGI welcomes progress on the White Papers, but urges stronger actions to boost investment and tackle poverty <http://siteresources.worldbank.org/INTINDONESIA/News%20and%20Events/20207964/InterimCGI-PR-060204.pdf>.)♦

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domestic conflicts across the country." Much of the budget is currently believed to disappear as a result of corruption within the armed forces;

- ♦ does not oppose the expulsion of International Crisis Group (ICG) staff by the National Intelligence Agency, but merely said that the reasons for it should be clearly explained*.

Megawati Soekarnoputri - president since 1999, who came to power on a reform ticket:

- ♦ says it's hard to track down timber smugglers because of the lack of equipment to catch them;
- ♦ has asked for more time to deal with economic problems and crack down on corruption, saying that the problems started many years ago and it hasn't been

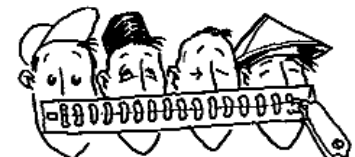
easy, but that progress has been made;

- ♦ promises to create 13 million jobs and cut poverty by 40% - no details given;
- ♦ says that Indonesia has been more serious than other countries in combating terrorism and will continue its efforts.

* Indonesia's decision to expel Sidney Jones, director for Southeast Asia of the International Crisis Group, plus another international member of ICG staff was greeted with dismay by foreign governments and civil society organisations in May. The two were told to leave because the National Intelligence Agency (BIN) considered them a threat to Indonesia's security. NGOs see the move as a return to the repressive measures of the Suharto era and are concerned about the prospect of further intimidation against those critical of the government and military.

The head of the intelligence agency has said that another 19 NGOs are being monitored. The human rights NGOs Kontras challenged him to name these organisations and their 'crimes', but there has been no response.

(Laksamana.Net 26/Jun/04; Amnesty International Public Statement ASA 21/018/2004 3/Jun/04; Reuters 30/Jun/04, 1/Jul/04; AFP 1/Jul/04; AP 1/Jul/04; Jakarta Post 2,28/Jul/04; Reuters 1/Jul/04, Sydney Morning Herald 3/Jun/04)♦



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- ♦ the protection of and respect for human rights and environment defenders;
- ♦ action against the company (under Indonesia's 1997 Environment Act) for the environmental damage it has caused;
- ♦ An investigation by the National Human Rights Commission into recent events.

The World Bank has praised Heidelberg Cement and PT ITP for their June 2004 agreement aimed at reducing carbon emissions. (World Bank news release 9/Jun/04; <http://www.foei.org/cyberaction/rampa.php>, Ikatan Nelayan Saijaan Kotabaru, letter, 30/Jun/04)♦

TNI to stop guarding vital projects

Indonesian troops will no longer guard mines, oil and gas installations and other industrial operations considered "vital projects" if a presidential decree is passed as planned. In June President Megawati approved a proposal to transfer authority for security to the operating companies within one year. Sixty six installations are currently categorised as vital projects, half of them in the energy sector, including mines and oil or gas installations. According to the co-ordinating minister for security affairs, Hari Sabarno, under the decree TNI forces could return to guard sites only at the request of the police who will be deployed in the event of security disturbances. However, national police chief Da'i Bachtiar said the police could not take over from the military due to lack of personnel.

Armed forces commander Gen Endriartono Sutarto, who requested the withdrawal of TNI from guarding sites, said that companies had "neglected their responsibility for security in their own compounds since the deployment of the TNI soldiers," but said that the security forces would "still watch out for them".

Endriartono and the TNI were seriously embarrassed last year when US-

based mining company Freeport was forced by a shareholder group to reveal that from 2001-2002 it had handed over more than US \$10 million in payments to the military. Guarding vital projects - whether the companies concerned want it or not - has been a lucrative source of extra-budgetary income for the security forces, along with legal and illegal businesses. (Source: *Jakarta Post* 25/Jun/04. See also *DTE* 57:1 for more background on the Freeport case.)♦

New US West Papua Action Network

West Papua Action Network (WPAN) a US advocacy group was launched in May, with a speaking tour of 10 US cities by Papuan human rights defender John Rumbiak. The network's aim is to stop human rights abuses and genocide in West Papua and to educate policy-makers about the history of US involvement in the region. Papuans became cold war victims, says Rumbiak, when Washington helped broker the transfer of West Papua from the Netherlands to Indonesia. "Denying Papuans the rights to self-determination is the fundamental source of conflict in the region," he said.

US documents released in July this year showed how, in 1969, the Nixon administration was unwilling to raise any objections to West Papua's incorporation into Indonesia even though it was overwhelmingly opposed by Papuans. The US Ambassador at the time noted that Indonesian military operations had "stimulated fears and rumours of intended genocide" among Papuans. An estimated 100,000 Papuans have lost their lives at the hands of Indonesia, since then. A December 2003 report by Yale Law School raises concerns that the Indonesian government/military's actions over the last 30 years may constitute genocide and warrant further investigation. (Contact WPAN at wpan@redwire.us. Source: WPAN 13/May/04; *Asia Times* 13/Jul/04; *Yale Daily News* 3/Feb/04)♦

NGOS demand World Bank loan audit

Indonesia's NGO Coalition Against Debt (KAU) has called for an independent body to determine whether or not World Bank loans should be repaid in full. Around 30% of the cumulative USD25 billion in Bank loans were lost to corruption, according to KAU, which thinks the Bank should take responsibility for being aware of the corruption, but failing to act.

The Bank does not recognise the concept of corrupted or "odious debt", which has been estimated as high as USD100 billion worldwide. The Bank's 60th birthday, in July, was marked by protests in many countries, including Indonesia. Here, civil society organisations believe bank projects have failed to alleviate poverty, leaving instead what WALHI director Longgena Ginting called "a trail of misery on the planet." (*Jakarta Post* 22/Jul/04; *Far Eastern Economic Review* 29/Jul/04 - this issue has details of corrupt Bank-funded projects in Indonesia; *Why the World Bank Celebrates an Unhappy 60th Birthday*, 20/Jul/04 circulated on NGO-forestry-sector-partnership e-list)♦

Toro indigenous people win UNDP Equator Initiative recognition

The Toro indigenous people of Kulawi, Central Sulawesi, held a traditional celebration on International Biodiversity Day, May 22. The Toro were selected as finalists for this year's Equator Initiative award for the communities' extraordinary commitment in reforming Ngata Toro's customary law. The law recognises the important role of women to make strategic decisions in managing biological diversity.

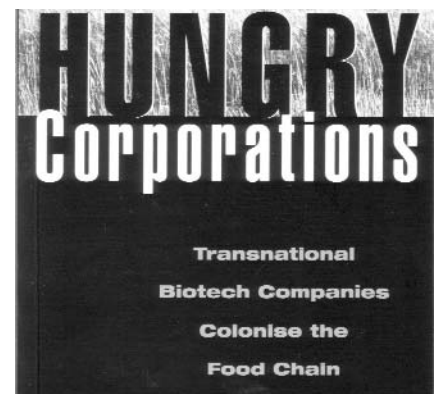
The award was won by the Citizens Forum for the Bunaken National Park, North Sulawesi. (GEF press release, 19/May/04)♦

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Millennium Development Goal to halve global hunger by 2015. Indonesia is a member of the UN Food and Agriculture Organisation's Inter-Governmental Working Group (IGWG) on the right to adequate food, but, along with other Asian countries, has contributed little so far in the way of practical solutions. The IGWG has the task of elaborating voluntary guidelines on the right to adequate food, but, according to BioTani PAN, Indonesia and other members are not putting the basic human right to food ahead of narrow national interests. (BioTani Indonesia Foundation/PAN Indonesia 5/Jul/04 www.fao.org)

FAO Seed Treaty comes into force

Meanwhile, NGOs gave a qualified welcome to the FAO's International Treaty on Plant Genetic Resources for Food and Agriculture, which came into force June 29. The Treaty's aim is to guarantee agricultural biodiversity and equitable benefit sharing from its sustainable use. Indonesia has not yet signed or ratified the treaty. (See www.fao.org/ag/cgfra/itpgr.htm and UK ABC Special Report 29/Jun/04 on www.grain.org/bio-ipr?id+401)♦



By Helena Paul and Ricarda Steinbrecher, Zed Books, 2003. www.zedbooks.co.uk

In brief...

Community holds Newmont to account

Villagers from Buyat Bay, North Sulawesi have lodged complaints with the police over the devastating health impacts of Newmont Minahasa Raya's gold mine. At least 30 people are believed to have died as a result of the heavy metal pollution caused by the mine, which dumps tailings on the sea-bed. A report from a local university suggests that more than 100 villagers from Buyat are suffering from the effects of heavy metals contamination - including arsenic and mercury - in the Bay, where local people fish. The pollution is believed to have caused the death of a 5-month old baby in early July.

The US-based Newmont, which denies the allegations, has closed down the Sulawesi mine due to depleted gold reserves. An international NGO campaign, co-ordinated by Global Response, is pressing the company to ensure the mine closure, clean-up and reclamation meet US standards; that free health services are provided for the people of Buyat Bay and Ratatotok and fair compensation for lost land and livelihoods is provided.

For details of JATAM's campaign see www.jatam.org and *DTE* 61:7; or <http://dte.gn.apc.org/61MIN.htm>. (Source: Global Response Alert #3/04 May-June 2004; *Dow Jones* 21/Jul/04; *Jakarta Post* 21/7/04 and translation by Tracy Glynn, JATAM of article in *Kompas* 20/Jul/04.) ♦

Parliament approves mining in protected forests

Indonesia's parliament voted to pass an emergency regulation (*Perpu*) on mining in protected forests in July - dealing another severe blow to the struggle of forest-dependent communities to defend their livelihoods. The regulation paves the way for 13 companies - including Freeport, Inco, and BHP - to resume operations. Environment minister Nabeli Makarim insisted that no more than these 13 would be permitted back

New on the DTE website:

<http://dte.gn.apc.org/AMAN/gaung/gaung.html>

Gaung AMAN - newsletter of Alliance of Indigenous Peoples of the Archipelago (AMAN) - Indonesian originals + English translations

<http://dte.gn.apc.org/AMAN/gaung/kman2.html>

Gaung KMAN - daily newsletter of AMAN Congress, September 2003 - Indonesian originals and English translations

<http://dte.gn.apc.org/camp.htm#IFIs>

IFIs factsheets and updates 2004

<http://dte.gn.apc.org/news.htm>

Urgent Action and update on Bestari Raden arrest in March 2004, plus NGO open letter

<http://dte.gn.apc.org/srfi1.htm> and <http://dte.gn.apc.org/srfi2.htm>

Indonesian translation of Parts I and II of *Forests, People & Rights*, DTE's June 2002 Special Report on forests.

<http://dte.gn.apc.org/cper04.htm>

Summary translation with notes of draft emergency regulation on illegal logging.

into protected forest areas, but NGOs suspect that the government may give way to pressure from more than 100 other companies now that the *Perpu* has been passed.

NGOs campaigning to prevent the move say they will mount a judicial review and suspect that bribery played a part in the decision. WALHI believes the Australian government put pressure on the Indonesian government to give the go ahead to mining, holding 13 closed door meetings with officials before the *Perpu* was issued in March this year. For background to this issue and a list of 13 approved companies see *DTE* 61:6-7 or <http://dte.gn.apc.org/61MIN.htm> (*Jakarta Post* 17/Jul/04). ♦

Free the Rampa Fisherfolk, South Kalimantan

On June 16, 2004, three activists and two fishermen were beaten, arrested and are currently detained at Kota Baru District Police Office in South Kalimantan. Their arrests are the result of a two year peaceful action by the Rampa fisher community, along with local students and activists, against waste dumped on their traditional fishing area by PT Indocement Tunggul Prakarsa Tbk, a subsidiary of Heidelberg Cement Group, Germany. The

action, started on June 5, 2004, blocked the company's transport route until it agreed to remove the waste it has dumped on community fishing grounds.

The company built a port and dumped excavated rock from their construction operation into the sea where the community has been making a living from fish and shrimp for generations.

There are approximately 3,700 villagers living in Rampa village and the surrounding villages of Semayap, Kotabaru Hilir and Kotabaru Hulu who depend on the fishing grounds.

Friends of the Earth International has launched a letter-writing campaign at <http://www.foei.org/cyberaction/rampa.php> to free those detained and force the company to clean up the fishing grounds.

In a letter sent to the head of the Indonesian Police and the head of the Indonesian Human Rights Commission on 30th June, the community demanded:

- ♦ no more repressive police action against the community;
- ♦ the dismissal of the local police chief;
- ♦ the release of the 5 fisherfolk (one of whom is 80 yrs old) and activists from police detention;

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DOWN TO EARTH is the newsletter of the International Campaign for Ecological Justice in Indonesia. If you want to receive the newsletter on a regular basis, please fill out the form provided. We would welcome information about your work in the field of environment and development in Indonesia.

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