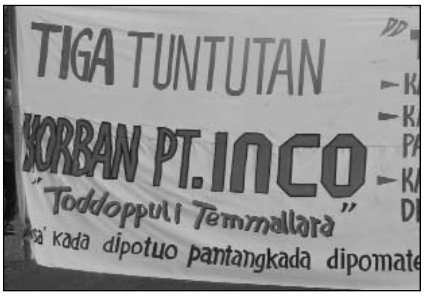
Protesting against Inco - see p.5



(Photo:WALHI Sulsel)

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International Campaign for Ecological Justice in Indonesia

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Newmont called to account

August 5th saw the opening of the Indonesian government's first ever pollution case against a major mining company. US-based Newmont - the world's biggest gold producer - faces months under the public spotlight as its environmental practices and impacts on the health of local villagers are exposed.

Local people have voiced concern over the impacts of Newmont's open pit gold mine since the company started operations at Ratatotok, North Sulawesi, in 1996. In the last two years, the villagers' campaigns, supported by Indonesian civil society organisations, have gained momentum, attracting national and international media attention and putting the Jakarta government under pressure to take action.

Ore extraction at the Newmont Minahasa Raya mine ceased in 2001, but ore-processing, generating around 2000 tonnes of waste per day, continued until August 2004. The company used the notorious Submarine Tailings Disposal (STD) system which involves dumping mine waste into the sea, instead of the industry standard land-based tailings containment method. The impact of this disposal system on Buyat Bay's marine ecosystem, the local fisheries and villagers' health has been at the heart of the acrimonious dispute between the communities and the company.

For nine years the villagers and civil society organisations have sought answers to the ill-health afflicting them and declining fish stocks. They have been met with denials from Newmont that anything is wrong and have been told that that their health problems are due to other causes.

Newmont continues to deny that its mine has posed any danger to local people, despite the evidence piling up. The case against Newmont became official last year, when a government-sponsored investigation found that levels of arsenic and mercury in Buyat Bay fish posed health risks to the local community, especially children. The study found extremely high levels of mercury and arsenic in the seabed sediment and in sea-bed dwelling organisms (benthos) - indicating that toxic substances from the mine's tailings were entering the food chain. Newmont argues that separate tests show that the chemicals are not entering the food chain and that levels found in fish are safe. The government-sponsored investigation team recommended that local people reduce their fish intake, but many have been unable to afford to do so. It also recommended they consider moving, and, according to mining advocacy network, JATAM, around 67 families have done so. (See *DTE* 63:10 or http://dte.gn.apc.org/63MIN1.HTM for more background).

In December last year, evidence emerged of massive pollution at the mine. Internal documents seen by the *New York Times* revealed how the company failed to report substantial emissions of mercury over several years. Over a four-year period (1997-2001) around 17 tonnes of mercury were released into the air and 16 tonnes more into Buyat Bay, according to an internal audit. Equipment that was supposed to prevent the emissions was only installed after operations were well underway, and did not work properly; nevertheless ore-processing continued, allegedly to cut costs and maximise gold retrieval. The *New York Times* said the audit classified the findings as 'significant' meaning they could pose an 'imminent risk' to human health and the environment or result in violation that could cause a plant closure or loss of permits. Newmont denied that the emissions had had any negative impact on the bay or local people.

STOP PRESS:

On 15th November the South Jakarta District Court dismissed the Environment Ministry's case against Newmont, stating that the Contract of Work between the government and Newmont meant that the case should be taken to international arbitration. The Environment Ministry has indicated it will appeal the decision, contending that the case did not relate to contractual matters but to a breach of Indonesian Environment Law, which all people and companies are subject to regardless of contracts, a point specifically noted in article 26 of the Contract of Work itself.

Inside...

Newmont sues activist for US$750,000 damages

Newmont's actions to defend its reputation, by targeting individuals who have spoken out against them, will do nothing to repair its gravely damaged public image in Indonesia.

Dr Rignolda Djamaluddin, chair of the environmental group, the Kelola Foundation in Manado, was ordered to pay PT Newmont Minahasa Raya US$250,000 in non-material damages. The August ruling was made by Manado District Court in favour of Newmont in its defamation suit. Rignolda, who is also a lecturer in marine science at Sam Ratulangi University in North Sulawesi and member of a peer review team for the Indonesian environment ministry investigation into Buyat Bay pollution, was told to pay Rp 5 million (US$500) for each day he failed to pay the damages.

Dr Rignolda has been an outspoken critic of Newmont and its impact on Buyat Bay and had reported the results of a seminar which noted that local people displayed symptoms which were similar to Minamata disease.

He has also been ordered to run apologies to the company in local and national electronic media for three consecutive days as well as to place a quarter-page advertisement in several Indonesian dailies for three days, the *Jakarta Post* reported. Rignolda said he would appeal.

The company filed defamation suits against two others, but they settled out of court. One, Jane Pangemanan, a doctor, signed a letter of retraction for comments she made last year linking the mine to heavy metals poisoning. "I felt I had to sign because of the suit against me," she told the *New York Times* in August. "My staff told me that Newmont has seven layers of lawyers, and how could I fight them?" Dr Pangemanan said she thought she was wrong to sign, as she felt the company had not fulfilled promises on public health which were part of the agreement.

A US$550 million lawsuit filed on behalf of Buyat Bay villagers by a local NGO, Agency for Health Law, also settled with Newmont. However, environment NGO, WALHI, is critical of the settlement, and says this was done without the consent of the villagers.

(*New York Times* 4/Aug/05; *Jakarta Post* 10/Aug/05; JATAM intellectual oppression alert 25/Jul/05)

Newmont tailings pipe (WALHI)

Getting tough

Now, for the first time Indonesia's government is taking concerted action on pollution charges against a major multinational. As part of a police investigation, five company executives were detained for a month in late 2004. The resulting criminal indictment lists Newmont Minahasa Raya and its president director, Richard Ness, as the accused. Ness has been banned from leaving the country and now faces charges which could result in up to 10 years in jail and a $50,000 fine. The company could be faced with costs for cleaning up any environmental damage.

The company is accused of breaching four articles of Indonesia's environment law (No 23/1997), according to Newmont's lawyer Blake Rhodes who says that only one article needs to be proven for the company and Ness to be found guilty. *Dow Jones Newswires* reported Rhodes as saying that the essence of Newmont's defence is that the company will be able to prove that there wasn't any pollution related to its mining activities in Sulawesi.

Besides the criminal trial underway in North Manado, the civil case lodged by the Department of Environment is back on track. Hearings have recommenced in a Jakarta court after Newmont's attempt to have the case dismissed, and its hopes for a quiet out-of-court settlement to be brokered via the Newmont-sympathetic mining industry heavyweight and economics minister, Aburizal Bakrie, came to nothing.

Political influences

There are various answers to the inevitable questions: 'why now?' and 'why Newmont?' The case proceeded to trial primarily due to the extraordinary level of public interest and media coverage. It was covered for weeks, even months, in newspapers, magazines, radio and, most damaging for Newmont, on TV. One popular comedy/social commentary drama fictionalised the case to produce an episode of prime-time TV, and pop rockers Slank referred to the case in televised concerts and made public appeals for support for the villagers. Newmont compounded its own woes by spending more on TV and print advertisements than it ever spent on community health and other programmes for the Buyat Bay villagers, serving only to increase the profile of the case.

However, there may also be political influences at work. As Indonesia's first directly elected president, Susilo Bambang Yudhoyono (SBY) may want to establish his credentials as a 'pro-people' leader, showing his willingness to stand up to powerful corporate players. The case may also be linked to the fact that SBY is believed to owe his environment minister, Rachmat Witoelar, a political favour or two. Newmont's status as an American company may also be relevant: legal action against a US company could be considered a crowd-pleasing move aimed at opponents who accuse the government of appeasing US demands for action against muslim extremists as well as those wishing to challenge the US' dominant economic role.

However, aside from this particular case, the same president is continuing along his predecessors' path of prioritising the needs of big business over communities. In the overall picture, the 'pro-people' message rings hollow. It is likely to be drowned out by the impacts of pro-business policies - such as planning a huge new oil palm investment in Kalimantan's border area with Malaysia (see *DTE* 66:1) - and legislation - such as *Perpres* 36/2005 on compulsory land purchase, a piece of legislation judged more repressive

Scientist's appeal to help Buyat Bay people

A clinical medical toxicologist, Dr E. Blaurock-Busch, is appealing for funds to help the people of Buyat Bay recover from their health problems. Dr Blaurock-Busch spoke at a seminar on mining, environment and sustainable development, part-funded by Newmont, which was held in North Sulawesi's Sam Ratulangi University in May this year. The scientist, who is on the International Board of Clinical Medical Toxicology, calculates that a 6 month treatment course would cost 760 Euros per person. Dr Busch-Bauer makes it clear that the objective is not to accuse anybody, but simply to help the Buyat Bay people. Contact: ebb@microtrace.de.

(Source: *We can help the Buyat Bay people*, via email listserve, 24/Sep/05) than the Suharto-era regulation it replaces (see *DTE* 66:13). Other large mining companies such as Freeport, Rio Tinto and Inco, whose human rights and environmental records warrant proper investigation by the authorities, are permitted to continue their operations as normal. As is Newmont's Batu Hijau copper-gold mine in Sumbawa, which also uses STD and has a much greater production than the Ratatotok operation.

This general context, combined with heavy international business pressure on SBY not to damage further the investment climate, reduce the likelihood that the prosecution of Newmont will be successful. The next few months will be a severe test for Indonesia's judiciary and the SBY government. But even if Newmont does escape formal punishment, the very fact that this powerful company has been held to account as far as this, is a positive outcome in itself. After this experience, Newmont and other mining multinationals may think twice about cutting costs and pay more attention to community concerns.◆

Undermining claims of corporate responsibility

Evidence of Newmont's actions in Indonesia clash with its claims of social responsibility. On Newmont's website, company policy states:

"Newmont's future is dependent on its ability to develop, operate and close mines consistent with our commitment to sustainable development, protection of human life, health, the environment, and to adding value to the communities in which we operate."

It also claims: "wherever appropriate and feasible, we set operating standards that exceed the requirements of local law".

The company explains this as follows:

"Newmont recognizes that laws differ greatly from country to country, and that the laws in some countries governing the environment, health and safety and similar issues are less rigorous than others. Because we believe that social expectations should be a key driver in the setting of standards, we endeavour wherever we can to set standards governing our operations that are the highest attainable even where they exceed what local laws require."

The fact that the company stands accused of breaching Indonesia law as well as using mining practices effectively banned in many northern countries, highlights the yawning gap between policy and practice. Comments by a senior company manager, exposed in the *New York Times*, also point to the realities behind Newmont's claims to apply US standards. A 2001 company memorandum by Lawrence Kurlander, then a senior vice president and chief administrative officer, said Newmont had "told the world" it upheld US environmental standards abroad, when in reality it failed to do this. He said the concern applied to operations in Peru and Uzbekistan as well as Indonesia.

This gap between policy and practice in the mining operations of Newmont, and many other companies, has severely undermined the credibility of 'corporate social responsibility' (CSR) - the voluntary commitment to and attainment of standards which are supposed to ensure a socially responsible way of working. The problem lies with the voluntary nature of the commitments: under the CSR system, if a company fails to abide by the environmental or human rights standards it has set itself, it faces no sanction other than bad press. Clearly, in Newmont's case this is not enough of a deterrent in itself.

The failure of CSR bolsters the campaign for a legally enforceable set of international standards to hold companies to account. NGOs pushing for legally enforceable 'corporate accountability' - as opposed to the weaker, self-regulated 'corporate responsibility' - argue that this would be more effective in bringing an end to environmental and human rights offences in the corporate world. Not surprisingly, the move has been strongly resisted by the companies themselves.

* * * * *

It remains to be seen whether the Indonesian government attempt to hold Newmont legally accountable for polluting the North Sulawesi environment will be successful.

For most companies, whose investments are welcomed with open arms by the governments of deeply indebted, cash-strapped countries like Indonesia, legal action remains a comfortably remote possibility. Lax enforcement of environmental regulations has been the norm in Indonesia and is associated with a long and often violent history of community protests over negative environmental and social impacts.

STD leak at Batu Hijau mine

Newmont's Minahasa Raya 2.1 million oz gold mine was a relatively small operation, producing 99,300 oz in its final full year of production, 2003. It generated tailings of of 2000 tonnes per day, which were disposed of into the sea. Newmont's Batu Hijau copper and gold mine, on Sumbawa Island in Nusa Tenggara Timur province, is a different story. Newmont boasts that the mine is "one of the lowest-cost and largest copper producers in the world" (Annual Report, 2004). The mine has reserves of 7.2 million oz and 6.3 billion pounds of copper. In 2004 Batu Hijau produced 719,000 oz of gold plus 718 million pounds of copper. The mine generates at least 110,000 tonnes of waste per day, which is piped into the sea - over 50 times as much as in Buyat Bay.

In August, Batu Hijau received a "green level" rating from the environment ministry, indicating that the company had successfully implemented pollution or environmental degradation control programmes as required by Indonesian law.

So when news came in of a leak in the STD waste pipeline on 11 September 2005, this undermined yet again Newmont's claims that STD is harmless.

According to a report by Indonesian mining advocacy network, JATAM, the leak was at a depth of 75 metres below sea level in Senunu Bay, causing thousands of tonnes of tailings to pollute waters at a shallower depth. JATAM says there has been a decrease in in local fisherfolk's catch as a result. The group said neither the company nor the authorities informed local people living around the bay about the incident or the risks to them. JATAM notes previous leaks in October and November 2000 and in January 2001.

JATAM criticised the government's decision to approve Batu Hijau's application to extend its STD permit, without any preliminary scientific evaluation and is calling on Jakarta to revoke Newmont's license to dump waste into the sea.

(Source: *New York Times* 22/Dec/04, 5/Aug/05, 27/Mar/05; *Jakarta Post* 23/Dec/04; *Dow Jones Newswires* 9/Aug/05; *Antara* 9/Aug/05; Newmont website http://www.newmont.com/en/social/policy/social/index.asp and other related pages including "Now and Beyond" reports 2003 (Minahasa Raya) and 2004 (Batu Hijau). For an in-depth report on Newmont globally, see Denver Post articles, December 12 & 13 2004 at http://www.denverpost.com/)◆

Call for new mining law to be delayed

Indonesian civil society organisations are calling on parliament to delay deliberations on the Mineral and Coal Mining Bill and to focus instead on passing a new umbrella law on natural resource management.

The mining bill, is designed to replace the 1967 mining law, which was passed during the early years of former President Suharto's rule and opened the door to foreign investors in the sector. The current contracts of work, signed by companies like Rio Tinto, Freeport, Newmont and Inco, are based on this 1967 law.

A coalition of five NGOs issued a detailed position paper in August arguing the case for prioritising a new natural resources law over the mining law. The paper points to 30 years of severe environmental impacts of mining and conflicts between companies and communities. The lack of coordination arising from the sectoral approach to natural resources, say the NGOs, has led to overlapping authority, unsustainable policies, conflicts of interest, destruction of natural resources, poverty and injustice.

The paper reminds parliamentarians that a decree issued by the nation's highest legislative body (TAP MPR IX/2001), issued four years ago on Agrarian Reform and Natural Resources Management, was aimed at addressing the problems arising from the sectoral approach. The decree instructed the president and parliament to withdraw, reform or replace all laws and implementing regulations which conflicted with the decree. Following this, a decision was made to draft a new law on natural resource management (RUU PSDA). (For more background see *DTE* 59:16 and 57:15 and 52:3).

The NGOs point to several crucial issues addressed in the draft natural resources law that affect the mining sector and a future mining law. These include adopting a decentralised 'bioregional', rather than sectoral, approach to natural resources management and applying policies which support sustainable development rather than just promoting economic growth. The bioregional approach means taking the linkages between land, coastal, marine and small island ecosystems into account, along with local communities and their cultures in a given area. Whereas the sectoral laws focus on production of commodities, RUU PSDA puts emphasis on the protection of natural resource assets, so that they can be used sustainably.

The draft natural resources law also has implications for the mining and other natural resource sectors, because it tries to settle the fundamental problem of rights over natural resources. It divides rights into three types: ownership, benefit and management. Significantly, ownership rights may derive from state or customary (*adat*) law and these may be individual or collective (collective rights being immutable). This, argue the NGOs, puts communities in a more important position in natural resource management. The draft law also specifically recognises the right of indigenous peoples over natural resources and provides for the principle of free, prior and informed consent (FPIC) - meaning that mining companies would need to forge agreements with communities who may be affected by their operations in advance of any mining activity.

RUU PSDA does not provide for the reorganisation of government departments or sectoral authorities, but attempts to provide an umbrella for sectoral integration by building on principles of sustainable natural resource management, developing standards for policy-making and establishing a coordination mechanism.

Under the draft law, a new ministerial post is set up to coordinate natural resource management at national level and area management boards are set up, comprising government representatives, plus experts, community representatives, NGOs and company representatives in a given bioregion. Amongst other tasks, each board is responsible for developing sustainable natural resources management strategy and coordinating an inventory of resources in the region. These, plus sub-regional management boards, come up with recommendations and strategies for natural resource management which must become the reference point to be followed by all sectoral agencies in their policy-making.

As of October 2005, the NGO efforts appeared to have had a positive impact. Reports said that environment minister Rachmat Witoelar told MPs in September that RUU PSDA would be submitted within 3 months (end of November/early December). The PSDA bill is now in the National Legislation Programme's priority list for 2006 and has the backing of some MPs who said they would agree to postponing deliberations on the mining bill.

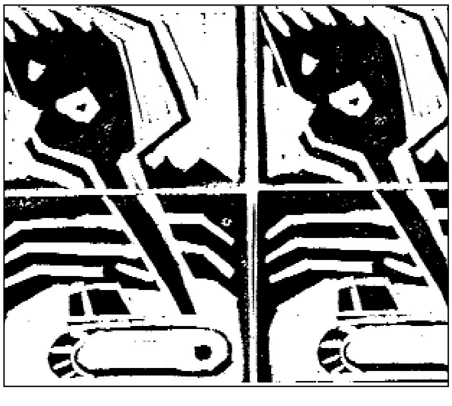
(Source *Tunda Pembahasan RUU Pertambangan Mineral dan Batubara dan MARI MENDORONG RUU PS*', position paper signed by ICEL, WGPSR, HuMa, Pokja PA-PSDA and JATAM, August 2005.)◆

Stop irresponsible gold mining - Berlin declaration

Civil society organisations from eleven countries have called on governments and mining companies to respect human rights and to stop ongoing violations, irresponsible mining practices and environmental destruction. The 2005 Berlin Declaration, dated 18 September, comes fives years after the Berlin Declaration on cyanide-based gold mining. The organisations, including Indonesia's mining advocacy network, JATAM, called on governments to establish, respect and enforce the right to free, prior and informed consent for all communities potentially affected by mining, including their right to reject a project. (*Berlin Declaration* 2005, 18/Sep/05)

Bribery allegations denied

Three Indonesian state-owned mining companies have denied a newspaper report implying that they were asked to pay Rp7 billion (USD 700,000) to ensure the passage of the new mineral and coal mining law. The report, in the Indonesian-language daily, *Suara Pembaruan*, said that PT Aneka Tambang, PT Tambang Batubara Bukit Asam and PT Timah had collected Rp3 billion for a parliamentary committee formed in June to deliberate the draft law, but also that they refused to pay to have the law passed because it would hamper their mining activities. The head of the parliamentary commission said all members denied requesting funds. (*Jakarta Post* 16/Sep/05)



Mass protests challenge Inco

This article, contributed by YL Franky of the Alliance of Indigenous Peoples of the Archipelago (AMAN), highlights ongoing protests against Inco, the Canadian-owned nickel mine at Sorowako, South Sulawesi.

Indigenous people affected by Inco's mining in Sorowako*, mineworkers, students and NGOs who have formed the Mine Victims' Solidarity Forum (FSMT), mounted a four-day occupation of the company's regional office in Makassar, South Sulawesi, from September 15 - 19th.

On 12 September, the FSMT had protested to the provincial assembly (DPRD) which resulted in DPRD members promising them a meeting with Inco on Thursday 15th. However, the assembly was unable to get Inco managers to come to this meeting. Hundreds of disappointed FSMT members went en masse to Inco's office and staged the occupation. Two FSMT members also went on hunger strike: Yuliana, a 70-year old woman who had been evicted from her land, and Yusran, a Makassar University student. On the fifth day, the occupation was ended when police forcibly ejected the protesters from the building.

FSMT is demanding that Inco respects people's rights by compensating the villagers of Petea and the indigenous Karonsi'e Dongi community for land appropriated by the company. The group is demanding houses for the Karonsi'e Dongi and recognition of their rights over a customary (*adat*) area belonging to the Karonsi'e Dongi, which they have reoccupied and are cultivating. FSMT is also demanding re-employment for workers who suffered forced redundancies.

Inco says the Petea land case should be settled by the local government and that the workers' claims should go through the legal channels. The company has said it will investigate and discuss the Karonsi'e Dongi land claims internally.

Mass action and open protests have been frequent since the 1980s. From January to September this year, there were seven demonstrations concerning workers, local employment, land compensation and demands for recognition of indigenous land rights. The most intensive action has been related to the land conflict between the Karonsi'e Dongi community and Inco and the government. Today, around 70 families are still occupying and cultivating land and building huts on Inco's golf course, which they claim as their customary land. (See page 6 for chronology.)

The widespread protests result from a sense of frustration with an unjust legal process, with law enforcement agents who are incapable of upholding the law and with informal mechanisms, including unequal dialogues, which fail to break the deadlock. Local people are faced with repression, terror and brutality as security forces and paid thugs are brought in. Policies and law enforcement are directed by investors, with the result that conflict cases are left to pile up and drag on for years.

The power of capital to intervene in the policy-making process was evident during the time of Megawati's government, which permitted mining in protected forests via Government Regulation in Lieu of a Law (*Perpu*) No 1 2004. This eventually became Law No 19, 2004. The government proved powerless against the mining companies, using uncertainty over business law and the threat of arbitration, as excuses to renege on its commitment to protecting forests.

Similarly, the Constitutional Court in its Judicial Review of Law 19/2004, proved itself incapable of amending policies in favour of communities by taking into consideration the impact on people of mining operations. The Court admitted that, objectively, it was true there would be negative impacts from mining operations, but chose to trust in the government's policy of protecting contracts with foreign mining investors. (Hendri Kuok in Opinion Column, *Kompas* 8/Aug/05. See also *DTE* 66:14, http://dte.gn.apc.org/66min.htm for more background on *Perpu* 1/2004 and Law 19/2004.)

The accumulated impact of legal uncertainty, poverty and brutal acts by the security forces has given rise to social unrest and distrust of the government. This could become a 'time bomb' which may explode at any time into social conflict and which will bring suffering and damage to all.

Continuing to break the law

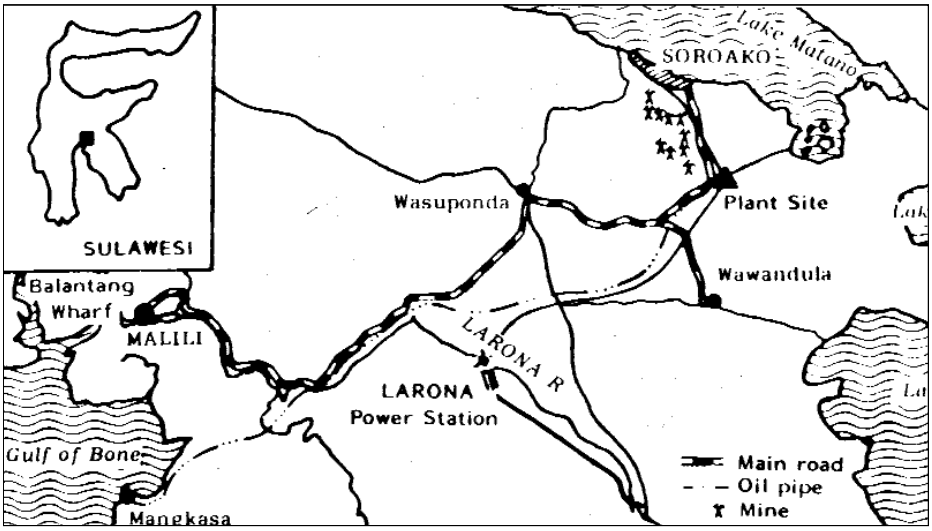
Inco is currently building the Karebbe hydro-electric dam to boost nickel production (see box). This 'showcase' project is clearly problematic as two important permits have not yet been secured: the principal land clearing licence from the Luwu Timur district government and a licence from central government to release protected forest land.

Local police are still investigating the company carrying out the work, PT Thiess Contractor Indonesia, who says it doesn't know anything about the licences. (See http://www.fajar.co.id/news.php?newsid=9328, 9/Aug/05.)

This has caused anger among local people since, clearly, PT Inco has violated legal procedures. People are concerned that the clearance will result in heavier flooding which will ruin their livelihoods.

Previously, the South Sulawesi provincial governor appealed to local people to guard against the threat of fatal flash floods resulting from uncontrolled deforestation. He expressed concern about forest destruction in Sorowako and Luwu Timur. If it were true that deforestation was so bad in Inco's concession, he said, the company would be given a reprimand and the government would urge Inco to restore the forest to its former condition. (TVRI report, 21/Nov/03).

There are suspicions that Inco has broken the law on other occasions too,



Map of mining installation and roads at Inco's Sorowako mine.
(Source: K.Robinson, Stepchildren of Progress, State University of New York Press, 1986)

* *'Soroako' is an alternative spelling.*

through its involvement in smuggling coal from Tanah Grogot in East Kalimantan. On November 10, 2004, the Luwu Utara police arrested a motor vessel, the Osanik Star, with a cargo of around 3,000 tonnes of coal with no official documents, in the district's coastal waters at Malili. The coal was worth Rp 1.3 billion - the unpaid taxes on this represent income now lost to the state.

Interim police investigations found that the vessel was bound for the port of Balantang and its cargo was said to have been ordered by PT Inco. The local police chief suspects that coal smuggling from Kalimantan to Malili to supply the nickel industry and other interests in Sorowako has been going on for a long time. Herson Mangonta, the captain of this vessel, told his investigators that he had entered Malili carrying undocumented coal ten times, and that all of the coal was ordered by Inco. (See http://www.fajar.co.id/news.php?newsid=1270, 10/Nov/04.

(WALHI Sulsel 2005)

Hunger-strikers, Inco office.

Inco in Indonesia

Canada-based multinational Inco is the world's second biggest nickel producer. Its operations around the world continue to draw criticism over environmental damage and human rights abuse claims.

Inco owns 61% of PT Inco Indonesia, which operates one of the largest laterite nickel mines in the world. It currently produces around 160 million pounds (about 72,500 tonnes) of nickel matte per year and is expected to continue production for around 20 years more. The new USD280 million hydro-dam on the Larona River at Karebbe will boost electricity production to 360 MW, and is part of the company's expansion plan to reach annual production capacity of 200 million pounds of nickel matte by 2009. The project was launched in October this year by president Susilo Bambang Yudhoyono. Inco will also spend more on 'community development projects' and build a 80km road between Soroako and Bahodopi in Central Sulawesi where it also holds concession rights.

In the three months to September this year, Inco Indonesia's net earnings were US$73.2 million on sales of nickel worth $219.4 million.

"Inco is known to be one of Canada's largest single source polluters of air and soil, threatening the health of communities…" according to Catherine Coumans of Miningwatch Canada, "and Inco is now increasingly exporting its bad environmental track record and controversy-ridden community and labour relations to places like Guatemala, Indonesia and Kanaky-New Caledonia".

Recent protests in Canada include a high-profile student action against the company's funding relationship with the Memorial University of Newfoundland, and the awarding of an honorary degree to Inco's chief executive officer, Scott Handin October.

(Source: www.inco.com, JATAM, Miningwatch Canada & Society for Corporate Environmental and Social Responsibility (CESR) press release, 28/Sep/05, CESR press release 20/Oct/05; *Jakarta Post* 25/Oct/05)

Inco protest actions

1980: When Inco built the Larona hydrodam, 95 families living by the side of Lake Matano asked Inco for compensation - the case was taken up in Ujung Pandang court. The families demanded compensation amounting to Rp750 million. The case was settled out of court, with Inco agreeing to pay compensation and relocate a mosque to higher ground.

1998: People demanded compensation for land when Inco built the Balambano hydrodam. Inco asked them to pursue their claims with the government which had been temporarily entrusted with the compensation funds. One local person, Mendi, had still not received anything from the government as late as 2001.

February 1999: Sorowako villagers demonstrated against Inco for making problems over compensation and for failing to fulfil promises, such as provision of education and health services, electricity and clean water. These promises had been made as early as 1969. The case has still not been settled.

October 2002: The Karonsi'e Dongi community occupied the Inco golf course, an area of ancestral community-owned land, which the company had taken without compensation. At various times the company responded with threatening letters, eviction, burning huts and arrests on the grounds that the people were using land within the company's concession.

28 January 2005: Around 250 Inco employees who had been put on the redundancy list, together with their families, organised a blockade of the road between Wasuponda and Nuha, from 6:00 am. They stopped all company vehicles carrying nickel from Sorowako to Malili, including trucks headed for the port of Balantang. As a result, dozens of company containers carrying nickel from Sorowako, were detained. Non company traffic was allowed to pass.

The demonstrators demanded that PT Inco directors withdraw the redundancy policy and protested against Inco's involvement of local police officers in enforcing the redundancies. (Source: http://www.fajar.co.id/news.php?newsid=2504, 28/Jan/05)

31 March 2005: Around 500 members of a Sorowako youth organisation (FKPAS) demonstrated against Inco. At 5:00 am they flooded into the company golf course as part of a march from Sorowako village to the Inco golf club grounds. The crowd demanded that the Inco management make public all forms of recruitment procedures, including for medical staff. They demanded that Inco prioritise locally-born people in all recruitment, including Inco's business partners who had various small businesses in Luwu Timur. (Source: http://www.fajar.co.id/news.php?newsid=4250 1/Apr/05)

21 July 2005: Hundreds of redundant Inco workers blockaded PT Inco's airport in Sorowako. The protesters urged Inco's directors to meet them and called for Inco staff responsible for the redundancy policy to be fired. They also expressed sympathy and support for the victims of the Petea evictions.

8 August 2005: Dozens of people from the National Front for Workers Struggle (FNPBI) labour union protested at the South Sulawesi provincial assembly office. They demanded that Inco immediately pay severance pay to 303 workers who had been made redundant. The FNPBI believes that the hundreds of redundancies are unjust, because these workers have not yet received any compensation in the form of severance pay, uang, long service awards, or transport costs. The costs owed by Inco amount to Rp 2 billion.

12 September 2005: Hundreds of people, including mining victims belonging to the Mining Community Solidarity Forum (FSMT) staged a protest at the South Sulawesi provincial assembly (DPRD) building. The protesters wanted local assembly members to mediate in a meeting between Inco's president director, the FSMT and victims of mining, in order to settle the cases of 250 redundant workers and the eviction of Karoni'e Dongi from their customary land. The DPRD said it would hold the meeting on September 15th. DPRD members said the government and the DPRD were in a difficult position, facing threats of arbitration by Inco.

(continued on page 9)

energy

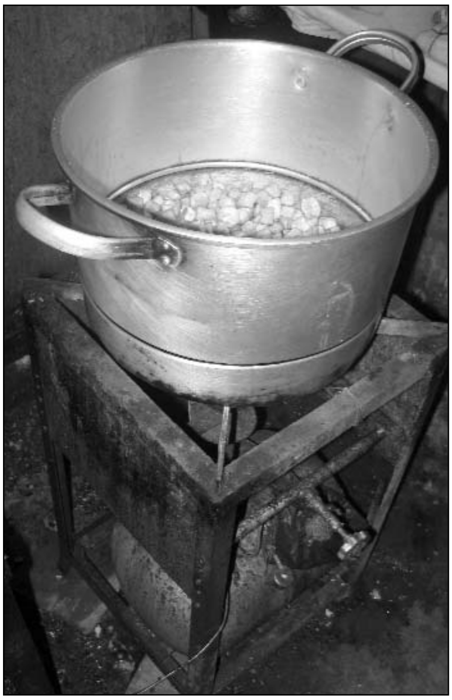
Energy policy ignores renewables

Indonesian NGOs are concerned that fuel price rises are increasing poverty, while long term energy plans are failing to encourage alternatives to fossil fuels.

Indonesian politics have been dominated throughout the fasting month of Ramadan by the government policy to reduce fuel subsidies. The move breaks a promise made by SBY that fuel price rises in March would be the last this year. It has sparked weeks of angry protests and is already causing hardship for ordinary people. Prices for fuel, including cooking kerosene and low-octane petrol, have risen by an average of 126%. This has been cited as the likely cause of an inflation rate of 17% in the year to October - a six-year record high. It is conservatively estimated that the number of Indonesians officially classed as living in poverty will rise a further 16% from the current 60 million people.[1]

Unfortunately, public anger has not been matched by government introspection or a review of long-term energy plans. Despite the steep hike in fuel prices and chronic traffic congestion in major cities, the national government does not acknowledge the need for initiatives to improve mass transportation, for example. Instead, minister of public works Djoko Kirmanto's plan, endorsed by the vice-president, calls for the building of six more toll roads in Jakarta, at a cost of US$2.25 billion. This is a move that will surely exacerbate both congestion and dependence on fossil-fuelled private vehicles. Meanwhile, city administration policies are patchy: for example, Jakarta's successful 'busway' project has yet to be expanded past the current single inner-city north-south route, while the relatively modest monorail project is still bogged down in legal squabbles. Since the ticket price to ride the monorail is likely to be expensive, and since motorcycles and bicycles are banned from toll roads, these 'solutions' are no help at all for the majority of the mega-city's workers and residents.

The critical stance taken by Indonesian environmental NGOs, such as JATAM and WALHI, towards the government's policy to raise fossil fuel costs has confused some foreign observers, since, elsewhere, environmental groups are calling for fossil fuel prices to reflect their environmental costs. However, the Indonesian NGOs' position is that the government's pricing policy is not based on environmental concerns, but rather aims to satisfy business interests and facilitate repayment of unjust debts. In the national energy debate currently underway in Indonesia, civil society is arguing that the president must fulfil his responsibility for ensuring supplies of energy that are convenient, cheap and clean.



Rising fuel costs: kerosene stove, Jakarta (DTE)

Liberalisation

The Oil and Gas Law (No 22/2001) aims for liberalisation of the oil and gas industry. In particular, it facilitates the entry of multinational oil companies through the dismantling of the monopoly held by state-owned integrated oil producer and retailer, Pertamina. Although the reason cited by the government for its policy to increase fuel prices was the unsupportable cost of continuing subsidies, another reason was to smooth the entry of private fuel retailers such as Shell, which has this month opened a retail outlet in outer Jakarta, and cannot be expected to compete with subsidised fuel.

World oil prices have leapt from US$25 a barrel in early 2005 to a current $65.

In liberalising the oil and gas industry in Indonesia, the state has relinquished control over a key issue of public concern, a daring move given the historical volatility of the Indonesian public mood when faced with scarcity or hikes in the cost of basics such as rice and fuel. The government hopes that liberalisation will increase domestic fuel provision through encouraging investment in exploration, production, refineries and the retail sector. It is foreseeable, however, that much of the nation's fossil fuel reserves will be exported because impoverished Indonesians and struggling local industries cannot afford the international prices which consumers in developed nations and booming industrial centres such as China can afford to pay. In fact, despite holding over 500 million cubic meters of gas reserves, over 70% of Indonesia's current production is pre-sold to foreign buyers, a trend set to increase as the Tangguh project, being developed by BP in West Papua, scrambles to pre-sell the project's production to US and Asian buyers.

Critique of Energy Blueprint

Before the fuel price drama gripped the nation, Indonesian government planners had completed a draft 'Blueprint for National Energy Management 2005-2025', which was due to be examined by parliament in the coming session. A similar instrument was also already in existence, namely the National Energy Policy 2003 - 2020. Unfortunately, both documents were put together without transparency and public participation, by the same ministry which handles mining, oil and gas.

Upon announcement of the 2005-2025 Blueprint, WALHI took the initiative and invited the government's Agency for the Assessment and Application of Technology (BPPT) to co-host a National Seminar on New and Renewable Energy in Jakarta on the 25th of October 2005, followed by a series of expert meetings to work towards an alternative position paper arguing for radical changes to the Blueprint.

The October seminar found that the Blueprint aims to achieve a paltry 2.4% of energy supplies from renewable sources by 2025. This figure guarantees Indonesia a roller-coaster ride of dependence on the price vagaries of a liberalised fossil fuel industry, with all the attendant environmental impacts. The figure of 2.4% from renewables compares unfavourably with common international targets of at least 20%. Hence experts involved in the Jakarta seminar are pushing for the Blueprint to be redrafted with the aim of achieving around 20% by 2025.

This figure is certainly achievable given Indonesia's generous endowment of potential renewable energy sources. Potential supplies of geothermal, solar, wind, micro hydro and biomass energy are estimated to total 160 gigawatts watts of electric capacity - more than 7 times the current national electrical generation capacity. For example, at the moment just 4,200 megawatts of hydroelectricity is being generated, which is less than 6% of the estimated 76,000 potential megawatts available in Indonesia.[2] Indonesia is well-endowed with geothermal potential: existing planning calls for Indonesian geothermal installed capacity of 9500 megawatts by 2025, compared to only 800 megawatts currently utilised.

The WALHI/BPPT seminar identified key obstacles to achieving a 20% renewable energy target, highlighting the need for government planning, policy and regulatory support for renewables. The proposals which arose were:

- A clear definition and identification of renewable energy and energy efficiency as keys to national energy security;
- A roadmap for developing renewable energy developed with all stakeholders - including private enterprise - supported by innovative financing incentives, with a goal of technological and financial independence;
- Transparent and consistent electricity price-setting processes (bearing in mind the monopoly held by state electricity purchaser and distributor, PLN);
- A short-to-medium term policy of incentives to spur implementation of alternatives to fossil fuels in transportation, industry and the home;
- Strengthening government institutional capacity and focus on renewables. The seminar participants recommended the immediate establishment of a National Committee on Renewable Energy and Energy Efficiency, to he headed by the President; to be followed by the establishment of a Ministry for Renewable Energy and Energy Efficiency.[3]

Finally, besides largely ignoring the environmental implications of different energy sources, the Blueprint does not acknowledge that different energy sources are viable and appropriate in different locations. Not all sources are conveniently located close to demand, for example 25% of hydroelectric potential is located in low-demand West Papua. Similarly, coal-fired power plants are most efficient when located on the doorstep of the coal mine. This is more true in Indonesia than elsewhere because top quality 'clean' coal is sold to overseas buyers, while the poor quality coal that remains for domestic consumption is high in ash and moisture content. This means significant energy and money are being wasted transporting low energy density coal from Kalimantan to Java.[4] In fact a key proposal to improve the Blueprint is to undertake more detailed and decentralised planning at the local and provincial level instead of setting across-the-board national targets.

Geothermal Energy - What are the environmental concerns?

Renewable energy sources bring some environmental concerns, as is well recognised with large-scale hydroelectric dams. These are not supported by most environmental organisations because of unacceptably severe environmental and social impacts. Since experts are excited about Indonesia's potential for renewable geothermal power, it is worth considering what conditions must be met for environmentally-friendly realisation of that potential.

Depending on the local geology, water from geothermally-heated underground reservoirs can contain dangerous levels of heavy metals and dissolved pollutant gases such as methane, hydrogen sulfide and ammonia; the hotter water means more power but also often more dissolved chemicals. The heat contained in waste water is also ecologically disruptive if released into surface waters. In order to prevent surface contamination, this water should be re-injected into its original reservoir, with the added benefit of maintaining reservoir pressure. The potential for contamination of groundwater above the reservoir should be dealt with through impermeable borehole casings as developed for the oil industry. Sludge and sinter can accumulate in the power plant, containing precipitated metals and sulfur which must be processed and put to use or safely disposed of.

Much of Indonesia's geothermal potential lies in environmentally or culturally sensitive areas including protected forests in mountain areas, so the area of land required for the power plant, access roads and power transmission lines must be taken into account and minimised. Power station operations must not interfere with water users living downstream - already a concern for communities living near a proposed geothermal power plant in Bali. The proposed site is Bedugul forest, full of rare indigenous plants. Three adjacent lakes linked to Dewi Danu Bratan (a Balinese goddess of agriculture) are of great scientific, economic and religious significance. WALHI Bali has voiced concerns about the project, which it says is proceeding without a full environmental impact assessment or the proper permits.[5] The Bedugul experience suggests that, while a geothermal power station is cleaner and certainly more greenhouse-friendly than a coal-fired power station, it should still be subject to a full environmental and social risk assessment and the approval of local communities.

Biofuels and palm oil: feeding cars or people?

Biofuels are often proposed as an environmentally-friendly alternative to fossil fuels, especially by Northern governments keen to meet their commitments to the Kyoto protocol on climate change. Now the palm oil industry is jumping onto this bandwagon. Palm oil can be used as a substitute for diesel to run vehicles and power plants. Power plants in the Netherlands are burning subsidised palm oil for electricity generation. The US agri-business conglomerate Cargill announced in October it is to build a US$30 million biodiesel plant in Germany with the capacity to produce 200,000 tonnes of fuel per year.

The Malaysian Palm Oil Producers Association is promoting this new 'need' for the expansion of oil palm plantations, including in Indonesia, on its current European lobbying tour. The Malaysian government has already given the green light to the development of biofuels. And now Indonesia is planning to establish the world's largest palm-oil plantation in Kalimantan, covering an area of 1.8 million hectares, along the border with Malaysia – with investments from Malaysia and China. In September, Indonesia's minister for research and technology announced that seven companies had been licensed to set up biodiesel plants. Some have their own plantations. "This industry is supported by 5 million hectares and adequate processing technology", said Kusmayanto Kadiman. He singled out Riau and Jambi as areas ready to start biodiesel production, as well as the Kalimantan border. Local governments are apparently waiving taxes for companies which want to open up palm oil plantations for energy production.

Biofuels are said to be carbon neutral, as burning wood, plant wastes, sugar oil or cellulose only returns to the atmosphere the carbon extracted during plant growth. However, there are serious issues about the impacts on land, forests and rural communities. Based on the history of the industry in Indonesia, a rush to expand oil palm plantations will cause more deforestation, damage local livelihoods, create monocultures and require more inputs of agro-chemicals.

See: International NGO sign-on letter to European Union parliament at http://forests.org/action/alert.asp?id=biofuel
Indonesian government biofuel statement http://www.bppt.go.id/berita/news2.php?id=754

The dangers of coal briquettes

On October 1st, 2005, the president sharply increased the official price of cooking kerosene by 185% from Rp700 per litre to Rp2000 per litre, with the street price settling in subsequent weeks at around Rp2300/l. Further increases are planned until kerosene reaches international market prices in January 2008.[6] The sudden increase in household cooking costs caused a massive public outcry so, less than a week later, coordinating minister for the economy Aburizal Bakrie outlined a government decision to spend Rp150 billion of the 2006 national budget to buy 10 million stoves for poor Indonesian households designed to burn coal briquettes priced at Rp1000 per kilogram.[7]

Ironically, the Indonesian Ministry for Women's Empowerment has been given the task of promoting the household use of coal briquettes, a plan which brings significant health risks for women who do most household work in Indonesia. The World Health Organization estimates that use of solid fuels indoors results in 1.6 million premature deaths each year, largely among women who do most cooking, and the children in their care, who are at increased risk of death by respiratory infection. To address this public health problem, the Partnership for Clean Indoor Air was launched at the World Summit on Sustainable Development in Johannesburg in 2002. The initiative involves the UN and several developing nation governments such as China and India. Unfortunately, despite hosting the WSSD preparatory conference, Indonesia is not involved in the Partnership.

Studies conducted in China have detailed the nature and causes of health risks to women and children of cooking with coal: polycyclic aromatic hydrocarbons formed during coal combustion are a cause of oesophageal and lung cancers, and other hydrocarbon combustion products increase rates of acute respiratory infections and chronic obstructive pulmonary diseases (such as bronchitis and emphysema). Adding to this risk, coal contains varying levels of sulfur, mercury, arsenic, selenium and fluoride contaminants. The U.S. Geological Survey and the Institute of Geochemistry, Guizhou have estimated that at least 3,000 people in Guizhou Province in southwest China are suffering from chronic arsenic poisoning ,apparently from consuming food prepared over fires fuelled with coal.

The coal to be used in the government-sponsored coal briquette program comes from PT Batu Bara Bukit Asam and PT Kaltim Prima Coal. Since a controversial government-forced sale in 2003, Kaltim Prima Coal is owned by PT Bumi Resources, of which the Bakrie family (led by Coordinating Minister for the Economy Aburizal Bakrie) hold 43% shares. The Bakrie family therefore reportedly controls 40% of the national coal industry,[8] a conflict of interest which does not seem to prevent Minister Bakrie from promoting a switch from liquid fuels to coal, nor from publicly speaking out against his cabinet colleague, Minister of Finance Jusuf Anwar's decision to levy a 5% tax on coal exports.

Neither Bukit Asam nor Kaltim Prima make information available on the (naturally varying) toxic contaminants in their coal, other than to say that their coal is low in sulfur. Officials researching and promoting stoves at the BPPT (Agency for the Assessment and Application of Technology) acknowledge there are health issues inherent in using coal indoors, and recommend that the briquette-fuelled stoves be kept outside for 15 minutes after lighting, and, when brought inside, be used only in a well-ventilated kitchen. In response to health concerns, BPPT has also recently begun work on a certification scheme for coal briquettes,[9] although this will only cover sulfur and carbon monoxide emissions. BPPT staff acknowledge this leaves out key pollutants of concern including mercury, arsenic, and polycyclic aromatic hydrocarbons.[10]

Sources:
1. *Alat Mutilasi Negara: Setahun kebijakan SBY-JK pada sektor Tambang dan Energi* (WALHI media release, 20.Oct/05).
2. Yogo Pratomo, Dirjen LPESDM, speaking at the *National Seminar on New and Renewable Energy*, Hotel Sofyan Jakarta, 25/Aug/05.
3. A useful model is India's Ministry of Non-Conventional Energy Sources.
4. Pak Sidik Budoyo of BPPT (Agency for the Assessment and Application of Technology) speaking at the *National Seminar on New and Renewable Energy*, Hotel Sofyan Jakarta, 25/Aug/05.
5. 'Bedugul geothermal project raises controversy', I Wayan Ananta Wijaya, *Jakarta Post* 11/Aug/05.
6. 'Harga Minyak Tanah Naik 185 Persen', *Kompas*, 01/Oct/05.
7. 'Disiapkan 10 Juta Tungku Briket Batu Bara', *Kompas*, 07/Oct/05.
8. 'Sesama Menteri Kok Saling Nyalip!', Wim Asmowiroto, *Rakyat Merdeka*, 30/Oct/05.
9. ''Briket Perlu Standar Untuk Menjaga Kesehatan, *Media Indonesia*, 20/Oct/05.
10. Interview with BPPT experts, 27 October 2005.◆

(continued from page 6)

15-19 September 2005: Occupation of Inco's regional office and hunger strike (see main text). During this action, Inco, represented by Edi Suhardi (regional external relations director), Idham Kurniawan (government relations coordinator) and H. Latief, plus the West Makassar local police chief met with community representatives. The meeting ended without result as Inco was unable to meet the people's requests. PT Inco believed the Petea land case should be settled by a local government team from Luwu Timur. The company said the Karonsi'e Dongi land claims would be investigated and discussed internally. As far as the workers' claims were concerned, the company would fulfil all its legal responsibilities.

28 September 2005: Hundreds of FSMT members blockade the Inco mine again. Press reports said police fired warning shorts to disperse the protesters (AP 29/Sep/05).

Inco in Bungku

24 September 2004: Village heads and village councils (BPD) from Bungku Tengah and Bahudopi subdistricts, the subdistrict head and mining officials from Morowali subdistrict, held a meeting at Inco's office in Dampala village to hear about Inco's exploration plans for 2005 in the Bungku and Bahudopi areas, Central Sulawesi.

The residents of Onepute Jaya and Lele villages were disappointed with the meeting as there was no discussion of the problems they face and their demands for compensation which have not been answered by local government or Inco.

On April 29 2005, Onepute Jaya villagers held a protest at Inco's office in Lele village, Bungku Tengah subdistrict, over the company's exploration activities in March and April on 500 hectares of land owned by Onepute Jaya villagers, without their consultation or agreement.

(For more background on Bungku and Onepute Jaya see DTE's 1999 report Inco in Indonesia, at http://dte.gn.apc.org.Cinc3.htm.)◆

Chip mill will put more pressure on South Kalimantan forests and livelihoods

Construction work has started at a wood chip mill on Laut Island, South Kalimantan. It is part of a planned development of the pulp and paper industry in the province which threatens to destroy forests and impoverish local communities.

The new chip mill, which will have the capacity to produce 700,000 tonnes of wood chips, is being built by PT Mangium Anugrah Lestari (PT MAL) on Pulau Laut - a large island off the southeast coast of South Kalimantan province. PT MAL is a subsidiary of Singapore-based United Fiber Systems (UFS). UFS is the international firm heading the development of the province's first pulp mill - a project which has been vigorously opposed by local and national NGOs for the past three years.

UFS has been trying to get a 600,000 tonne pulp project off the ground on the mainland of South Kalimantan since it officially received the go-ahead in 2003. The pulp plant at Sungai Cuka village, in Satui sub-district, has been delayed due to problems financing the project and legal difficulties. Initially, the Pulau Laut chip mill project was expected to generate funding for the Satui pulp plant development and to supply it with its main raw material in future. Now that UFS has taken over production at the Kiani Kertas pulp plant in East Kalimantan, the game plan seems to have changed.

South Kalimantan's forests and the communities dependent on forest resources are expected to suffer the impacts of these developments. The mills are more than likely to source wood supplies from natural forests - directly or indirectly - since supplies from existing plantations cannot meet this new demand. Areas of remaining forest will be cleared to establish more fastwood plantations. This will contribute further to Indonesia's forest crisis. Yet, at the national level, Indonesia is supposed to be reducing the over-capacity of its wood-processing industries.

Supply gap

Both the pulp mill and wood chip mill intend using timber from state-owned forestry company plantations (Inhutani II and III) in addition to UFS' plantation concession, managed by PT Hutan Rindang Banua (PT HRB)[1]. According to UFS, the Satui pulp mill will be unique in Indonesia as it will only use plantation timber right from the start. However, calculations in a recent CIFOR report show that UFS cannot obtain sufficient raw material from its own subsidiary.

In theory, an area of 160,000ha of

Pulau Laut: local fisheries under threat? (DTE,2005)

well-managed plantation could meet the pulp mill's needs of nearly 3 million cubic metres of timber per year in a sustainable 8-year cycle. HRB officially has a 268,585ha HTI concession. UFS claims that 86,000ha was planted with acacia between 1994 and 1999, but the area and quality of these plantations is in doubt. Fires may have destroyed more than half of the trees planted in some places. Drought and poor plantation management have affected yields too. Less than 15,000ha consists of plantation in good condition, according to local NGO WALHI Kalsel.

The HRB concession is spread between five locations. Nearly 40% cannot be planted with pulpwood. The total area also includes some settlements. There are also overlapping land use permits, mainly for oil palm plantations and coal mining by PT Arutmin. Nine oil palm plantation permits, mostly belonging to the Minamas Group, overlap with HRB's plantation and, once the acacia has been harvested, the land will be taken over for oil palm and not replanted with pulpwood.

The plantation area has been further reduced because local communities have reclaimed land which they had previously allowed HRB to use. At Sebamban village, the village head has allocated land to the community and allowed his people (Balinese transmigrants) to cut down acacia trees to build their houses.

Extensive areas have been over-logged and, since major forest fires swept through Kalimantan in 1997-8, some areas are now coarse grassland (*alang-alang*). Nevertheless, 73,000ha of HRB's concession is still covered with natural forest. Over half this forest is at risk of destruction. The Finnish forestry consultancy, Jaakko Pöyry, advised UFS in 2004 that 44,000ha of 'waste forest' is suitable for conversion. Furthermore, there are rumours that UFS does not currently have the funds to replant and maintain the HRB plantation. There are other plantations in the vicinity of the proposed Satui pulp plant, but these currently have other buyers - including pulp plants in Riau - and UFS has, as yet, no contract with them. In other words, there is no guarantee of sustainable plantations for the pulp plant.

Converting forests to wood chips

The wood chip plant should start production in early 2006. It is expected to chip acacia logs harvested from HRB's mature plantation areas on the mainland, Inhutani II plantations on Pulau Laut, and sites managed by small-holders and other companies in the area. UFS will probably use these chips in the newly acquired Kiani Kertas pulp plant in the northern part of neighbouring East Kalimantan. Any surplus can be sold to other pulp producers, within Indonesia or for export, at least until the Satui pulp mill is built.

A spokesman for HRB acknowledged that there are problems, but insisted that HRB was capable of supplying the

UFS projects in Indonesia

Relevant UFS companies	Activity	Location	Area/capacity
PT Hutan Rindang Banua (PT HRB) (previously known as Menara Hutan Buana)	Industrial timber estate management	Five blocks at Riam Kiwa, Satui, Kintap, Teluk Kapayan and Pamukan in the southeast part of the South Kalimantan mainland	Officially 268,000 hectares
PT Marga Buana Bumi Mulia (PT MBBM)	Development and operation of new pulp mill (US$863 million) to start in 2007	Sungai Cuka, Satui, Tanah Bambu district, South Kalimantan	600,000 tonne pulp/year (possibly increasing to 1.2 m t)
PT Marga Anugerah Lestari (PT MAL)	Development and operation of woodchip mill (US$38 million) to start in early 2006	Alle-Alle, south part of Laut island, South Kalimantan	700,000 tonne wood chip/year
PT Kiani Kertas (negotiations for purchase in progress)	Pulp mill (set up in Nov 1999 by Bob Hasan; UFS takeover July 2005)	Malinau district, north part of East Kalimantan	525,000 tonne hardwood kraft pulp/year

chip mill, with additional supplies from Inhutani II and III. Even so, the chip mill may well operate at the expense of natural forests and local NGOs still doubt that it will be supplied from legal sources of timber. There is one productive pulpwood plantation managed by Inhutani II on Pulau Laut - fairly near the proposed wood chip plant site. But both Inhutani II and III are currently supplying timber to Kiani Kertas. Moreover, Inhutani III is not, at present, replanting its plantation concession after felling.

Unlike the planned South Kalimantan pulp mill which is designed only to handle acacia trees, the wood chip plant can process any sort of timber - including mixed tropical hardwood from destructive or illegal sources. However, a new Jaakko Pöyry report, commissioned by an Austrian bank backing the project (see below), now claims that UFS will not use any natural forest wood in the chip plant. Indeed, UFS apparently aims to have its plantations FSC-certified. The report, nevertheless, admits that "the creation of a local market for *Acacia mangium* chip logs could potentially encourage interested parties outside the concessions, illegally or otherwise, to establish plantations." It goes on to point out that there are some 40,000 ha of natural lowland forest on the northern part of Pulau Laut that could be converted to plantations. Once the commercially valuable wood has been extracted, the rest can be clear felled and shipped along the coast to Kiani Kertas to be turned into pulp.

This plant was part of the timber empire of Bob Hasan, the now-disgraced forestry tycoon, government minister and Suharto crony, jailed for corruption. In recent months the plant has been taken over by UFS, meaning that its growing portfolio of subsidiaries will be competing with each other for scarce plantation pulpwood supplies.

Pulau Laut villagers get one-sided view

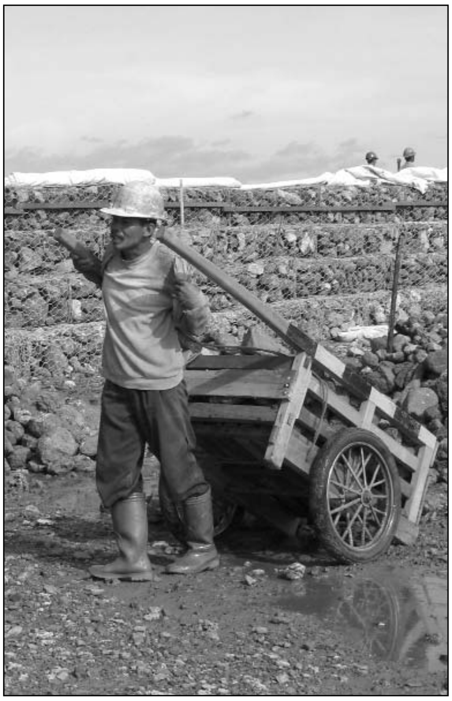
Construction of the chip mill at the village of Alle-Alle, Pulau Laut had started by early August 2005 with land clearance. The governor of South Kalimantan laid the first stone for the US$45 million plant in early September. The plant will be built and operated by UFS subsidiary PT MAL.

Compared with the devastating effects that a chip mill can have on natural forests, the 'footprint' of the plant is relatively small. Some land is required for the factory and yards for incoming timber and outgoing wood chips. As the site is on the coast, and materials will be shipped in and out, few access roads are needed, but new harbour facilities will be constructed. The chip mill, lifting equipment and vehicles will generate noise and dust day and night and it will also produce mountains of sawdust as a waste product. So the lives of the local community will change forever.

DTE's research has found that local people who may be affected by the mill's operations have not been sufficiently informed about potential negative impacts of the mill or the facilities associated with it. PT MAL's information campaign, in 2003, was limited to local government officials and landowners affected by the project, not the wider community. The company claims the plant will employ at least 2-3,000 people in an area where some 7,000 people are unemployed, but this seems unrealistic. PT MAL told local people that waste (sawdust) from the mill was not dangerous and could in fact be used to generate electricity. Alle-Alle and Tanjung Seloka villagers who only have electricity from 18:00 to 6:00 welcomed this. Company representatives also said there would be no noise pollution.

The land acquisition process did not come close to upholding the principle of free, prior and informed consent. The company acquired all the land it needs (84ha) from 173 people. However some villagers are dissatisfied with the compensation they received (Rp5,500 per square metre) which is relatively low compared with open market rates of 40,000 - 100,000/m^2.

Despite disappointment over the low compensation levels, the villagers regard the project as a source of jobs and improvements to the village's facilities. Their hopes include road repairs, less unemployment, development of telephone



A labourer collects rocks for jetty construction, Pulau Laut (DTE 2005) and mobile phone communications and revitalisation of the defunct village cooperative to sell farm produce.

The company has failed to point out any negative impacts linked to the construction of a 100m dock to import timber and export wood chips. The water off Pulau Laut is deep and ships with a dead weight of 30,000 metric tonnes will be able to use the harbour, according to the local newspaper, *Banjarmasin Post*. Since the majority of local people are of Mandar and Bugis origin, whose livelihoods rely on small-scale fishing, it would not be unreasonable to expect that the company should discuss the likely effects before beginning construction.

An environmental impact assessment for the dock completed in May 2005, which has been viewed by DTE, points to six potential areas of concern about the development's environmental aspects. These cover impacts on water quality, the amount and variety of aquatic life in the surrounding area, community health, air quality, soil quality, erosion and sedimentation levels and coastal abrasion.

International backing

There is major international investment backing the pulp and chip mill projects. European companies are planning to supply equipment and expertise as well as arrange financing.

UFS, though based in Singapore, has been owned by Finnish, Swedish and Indonesian investors since 2002[2], when they took over the pulp mill and plantation companies from Chinese construction company Poh Lian. Originally, the projects were owned by Probosutedjo, former president Suharto's brother-in-law.

It was during Probosutedjo's time that PT MHB got into trouble with the authorities for failing to pay around US$10 million in government reforestation fund loans - a sticking point that persists in negotiations over licences between Indonesia's forestry department and the current owners.

In 2003, environmental campaigners secured the withdrawal from the pulp project of Akzo Nobel, a Dutch subsidiary of the Swedish chemical company, Eka. The company had signed up to build a plant to produce bleaching agents for the plant and its investment represented around 8% of the total pulp investment cost.

According to a 2005 report by CIFOR, a major Austrian bank, Raiffeisen Zentralbank Oesterreich, has arranged 53% of the financing for the chip mill construction (US$21 million). 80% of the finance secured so far for the pulp mill (US$693 million) is coming from CMEC, China. It also said that Andritz (Austria) will supply most of the machinery for the chip and pulp mill, with an overall order worth about US$300 million.

The development of the pulp and paper industry in South Kalimantan also has strong support from the local government. This dates back to a visit by the former South Kalimantan governor, Sjachriel Darham, to World Expo 2000 in Hannover, Germany.

Austrian protest

Austrian environmentalists protested against the involvement of Austrian bank Raffeisen in the South Kalimantan project in early October. For a German language report of the demonstration and pictures see http://www.global2000.at/index3.htm.

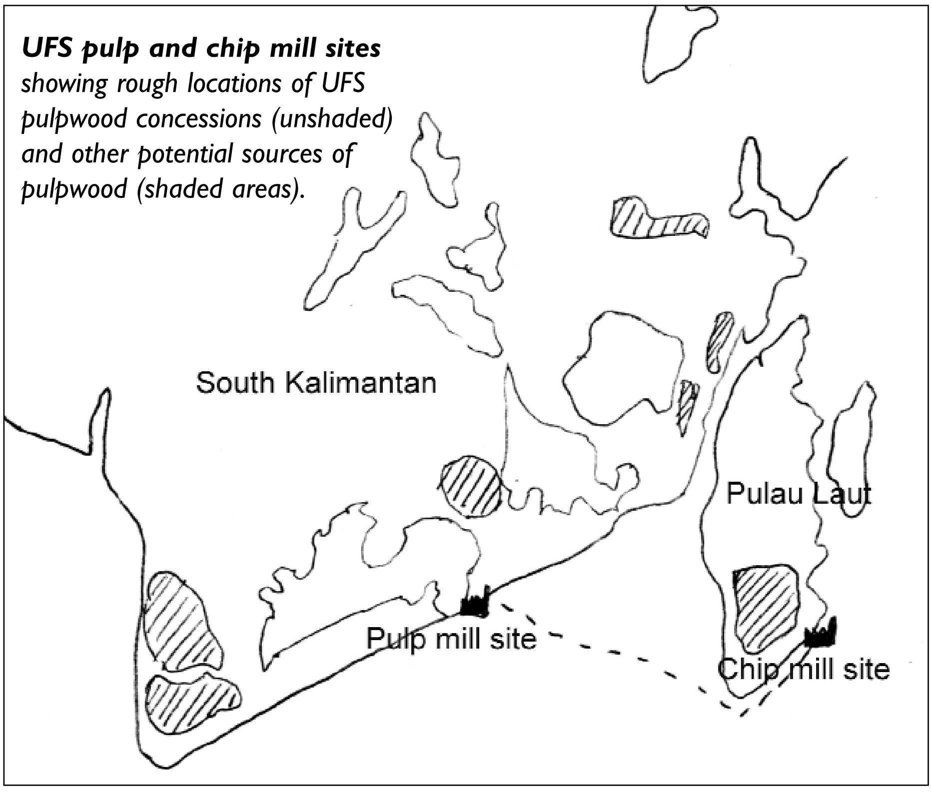
A report by Austria's Friends of the Earth (Global 2000) on Austrian involvement in the UFS pulp project is available in German at http://www.global2000.at/download/file2825.pdf. An English version will be available shortly. Contact andreas.baur@global2000.at for more information.

1. PT MBBM's EIA includes a fourth company as a timber supplier: PT Kirana Katulistiwa

2. For more information on the Scandinavian interests in UFS see *DTE* 56:3.

(Source: DTE field research notes; various documents by and communications with local NGOs Rindang Buana, WALHI Kalsel and LPMA; *Review of wood supply for proposed South Kalimantan pulp mill,* Jaakko Pöyry, Nov 2004; *Environmental Issues, Wood Chip Mill*, Jaakko Pöyry, Oct 2005; *Brief on the planned UFS pulp mill project for South Kalimantan*, Jurgens et all, CIFOR 2005; Friends of the Earth Austria/Global 2000; *Amdal tentang Pelabuhan Khusus Wood Chip di desa Alle-Alle*, Kab Kotabaru; *Banjarmasin Post* 9/Sep/05; ST 17/Oct/05; *Tidak Ada Chip Mill Tanpa Kayu,* DTE, forthcoming; Operational Management Agreement with PT Kiani Kertas, 28/Sep/05)◆

UFS pulp and chip mill sites
showing rough locations of UFS pulpwood concessions (unshaded) and other potential sources of pulpwood (shaded areas).



(continued from page 14)

passed a resolution in October criticising the European Commission and Member States for their lack of action on illegal logging and controls on the import of illegal timber into the EU. The Parliament called on the Commission to go beyond the voluntary regime proposed and put forward legislation to criminalise the import of illegal wood and promote sustainable forest management world-wide.

The Parliament also stated that partnership agreements with countries which produce timber, including Indonesia, should enhance forest protection and address social injustice and poverty. It called for civil society and democratically-elected citizens to be involved in the negotiations, which should set an action programme with clear deadlines to review the partner country's forest laws and improve their social or environmental provisions. (Greenpeace press release 25/Oct/05)

The original legality principles can be found at http://www.illegal-logging.info/papers/Z%20Introduction%20and%20Principles.htm; http://www.dephut.go.id/informasi/ph/bpk/UK-Ind/prinsip.htm. ◆

forests

Legal or sustainable?

As part of the international campaign to crack down on illegal logging, stop forest destruction and eliminate timber smuggling, the Indonesian government has been pressed to agree a definition of what is and isn't 'legal' in Indonesia's forests. Civil society organisations have lobbied hard to ensure better protection for indigenous communities, whose rights have been largely ignored in the rush to extract maximum profits from the forests.

Last year DTE reported on a legality standard drafted as part of the follow-up to a 2002 Memorandum of Understanding (MoU) to combat illegal logging and the illegal timber trade signed by the Indonesian and UK governments - see *DTE* 62:3. One year on, negotiations still continue.

The context of Indonesia's legality standard has changed since the European Commission adopted an Action Plan on Forest Law Enforcement, Governance and Trade (FLEGT) in May 2003. This was a response to estimates that around half all imports of tropical timber into the European Union are from illegal sources. The FLEGT Action Plan starts from the premise that moves against illegal logging require co-operation between timber exporting and importing countries. Central to this plan are bilateral treaties called Voluntary Partnership Agreements (VPAs). Under a licencing scheme, customs officers in European countries will be able to confiscate any unlicenced timber entering the EU from a partner country. European ministers backed the policy by passing two regulations in October 2005. The first VPAs will probably be between the EU and Indonesia, Congo and Ghana.

The Indonesian government and the EU have shown a fair amount of interest in this partnership on illegal logging. The European Commission is funding a FLEGT Indonesia Support Project designed to help Indonesia draw up a VPA. This is expected to start in January 2006 but, so far, there is little evidence of understanding or co-ordination between government departments. Indonesian CSOs are rather further ahead. Since June 2004, a series of workshops has been organised by Indonesian forest NGO Telapak, to exchange information about FLEGT developments, discuss relevant issues and decide on a joint position to present to decision-makers in Jakarta and Bruxelles. This Forum met again from 22-23 August to review their activities and prepare for a FLEGT Consultation in Bruxelles in September. The meeting was also attended by representatives of the forestry and foreign affairs departments, the EU delegation and communities.

Threat or opportunity?

Indonesian CSOs are divided as to whether these international initiatives on illegal logging are a threat or an opportunity for Indonesian forests and the communities who depend on them. Some are frustrated that so much time, energy and funding is spent addressing the 'illegal logging' issue primarily to meet the needs of international timber traders and consumers when these resources could have been directed at tackling destructive logging and the conflicts between the government, logging and plantation companies and local communities - especially over customary forests. Others consider that current approaches could end up legalising destructive forestry policies and practices. They also point to the repressive operations initiated in the name of forest law enforcement, including Operasi Hutan Lestari II which took place in West Papua earlier this year (see *DTE* 65:13). And even if Indonesia signs a VPA, furniture made from illegally harvested Indonesian timber could still enter the EU via China or Vietnam.

On the other hand, some forest activists see the international 'illegal logging' debate as an opportunity to push for much needed change on contentious issues such as land rights and tenure, corruption and forest law reform. For example, Indonesian representatives at the Bruxelles meeting in September demanded that "All VPA agreements must guarantee that all forest management units obtain free prior informed consent from communities and also improve the livelihoods of local and indigenous peoples".

The definition of legality and the process by which it is agreed are crucial, but highly sensitive issues and Indonesian civil society, the government and logging companies are engaged in a protracted, complex series of inter-related negotiations. The final Legality Standard should specify all the legal requirements relating to the origin, production, transportation, processing and trade of timber - areas covered by some 900 Indonesian laws, regulations and decrees that cover these areas. Yet legal timber is not the same as sustainable forest management.

The MoU team of staff from DFID and the forestry department set up regional and national consultations in 2003. The various stakeholders identified the major 'principles of legality', which were drafted into the outline of a legality standard. Several individuals and organisations have since contributed further to the Standard to develop auditable criteria and indicators from the initial principles, and to produce guidance notes for auditors. Some of the associated work was contracted to the US-based conservation NGO TNC.

By May, it looked as if real progress was being made. The forestry department had more or less agreed to the draft legality standard which had been over two years in the making. The standard had been tested in the field and TNC and the Indonesia-UK MoU team had organised workshops in Samarinda and Bogor on the results. The consultations, entitled '*Field Testing of Legality Verification and Chain of Custody Systems*' were meant to update participants on field tests, to get inputs from the stakeholders and to move towards a

1. This is the process by which forest areas are classified, their boundaries surveyed and agreed by interdepartmental teams and then officially registered as State Forests (see M. Colchester in *WRM Bulletin* 98, September 2005)

common understanding of the legality standard. At this point some serious problems became apparent. The workshop revealed that Principle 1 of the standard (the gazettement[1] issue) and Principle 3 (free, prior and informed consent/community rights) were difficult to test in the field for technical and administrative reasons. Also, a local NGO that had monitored the field test claimed that the whole procedure was flawed (see box). Moreover, it became clear that there was still a wide range of views about what the legality standard was and what it should be doing.

In fact several legality standards were being developed separately. In addition to the Indonesia-UK MoU initiative, other legality standards were under development by the TFF (Tropical Forest Foundation) and BRIK (Indonesia's Forest Industry Revitalisation Agency. (See *DTE* 60:13.) Obviously this situation had to be addressed: Indonesian timber could not be sold internationally with three different definitions of legality. It was therefore decided that these different standards should be 'harmonised'.

The Indonesian Ecolabelling Institute (LEI) was entrusted with this task and has adopted the approach of comparing the principles, criteria and indicators of the various schemes on the basis of attainability, credibility, ability to respond to social problems and links to sustainability. Several consultations and workshops have been held. Solving a problem by discussion until a consensus is reached is a part of Indonesia's culture (*musyarawah*), yet there are real doubts about using this process to define the legality standard for Indonesian timber exports. There is talk of a 'reformulation of principles'. The Indonesian government is under considerable political pressure from a struggling timber industry. They would like a crude tool which is quick and simple to use in the field.The result could be a dilution of criteria which favour indigenous peoples' rights.

Whatever the outcome, the whole process of creating a legality standard has brought the Indonesian government and forestry industry to sit at the same table with Indonesian civil society groups in a way which was unknown five years ago. The discussions are intense as activists strive to avoid a narrow definition of legality and to ensure that a wide range of groups can participate in the process. They also want to open up debate on land rights. Some gains have been made - for example on the closely-related and highly contentious issues of gazettement, free, prior and informed consent (FPIC) and forest conversion.

Gazettement is a major headache for the government and timber companies. Although required by law, only 15% of forests classified as state forest land, including protection forests and national parks, have actually been gazetted as such. This means that there are no formally agreed boundaries with local communities - hence the large number of conflicts and cases of violations of human and customary rights. It also means most of Indonesia's timber operations would fail to qualify as legal. Companies complained that they would be penalised because of the government's poor performance in processing and measuring production forest land. Now it has been agreed that companies in the process of gazettement should also be eligible for monitoring and evaluation for legality purposes. How local communities are involved in the gazettement process will also be part of evaluating whether or not a company meets the standard.

Illegal logging, South Sumatra *(DTE)*

Progress has also been made towards government acceptance of the principle of free, prior and informed consent. In the past, forestry department officials have always said there was little basis for this in Indonesian law and there was not even an Indonesian expression for this term. However, activists have used the meetings to show how the right to obtain information, the right to participate in development and to make proposals, inputs and raise objections are included in existing laws. As a result, the principle of prior consent (as contained in a new bill on genetic resources) has been extended and the phrase 'Agreement Based on Prior Information Without Force' - better known by its Indonesian acronym PADIATAPA - is to be part of the legality definition.

Some compromises have been made along the way. Everyone is well aware that the policy of issuing permits to clear over-logged forestry concessions in order to grow pulpwood or other cash crops is not compatible with sustainable forest management. Yet if the timber from land clearance is not included in the legality standard, entrepreneurs will use wood utilisation permits (IPK) as means of obtaining wood easily, cheaply and with little responsibility. The government successfully argued that IPK should be covered by the legality standard so that they could be subject to restrictions. But the forum insisted that IPK holders must have a government-approved work plan and the timber procured under the IPK must be traceable back to the forest block where it was felled.

There is still a long way to go. Voluntary partnership agreements depend on independent verification - a concept which is not yet accepted by the Indonesian government.

It is not only in Indonesia that progress is slow. The European Parliament

(continued on page 12)

The Sumalindo Field Study

The field-testing of the legality standard, by the US-based conservation organisation, The Nature Conservancy (TNC), in the East Kalimantan timber concession of Sumalindo Lestari Jaya II was carried out in early 2005, with legal verification carried out by certifiers SGS/URS.

An independent assessment of the social aspects of the pilot verification was due to be carried out by Marcus Colchester, director of the UK-based NGO, Forest Peoples Programme in July 2004. However, the company insisted that the verification process was delayed and, as a result, no independent monitoring took place.

In July 2005, a member of an East Kalimantan forest activist group, Pokja Hutan, visited the UK and raised concerns over the legality standard field-test at the biannual meeting on illegal logging initiatives held at the Royal Institute of International Affairs. Yoga Sofyar said that the team had spent only five days in the field and had not consulted fully with local communities. (A TNC spokesman denied this.) He also took up this issue with the UK's Department for International Development, which is funding the legality standard initiative. He pressed DFID officials to take active steps to ensure that community rights are addressed in further trials and in the development of the legality standard. Not to do so violates DFID's mandate to prioritise poverty reduction, sustainable livelihoods and a rights-based approach to development. In addition, Sofyar urged DFID to ensure that consultations over the legality standard were inclusive and transparent, citing examples where critical CSOs had been excluded from important meetings.

Pokja Hutan had carried out its own research in the area and found evidence of social conflict and the illegal 'laundering' of timber from outside sources as if it had come from Sumalindo's own concession. Yet, surprisingly, the company's operations had been assessed and were close to receiving FSC certification. This sets a bad precedent for the many Indonesian logging companies nervously watching the legality verification process.

Forest fires

"There is no such thing as a spontaneous forest fire in Indonesia", forestry minister Kaban pronounced, as smoke from forest fires in Sumatra once again caused serious air pollution in Malaysia and Singapore from July to September.

The minister stated publicly that the fires are due to competing claims over 'unproductive' forest areas. There are some 17 million ha of forest land in Indonesia which has been over-logged or zoned for conversion, according to officials. The situation is made worse, says Kaban, by the new administrative regions that are particularly keen to promote plantation development because of the potential for revenues.

Fire-ravaged land in West Kalimantan *(DTE)*

Some evidence for the forestry minister's views comes from studies into the causes of fires in eight sites in southern Sumatra and East and West Kalimantan. Forest researchers carried out in-depth analyses of the use of fire in each location using satellite images, hot spot data and interviews with companies, villagers and government officials. They discovered a number of different reasons. Both large plantation companies and small farmers used fire for land clearance and to destroy each other's crops in tenure disputes. Companies cleared land for oil palm plantations and timber estates whereas local farmers cleared it mostly for annual crops, coffee or rubber. Many fires accidentally got out of control.

This year the worst month was August. There were 3,258 'hot spots' recorded by NOAA satellites in the province of Riau in August, each one representing a fire. However, as early as February, the Riau authorities considered closing down schools when serious forest fires affected 10,000 hectares of peat forest and visibility in the provincial capital of Pekanbaru was down to 300m.

Plantation companies and timber estates blamed

Once again, forests on the border between Riau and North Sumatra were badly affected. Rokan Hilir district had the highest number of hot spots throughout the month of August. Many of the fires were in logging concessions where companies had ceased operations because their licences had ended or there were more profitable activities elsewhere. These included PT Inti Prona, PT Sylva Bina Timber Coy, PT Cipta Jaya Andalas Timber, PT Essa Indah Timber and PT Rokan Permai Tbr. Here it is highly likely that uncertainty over the future status of these tracts of forest encouraged various stakeholders to burn off the vegetation as a means of claiming the land for plantations.

Satellite images also showed fires in plantations and industrial timber estates (HTI). WWF reported that, of the 5,420 hotspots from satellite images between mid-July and mid-August, about half -- 2,692 hotspots -- were in company concessions and 2,728 on land held by local communities. The distribution of the hotspots was 1,114 in industrial timber plantations (HTI); 656 in logging concessions (HPH) and 922 in oil palm plantations. WWF also made public the fact that many hotspots were located in the concessions of companies accused by Riau's government for setting fires to clear land in 2003. The companies were a sister company of Asia Pulp & Paper (APP), PT Arara Abadi (459 hotspots); Astra Group's PT. Ekadura Indonesia (74); Wilmar Group's PT Jatim Jaya Perkasa (55); and Sambu Group's PT Guntung Hasrat Makmur and PT Agroraya Gemartrans (21).

An NGO investigation in July found evidence of illegal logging linked to the some of the same companies. CV Tessa Indah, a contractor of PT. Rokan Era Subur, was logging natural forest in Sontang village, in Rokan Hulu district. Timber from this operation is supplied to APP's Indah Kiat pulp and paper plant. Eyes on the Forest also found that PT Jasa Karya, a contractor of Riau Andalan Pulp & Paper was extracting timber from forest in Pulau Padang in Kuantan Singingi district. This was going to APRIL's pulp plant.

Peat swamp forest is especially vulnerable to forest fires and draining these areas for plantations makes them more flammable. For example, of the 166 hot spots recorded in Riau on 16 August, 133 were located in peat swamps and only 33 in non-peat swamp areas. Fires in peat swamp generate huge quantities of acrid smoke and are difficult to extinguish. A vicious circle is thus set up: the fires dry out neighbouring areas of forest and make them more susceptible to burning the next season. Nearly half Riau's 10 million hectares of land is on peat soil.

Calls for action

The Indonesian Forum for the Environment (WALHI) announced in September that it was taking legal action against 10 companies in Riau for allegedly starting forest fires during the month of August. The law suit would be on behalf of local people who had suffered from the severe air pollution, including children who lost their right to education when thick smoke forced schools to suspend classes. WALHI said it was planning to give the names of companies that had set forests on fire in Sumatra and Kalimantan in August to the forestry minister and the chief of the Indonesian police.

There were few reports of the effects of the forest fires on local communities in Riau in the media. However health authorities in South Kalimantan, where there was also a serious fires problem in August and September, have reported a rise in the number of respiratory ailments in infants for those months. The air pollution seems to have been worse in Malaysia and northern Sumatra as the wind carried the smoke further afield. In Malaysia, air pollution reached extremely hazardous levels and forced schools and an airport to close.

WALHI and Friends of the Earth Malaysia called on ASEAN governments to take urgent comprehensive action on what is diplomatically called 'the haze problem' at a meeting of senior environment officials from South East Asian countries held in Penang, Malaysia in mid-August. However, there was no sign of any decisive action. Indonesia has yet to ratify the ASEAN Agreement on Transboundary Haze Pollution signed in 2002.

The Food and Agriculture Organization (FAO) again called on ASEAN nations to enforce bans on open burning to prevent the annual pollution crisis and to protect forests. An FAO expert claimed that most of the fires are intentional and used by companies to clear forests for agro-industry. Mike Jurvelius said in a statement: "Using fire to clear forests is prohibited in most of the South East Asian countries and the ban should urgently be enforced."

The underlying problem behind these forest fires is, of course, land tenure. Central and local governments need to work together to develop policies for forests and agriculture which suit local conditions and local needs. Otherwise, when the next El Niño* year comes, Indonesia's forests will be facing disaster on an unprecedented scale.

(Sources: Eyes on the Forest, July, August, September editions; FWI press release 17/Aug/05; WWF press release 22/Aug/05; *Jakarta Post* 22/Aug/05; *AFP* 31/Aug/05; *Bloomberg* 15/Sept/05; *AFX* 21/Sept/05

* El Niño is the climatic effect that increases the risk of drought and fires in Indonesia.

Copies of the article 'Fire, People, and Pixels: Linking Social Science and Remote Sensing to Understanding Underlying Causes and Impacts of Fires in Indonesia', Dennis, R.A. et al, 2005, *Human Ecology*, 33 (4): 465-504 are available from CIFOR.

Eyes on the Forest is a coalition of environmental NGOs in Sumatra comprising WWF-Indonesia, Friends of the Earth's Riau Office and Jikalahari. They monitor the status of remaining forests in Riau. For more news see http://www.eyesontheforest.or.id

Information on WALHI's legal action on companies accused of burning to clear land can be found at http://www.eng.walhi.or.id/kampanye/bencana/bakarhutan/050904_riau_lawsuit_sp/ ◆

Forests Update

New measures to promote fastwood plantations

Forestry minister Kaban has issued five new measures aimed at reducing illegal logging and reviving the timber industry. These support his policy announcement made in July about speeding up the establishment of fastwood plantations to supply the country's pulp and paper plants. Foreign companies will now be allowed to invest in timber plantations. Indonesian companies which hold permits for timber plantations are encouraged to run joint operations in order to increase their effectiveness in providing employment, marketing and contributing to the local economy. (Department of Forestry Press release 15/Aug/05)

First natural forest concession in Kalimantan certified

PT Erna Djuliawati's 184,206 hectare concession in Central Kalimantan has gained FSC certification. This is the largest area of Indonesian forest to be certified and is only the second natural forest concession. (The first was PT Diamond Raya Timber in Sumatra - a certification which is now being challenged.) The certifier was Smartwood who carried out the original assessment with the Indonesian Ecolabeling Foundation, LEI, in July 2003. Smartwood claims that, through the certification process, PT Erna Djuliawati has "made great strides in improving its management methods, seeking wider stakeholder consultation with communities, training staff and village members on social conflict resolution and clearly identifying the boundaries of community lands." The company has developed a biodiversity plan and increased the area of forest to be set aside for conservation. A full summary of the certification assessment report in Indonesian and English is available at www.rainforest-alliance.org. (Smartwood press release 23/Sep/05)

Smartwood-APP agreement

Following the breakdown of an agreement with WWF to monitor forest protection in its concessions, Asia Pulp & Paper has signed an agreement with the Rainforest Alliance (parent organisation for certification assessors Smartwood). Smartwood will monitor the condition of 120,000 hectares of so-called high conservation value forest in four concession areas managed by Sinar Mas: Siak, Serapung, Pulau Muda and Giam Siak Kecil. The five-year programme will carry out aerial and ground surveys plus analysis of satellite images to verify that these areas are being protected and that timber from them is not going to feed APP's paper mill in Riau - Indonesia's largest. (APP Press release 25/Aug/05)

New law on illegal logging stalled

With the government's strong focus on 'illegal logging', the Department of Forestry is keen to draft new legislation on this issue. However, no progress has been made as the Indonesian parliament is said to favour including the content of such a bill as an amendment to the 1999 Forestry Act. (Pers com 25/Oct/05)

Parlimentary questions over Intracawood legality

Indonesian parliamentary commission IV has declared that an extension of PT Intracawood's logging permit is illegal. The state-owned forestry company PT Inhutani I originally held the concession rights but now has only a 25% stake in the operation, Inhutani I was granted an extension to manage the 195,100 hectare concession in 1995. It appears that Intracawood applied separately for an extension of its HPH licence in August 2004. An official team will be sent to East Kalimantan to investigate the concession areas which lie in Bulungan and Malinau districts. (*Investor Daily Online*, via WalhiNews, 29/Sept/05)

Aceh environmental groups call for action on forests

Environmental groups in Aceh are increasingly concerned by recent reports of illegal logging in Bireuen, Aceh Singkil and Aceh Tenggara districts. They describe the situation as a 'free for all' and accuse the provincial forestry office of ineffectually blaming local and central authorities instead of taking action to prevent forest destruction. They urge the forestry office to work with district officials and the police to stop all illegal timber operations by arresting people who finance the logging. The 10 NGOs, which include Walhi Aceh and the local WWF office, also call on Aceh's governor to take a firm stand so that logging permits are withdrawn.(Working Group on Aceh's forests 5/Oct/05)

Riau police confiscate illegal timber

During a raid against illegal logging in the province, Riau police confiscated over 1,600 cubic metres of illegally-felled logs from the River Gaung in Indragiri Hilir district. They suspect the logs were to be smuggled to Malaysia. A Malaysian man is accused of illegal logging. (*Jakarta Post* 31/Oct/05)

Forestry association chair jailed and fined for corruption

The chair of Indonesia's Forestry Association (APHI), Adiwarsita Adinegoro, was sentenced to six years in jail for misuse of the association's funds. Three other APHI officials received four-year jail sentences. Adiwarsita and the other officials must also pay Rp43.5 billion to the state. They were convicted of lending APHI funds to third parties. The money collected from APHI members, including five state-owned forestry companies, were supposed to finance aerial mapping for forest conservation.(*Jakarta Post* 13/Oct/05)

Buru forest farmers appeal for their land

Indigenous communities on the island of Buru in the Moluccas are pressing the authorities for the return of forest land taken from them in 1957. The land in Lilialy, Kajely and Tanalisa is planted with eucalyptus trees which produce a fragrant oil used in the cosmetic industry. Maluku Tengah district government originally took over the plantation nearly 50 years ago, with the intention of increasing production of the *kayu putih* oil, despite strong opposition from the local *adat* (customary) council. With the creation of new administrative areas, the indigenous people's plantation is now part of the assets of Buru district. The three communities formed an association in late 2004 and have held meetings with and written to the district administration and representatives of the local assembly. As yet, there has been no acknowledgement of their rights and the local authorities continue to exploit the eucalyptus plantation to generate revenue for the district. (YPPM 25/Sep/05)

Report challenges deforestation & flooding link

A report by the Food & Agricultural Organisation of the United Nationas (FAO) and the Centre for International Forestry Research (CIFOR) concludes that there is no scientific evidence linking large-scale flooding to deforestation. Although trees can minimise the runoff that causes localised flooding, much depends on soil depth and structure. During prolonged heavy rain, the roots of most forest trees are too shallow to absorb sufficient water and prevent flooding.

Forests & Floods: Drowning in Fiction or Thriving on Facts claims that the current view is a myth which benefits governments who blame hill farmers for causing deforestation to give the appearance of taking action on flooding. Instead they point to complex interactions between natural and man-made factors, such as draining wetlands, farming floodplains and straightening rivers. The report suggests that an integrated approach to land management in watersheds and river basins is likely to be more effective in preventing widespread flooding than logging bans. (CIFOR 14/Oct/05)◆

Kalimantan groups call for sustainable development

Four leading Indonesian NGOs organised a workshop and seminar in early October on the policy implications of natural resource exploitation in Kalimantan. The meeting was attended by representatives of various communities affected by large-scale plantation and mining projects plus 21 NGOs from Kalimantan and 2 from Sarawak. The following press release is the statement to the authorities which came out of that event.

Stop stealing the livelihoods of Kalimantan's people!

Kalimantan is being stripped of its natural resources. The government's violation of indigenous land rights through issuing permits for large-scale logging, oil palm plantations, fastwood plantations and mining has seriously disadvantaged indigenous communities. Kalimantan's natural resources are merely regarded as a source of cash, regardless of their important ecological, social and cultural contributions to the area's sustainability and to the livelihoods of Kalimantan's people.

This situation is made worse by the interaction between government corruption, weak law enforcement, misguided regional autonomy and sectoral policy-making, in addition to the recent increase in fuel prices.

An example of the environmental and social problems associated with the establishment of oil palm plantations is the use of fire for land clearance resulting in smoke pollution which causes national and international concern. The smoke problem is due to oil palm plantations' consistent use of local people to burn off the vegetation within their concessions. Other problems are land dispossession; the control of large tracts of land by a small group of people; unfair conditions for smallholders, including allocation of plots; increasing conflict; monopolistic price control for palm fruits; companies' inability to use unproductive land; and violation of official land use planning. Oil palm plantations also cause the loss of local knowledge and traditional skills. There is cultural erosion through gambling, drunkenness, criminality and prostitution - previously unknown in the indigenous community.

This multiplicity of problems leads us to conclude that the government is wrong in its policy to promote dependence on oil palm plantations and mining as a replacement for reliance on timber from the dwindling forests.

We therefore call on:

1. The Indonesian president to cancel the Oil Palm Megaproject along the Kalimantan-Sarawak border on the grounds that it will damage the water catchment ecosystems for the Kapuas and Mahakam rivers. This border region is where water collects and forms streams which flow into the major river systems of West and East Kalimantan.
2. The Indonesian president to instruct governors, district administrators and ministers to stop issuing new oil palm plantation permits in Kalimantan.
3. The governors and district administrators of Kalimantan to tackle the social and environmental impacts resulting from oil palm plantations as a matter of urgency.
4. The governors and district administrators of Kalimantan to repair and restore those parts of Kalimantan which have been ravaged due to policies on logging, mining and plantations which are exploitative and orientated towards economic benefit.
5. Local and central government officials and company employees based in Kalimantan to respect fully indigenous peoples' rights.

We make these demands in order that Kalimantan can experience a process of sustainable development in which:

1. Indigenous communities have the autonomy to manage their lives and their resources at village level;
2. There is no violation of indigenous peoples' land rights;
3. There is no more destruction of Kalimantan's environment;
4. Land taken by the authorities and companies is restored to its rightful owners.

LBBT, HuMA, WALHI, Sawit Watch, 10/Oct/05◆

development

Millennium Development Goals: shared hopes or hallucination?

A couple of months after the September World Summit 2005, the dust has settled at the UN Headquarters in New York. World leaders have long returned to their capitals, supposedly to do their homework. Meanwhile, activists the world over share their discontent over the outcome of the meeting: their hopes for change have been dashed.

This was the summit that was going to make poverty history. Originally billed the 'UN Millennium +5 Summit', the objective of the gathering of world leaders at the United Nations was to review progress towards achieving the Millennium Development Goals.

Mimin Dwi Hartono[1] , coordinator of Wana Mandhira, a Yogyakarta-based NGO, was among hundreds of activists from all over the world attending informal interactive hearings at the UN on 23rd-24th June 2005. Representatives of civil society organisations, NGOs and the private sector were invited to give inputs to the UN Secretary General's report *In Larger Freedom: Towards Development, Security, and Human Rights for All*, which would then be presented to the General Assembly in September. The hearings covered the Millennium Development Goals (MDGs), financing for development and reform of the UN.

Hartono reported that the discussion that attracted the highest participation was entitled Freedom from Want, concerning the livelihoods of poor people in the Majority World. Apart from China and India, which are exceptional among the developing countries in managing to reduce poverty, most countries are still struggling to achieve improvements in poverty levels. In a dozen African countries poverty has even got worse.

The lukewarm commitments of the developed countries, particularly the wealthy and powerful G8, towards achieving the MDGs were a matter of concern to participants attending the hearings. Not all these countries have made the effort to fulfil a long-standing commitment to contribute 0.7% of GDP to support developing and poor countries. Rich countries are also seen as hypocritical by championing free trade while, at the same time, resorting to protectionism to defend their own interests - for example, subsidies for farmers in the US, New Zealand and the EU.

In terms of environmental sustainability, Millennium Development Goal number 7, most countries have yet to integrate sustainable development principles into their development policies and programmes. Here, short-termism and the economic orientation of development policy still predominate.

The private sector, however, is optimistic about its role in promoting sustainable development principles through responsible behaviour by companies and by providing funding and investments to meet MDGs targets. Corporate Social Responsibility (CSR) has become the private sector's favourite buzzword in order to earn 'good practice' credentials. This kind of corporate bragging inevitably became a target of mockery for NGO and CSO representatives at the hearings, given the wide gap between CSR principles and practice. CSOs highlight the fact that CSR has been voluntary, with no means of holding companies to account for their operations. Furthermore, they doubt whether companies would ever be willing to compromise profits for the sake of sustainability.

In the case of Indonesia, allowing companies to mine in protected forests and being too lenient with polluter companies are indications of how the state, together with the private sector, is undermining its commitment to the MDGs.

The informal hearings also heard an all-encompassing message from civil society: the need for "a human rights-based approach to development, peace and security and to elevate human rights within the United Nations". Another major message was the inclusion of particular and marginalised groups such as women, indigenous peoples, people with disabilities, people subjected to racial discrimination, children, youth and the elderly, as a prerequisite for achieving the MDGs.

What happens to the voice of civil society?

The informal meeting was historic because it was the first time there had been an opportunity for interaction between Member States, representatives of civil society and private sector. It was attended by 230 representatives of NGOs which hold consultative status with the Economic and Social Council, other CSOs and the private sector, of which more than half were from developing countries.

However, the high hopes raised by the participatory hearings had a crash landing at September's World Summit. This resulted in little more than a confirmation of the pro-market agenda and a repetition of the old promises. The lack of commitments prompted Global Call to Action Against Poverty (GCAP), an international CSO alliance committed to getting world leaders to fulfil their promises, to dub the MDGS the 'Minimalist Development Goals'.

INFID, the International NGO Forum on Indonesian Development, pointed out several weaknesses in the Summit document. The resolution to encourage private and foreign investment in public services which are vital to meet basic needs of the population may not fulfil the aim "to protect vulnerable and disadvantaged sections of society". INFID said there was no clear monitoring mechanism to ensure services were not merely being subjected to a profit-driven strategy.

The participation of civil society was highly restricted in the Summit, even for groups with accredited EcoSoc status, despite the invitation by the Secretariat to contribute prior to the Summit. GCAP noted that inputs made through the hearings were not taken seriously.

The largest gathering of world leaders has let down the poor and the Majority World by not accounting for their failure to make progress, let alone bring about a substantial change of direction. It is urgent to make the process for achieving the MDGs more democratic, which includes democratisation of global institutions. Along the same lines, the governments should not just give efforts to achieve the MDGs token attention while they get on with business as usual, focusing on economic growth and the liberalisation agenda. Otherwise, we risk facing the same rhetoric - commitment with lax compliance - at the next global meeting.

Sources: *Summary of the informal interactive hearings of the General Assembly with representatives of non-governmental organizations, civil society organizations and the private sector,* http://www.un-ngls.org/GA-hearings.htm; GCAP, *Reflections on the United*

(continued next page)

Book Review

THE RISKS WE RUN: Mining, Communities and Political Risk Insurance
by **Roger Moody**,

International Books 2005, pp322
Available from
info@minesandcommunities.org

Political risk insurance and export credit guarantees are not terms that normally grab people's interest - except those working in the financial sector. *The Risks We Run* should change this. This book shows how political risk insurance (PRI) helps to make the world safe for investors. It takes a critical look at the role of PRI in securing financial backing for large mining projects despite their high social and environmental costs.

In the first half of the book, mining campaigner Roger Moody explains the mechanics of political risk insurance and how it has been used as a political tool. He sees PRI as a conspiracy to protect assets which should be surrendered to their true owners - the local people. The second part of *The Risks We Run* comprises case studies of six gold mines backed by political risk insurance: Grasberg (West Papua); Omai (Guyana); Kumtor (Kyrgyzstan); Lihir (PNG); Yanacocha (Peru) and Bulyanhulu (Tanzania). These accounts are written by the community representatives, lawyers and NGOs who have been fighting for justice. In addition to describing the history of the mines and their financing, each study is a powerful testimony to the damaging effects of extractive industries on local communities.

Political risk insurance has become an essential part of business. In theory, it compensates companies for lost assets when operating outside their own countries - providing protection against risks such as political violence, expropriation of assets and financial controls. Any mine is a trade-off between ecological and social problems and the promise of economic benefits, so it is not surprising that huge sums are spent on PRI - nearly US$400 million just for the Lihir gold mine in PNG. But these amounts are small compared with the overall financing of a mining project and insignificant compared with the profits generated. PRI's real importance is to give mines a stamp of respectability and an essential 'kick start' in securing additional investment, rather than providing insurance.

As PRI is usually a condition of export credits, Moody outlines the context of export credit agencies, including the World Bank's Multilateral Investment Guarantee Agency (MIGA) and America's Overseas Private Investment Corporation (OPIC) and Ex-Im Bank and the Export Development Canada (EDC). These national and international bodies dispensed nearly as much financial backing as came from development aid globally in 2000.

The private sector is also heavily involved in mining insurance in general and PRI in particular. The US-based company Marsh & McLennan describes itself as the world's number one risk specialist and American International Group (AIG) is a major player providing insurance cover for mines. These private insurance companies are often even less accountable providers of PRI than national or multilateral agencies. Moreover, private insurers, brokers and specialised insurance companies protect themselves from compensation claims, for example by reinsuring with companies like Swiss Re.

Companies can also call in risk consultants to advise them. London-based Control Risk Group, which has ex-SAS officers in its senior management, has investigated international NGOs which actively campaign against mining, such as the World Development Movement, and Indonesian groups including the mining advocacy network, JATAM. It concluded that "NGOs are as much of the (Grasberg) mine's political risk profile as Amungme tribespeople".

The Risks We Run raises critical questions about the policies of the World Bank Group's Multilateral Investment Guarantee Agency (MIGA), the International Finance Corporation (IFC) and national export credit guarantee agencies with respect to environmental and social assessments and access to information. National and multilateral guarantee institutions are supposed to respect and defend the public interest, including respecting indigenous rights and addressing environmental concerns. World Bank institutions have a special responsibility since many national authorities and commercial investors base their standards on Bank safeguards or project assessments. Yet chapter after chapter shows that MIGA, IFC and other financial agencies lack the capacity and expertise to monitor regularly the implementation of the projects they have backed. They have repeatedly concealed important information about the environmental risks associated with particular mines from the public. At the same time, they have not used their power to apply pressure on investors or operators to improve environmental or human rights standards at these mines. The World Bank continues to refuse to implement the findings of its own 2002 Extractive Industries Review and recent policy reviews have made its social and environmental guidelines even weaker and more ambiguous than before.

The weaknesses of PRI are exemplified by Freeport/Rio Tinto's Grasberg mine in West Papua. This gold and copper mine - the largest in the world - was the first to receive PRI from the World Bank via MIGA and also received backing from OPIC. This became the focus for international campaigning in the 1990s. OPIC pulled out in 1995 when it was clear that environmental safeguards had been violated and Freeport/Rio Tinto rejected MIGA's cover in late 1996 when the agency announced a long-overdue environmental investigation. Freeport/Rio Tinto then continued to go its own way. The company's financial links with the military remained concealed; millions of tonnes of tailings enter the River Ajkwa every year; workers were killed in the collapse of the Wonagon waste dam; and human rights violations continue throughout West Papua.

Moody argues that any influence the World Bank or OPIC might exert to forestall these consequences could only have come from their refusing insurance from the start. In his view, the whole tangled web of PRI "substitutes ill-defined and only partial mitigation for impacts which should have been prevented from the outset". You may not agree with his analysis, but political risk insurance and export credit guarantees projects are likely to remain important vehicles in raising finance for mining projects. For that reason, *The Risks We Run* is a valuable tool for activists who need to know about PRI and how to use this understanding for the benefit of communities threatened by mining and other potentially damaging developments. ◆

(continued from page 18)

Nations Summit, http://www.whiteband.org/specialIssues/UNP5/unp50/gcapnews.2005-09-30.4602183211/en; INFID's position paper to the draft declaration for the UN MDGs Summit, http://www.infid.be/INFID-Position-Paper-UN-MDG-Summit.pdf; INFID press release: *2005 World Summit Outcome Document to weaken developing countries.*

For more on The Millennium Development Goals, see DTE *IFIs Factsheet,* No 36, October 2004 http://dte.gn.apc.org/Af36.htm

1. The first part of this article is adapted from articles by Mimin D Hartono entitled *Tujuan Pembangunan Millenium dan Tantangannya*.◆

In brief...

Police open fire on farmers in Lombok

Indonesian human rights NGO Elsam has protested against the police shooting of farmers attending a national meeting in Lombok. Twenty seven people suffered gunshot injuries on September 18th when police dispersed a farmers' union general assembly organised by the Nusa Tenggara Barat union and the Federation of Indonesian Farmers Unions (FSPI). Eight people were detained at the meeting, which was attended by farmers' representatives from 26 countries. The police initially gave permission for the meeting, but then issued a letter denying permission.

In an urgent action appeal, Elsam described the police tactics as a serious violation of the freedom of expression and states its concern for the victims. Elsam also said the action violated national and international laws including the Indonesian constitution, the 1999 Human Rights Act, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the Indonesian penal code.

For more details contact Elsam at elsam@nusa.or.id, www.elsam.or.id. (Elsam Urgent Action No:05/UE/PH/Elsam/IX/05, 26/Sep/05)◆

Regulations respect indigenous management

Three villages in the Meratus mountains area of South Kalimantan have passed local legislation (*Perdes*) on natural resource management which make more space for indigenous people living in the area. The regulations are reported to be based on what local people want. Juhu, Hinas Kiri and Hinas Kanan, in Hulu Sungai Tengah district, South Kalimantan, passed village regulations between July and August this year. The regulations, on the use and management of natural resources in the Meratus forest, respect the existence of sacred forest, customary forest and protection forest. The use of these forests is only permitted for individual needs, not for economic gain, and is based on permission from the customary leader. Only local people who live in the area may make use of the forest, and only if they pay due regard to conservation. The Hinas Kiri regulation permits hunting of birds apart from those species which are sacred according to customary belief. Those who violate the regulation must pay fines. (Extract from *BALIaN*, July/Aug 05, via fkkm listserve)◆

CDC sells of plantations to Cargill

CDC/Actis sold all its oil palm plantation interests in Indonesia and PNG to the US giant agro-industry transnational Cargill in early November 2005. CDC Capital Partners (formerly the Commonwealth Development Corporation) was the UK government's vehicle for investing in the private sector in developing economies until 2004. It was then split into an investment company wholly owned by the British government (still called CDC) and a new private equity investor, Actis, which managed the government and private funds.

CDC/Actis controlled PT Asiatic Persada in Jambi and PT Harapan Sawit Lestari in West Kalimantan through its Singapore-based holding company Pacific Rim (PRPOL). It also had investments in PT Agro Indomas in Central Kalimantan. Despite CDC's public declarations about its ethical business principles, there are outstanding land disputes, human rights issues and environmental problems associated with the three concessions. DTE, together with Indonesian NGO networks WALHI and Sawit Watch, supported the local people in their advocacy efforts for several years. Perhaps these communities can take a shred of hope from the fact that CDC could have sold out to a Malaysian company which might pay less attention to social and environmental issues. Cargill is hardly a model of best practice when it comes to community rights but, as a member of the WWF-initiated Round Table on Sustainable Palm Oil (RSPO), it does have a reputation to keep up.

The new venture is called CTP Holdings Pte Ltd. Cargill formed a joint venture in 2000 with Golden Agri-Resources and Temasek (a Singapore-based holding company) to purchase and run oil palm plantations in Indonesia. It already operates a 27,000ha oil palm plantation in South Sumatra, PT Hindoli. The majority of the plantation (17,000 ha) is run as a 'stakeholder' scheme with 8,500 farmer families.

"Palm oil demand is increasing globally and this acquisition represents a significant development for Cargill in the plantation business", says Paul Conway, head of Cargill's business in Asia and chairman of CTP Holdings. "The addition of these plantations is critical to diversifying our edible oils portfolio and will allow us to meet our customers' requirements for supply chain integrity and a high quality supply of palm oil and associated products." (*Jakarta Post* 8/Nov/05, www.cdcgroup.com, www.cargill.com and DTE files)◆

Parliament ratifies UN covenants

In September Indonesia's parliament ratified two major international human rights instruments: the UN Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights. This commits Indonesia to eliminating all forms of restrictions on freedom of expression, assembly and association, threats to religious freedom, forced labour and discrimination in the workplace. However, in clear reference to demands for independence for West Papua, Indonesia made an important reservation to the covenants, saying that the right to self-determination did "not apply to any part of a united state". Human rights group Elsam called the ratification half-hearted because it excluded two optional protocols on on mechanisms for victims of human rights violations to individually claim for rights restoration, and on the abolition of capital punishment. (*Tapol Bulletin* 180, Oct/05; *Jakarta Post* 1/Oct/05)◆

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