

Indigenous Sembalun community, Lombok. Indonesia's indigenous peoples alliance, AMAN, issued a call for action on climate change in August - see page 6.



DTE

Down to Earth International Campaign for Ecological Justice in Indonesia

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DTE has translated into Indonesian Tebtebba's Guide on Climate Change & Indigenous Peoples

see our website at <http://dte.gn.apc.org/itebcc.pdf>

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REDD concerns deepen

As Indonesia pushes ahead with plans for REDD, the World Bank and others are making ill-prepared agreements on funding projects in Indonesia. In the Bank's case this is with apparent disregard for its own policies on consulting forest-dwelling communities and on safeguarding their interests.

The World Bank is positioning itself to become one of the major funders of REDD (Reducing Emissions from Deforestation and Forest Degradation in Developing Countries)¹, through its Forest Carbon Partnership Facility (FCPF) and the Forest Investment Program (FIP).²

Indonesia submitted its Draft 'Readiness Planning Proposal' (R-PP)³ to the FCPF in May, prompting a storm of criticism from civil society organisations at home and internationally and calls to delay approval of the plan until major deficiencies have been sorted out. These include:

- ♦ A lack of consultation with key stakeholders, such as indigenous peoples, a lack of access to information, including almost none in the Indonesian language;
- ♦ The failure to address a deficient national legal framework for protecting indigenous peoples' rights and the failure to address these rights in the R-PP itself;
- ♦ The lack of attention to governance issues, and the potential for corruption in implementing REDD projects, especially given the lack of clarity surrounding the status of forest land claimed by the state, and overlapping land use claims from other sectors such as plantations and mining;
- ♦ The concentration of 'ownership' of REDD in the forestry ministry, leading to risks that conflicting legislation, on plantations and peatlands for example, will continue to drive deforestation.⁴

NGOs in Indonesia, the UK, US and Norway have also written to their governments calling for improvements in the FCPF approval processes before Indonesia's R-PP is passed.

They have highlighted concerns including a tendency to make decisions without reference to the World Bank's safeguards and international standards, despite the need for this being spelled out in the FCPF's Charter. For example, the Charter requires that activities, including the R-PP

"comply with the World Bank's Operational Policies and Procedures, taking into account the need for effective participation of Forest-Dependent Indigenous Peoples and Forest Dwellers in decisions that may affect them, respecting their rights under national law and applicable international obligations." (Principle 3.1(d), FCPF Charter).

The key World Bank safeguards for REDD are OP4.10 on Indigenous Peoples, OP4.36 on Forests and OP4.12 on Involuntary Resettlement.⁵ Relevant International obligations include the United Nations Declaration on the Rights of Indigenous Peoples, as well as other international instruments on human rights and the environment.⁶

Indonesia's R-PP was considered by the FCPF's Participants Committee⁷ in June, but a decision on whether or not to accept the proposal, was delayed until July. Accepting it means giving Indonesia access to USD3.6 million in FCPF funding towards 'readiness' activities. The next Participants Committee meeting is due in October and the NGOs have called for any decision on Indonesia's R-PP to be delayed until then at the very least. They argue that setting low standards for approving the initial plans under consideration (including Indonesia's) will

signal to other countries that they will also be able to submit sub-standard Readiness Plans in future. Without proper protections for forest-dwellers, REDD is far less likely to achieve any positive result in terms of reducing greenhouse gas emissions from deforestation, since the denial of rights is widely recognised as an underlying cause of deforestation in itself.⁸

REDD regulations

Indonesia's forestry minister has now passed at least three pieces of legislation relating to REDD: Ministerial regulation No 68, 2008 on REDD pilot projects, the main REDD

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regulation, No 30, 1 May 2009 and regulation 36, 29 May 2009,⁹ on revenue sharing rules for REDD (see box, next page).¹⁰ Regulation 30 was passed despite a request from the United Nations Committee on the Elimination of Racial Discrimination (CERD) to make changes to accommodate indigenous peoples' rights to own and control their traditional areas.¹¹

The regulations are all based on Indonesia's 1999 Forestry Law, which fails to provide for indigenous ownership of forests within the 'state forest zone', an area that amounts to some 70% of Indonesia's total land area.¹²

Instead, the REDD legislation is aimed at ensuring that central government remains firmly in control of arrangements for - and income generated by - REDD.

Australian projects gearing up for carbon trading

Australia contributes funds to the FCPF¹⁴, but has also made its own bilateral agreements with Indonesia. These include:

- ♦ The Indonesia-Australia Forest Carbon Partnership, signed on 13 June 2008, to build on and formalise existing long-term practical cooperation between Indonesia and Australia on REDD. It includes \$30 million for the Kalimantan Forests and Climate Partnership and a \$10 million bilateral support package for Indonesia on forests and climate (see also below). Three key areas are identified: strategic policy dialogue on climate change; increasing Indonesia's carbon accounting capacity; and identifying and implementing incentive-based REDD demonstration activities.
- ♦ A Roadmap for Access to International Carbon Markets, agreed in November 2008. It is "a multi-phased strategy that is assisting Indonesia develop the necessary technical, system and financial pre-requisites for participation in future international carbon markets for REDD."
- ♦ The Kalimantan Forests and Climate Partnership (KFCP), described as the first, large-scale REDD demonstration activity of its kind in Indonesia. It aims to "demonstrate a credible, equitable and effective approach to REDD, including from the degradation of peatlands, that can inform a post-2012 climate change agreement.... trialling an innovative, market-oriented approach to financing and implementing measures for REDD." The initial focus is on an area of more than 100,000 hectares of degraded and forested peatland in Kapuas, Central Kalimantan. The initial aim is to protect 50,000 ha of peat swamp forest, and to rehabilitate a further 50,000 ha of degraded peatland to create a buffer around the existing forest.

The overall target is to preserve up to 70,000ha of peat swamp forest and to re-flood, rehabilitate and reforest 200,000 hectares of degraded peatland.

- ♦ A second REDD demonstration activity, which Australia and Indonesia agreed to develop in November last year. The second demonstration activity aims to test different aspects of REDD in a different location and forest type from the Kalimantan pilot.
- ♦ A bilateral package of support to Indonesia on forests and climate, to "help Indonesia develop its national Forest Resource Information System and National Carbon Accounting System for Indonesia, to support the development of a national policy framework and strategies for REDD, and to better monitor, manage and prevent large scale forest fires in Indonesia."¹⁵

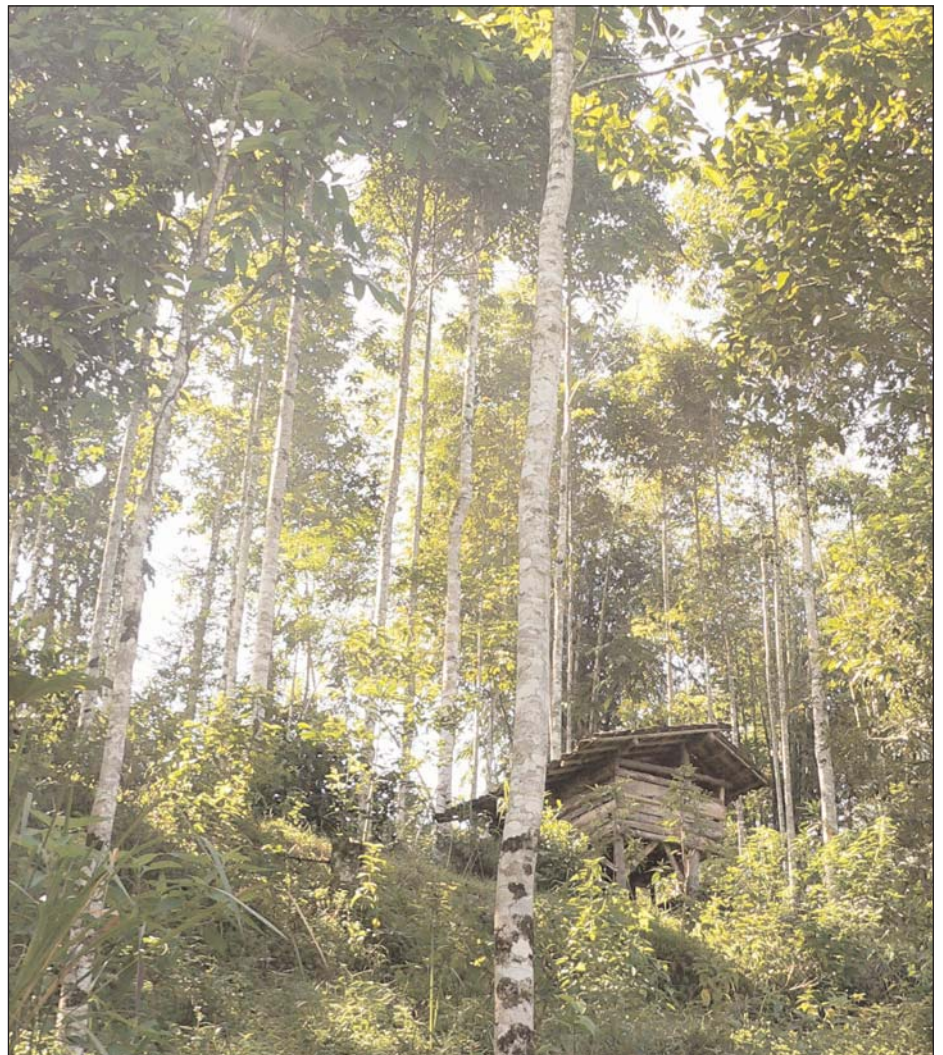
As is clear in the descriptions, these agreements are very much oriented toward carbon trading. Under REDD, this means carbon credits generated by reducing emissions in forests, can be sold on international markets and purchased by

companies wanting to offset their own emissions. The Australian government argues that "[w]hile financing from developed countries will play a role, ultimately carbon markets are the only mechanism capable of mobilising investment on the scale needed to support and provide incentives for REDD."¹⁶

However, the arguments against offsetting are convincing: emissions reductions need to be made in industrialised countries *as well as* in the developing world, if we are to have a remote chance of avoiding dangerous levels of global warming.¹⁷ Carbon trading has been rejected by many civil society organisations, including the Climate Justice Now! network, Friends of the Earth International and Indigenous Peoples' Global Summit on Climate Change, held in Anchorage in April this year.¹⁸

The Australia-Indonesia agreements also lack commitment to protect the rights and livelihoods of forest-dwellers, only offering, in the KFCP, for example, the aim to "improve livelihoods for forest-dependent communities...". The KFCP factsheet states that the project is "working closely with local

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Agroforest (talun) managed by the Ciptagelar Kasephuan indigenous community, West Java. Indigenous peoples want their role in sustainable forest management recognised and their customary rights protected. (Photo: Yuyun Indradi)

communities" and is linking with existing initiatives and international agencies working in the region.

An initial 'lessons learned' document was submitted by Indonesia and Australia to the Poznan UNFCCC meeting in December 2008. This shows that the project is sticking closely to the Indonesian forestry ministry line regarding control over Indonesia's forests. The document concludes that national governments of a REDD host country must be consulted on and agree the location of demonstration activities, but that local governments and local communities only need to be consulted. It also states that "genuine and enforceable legal rights to forest carbon are fundamental to the success of a REDD demonstration activity", but then goes to say that KFCP is approaching this issue in the context of Indonesian forestry law.¹⁹ Since this law fails to protect the rights of indigenous communities, as has been repeatedly pointed out by AMAN and now highlighted by the CERD, in reality, Australia's funding for REDD means support for the continuation of an unjust forest management regime which has systematically marginalised forest communities and violated their rights to land and resources.

On top of this, cooperation with the private sector is being encouraged in this project. For example, the KFCP agreement names the world's biggest mining company BHP-Billiton, as a founding member of the

Central Kalimantan communities don't want REDD

A statement prepared for the Bonn UNFCCC talks in June this year, makes clear REDD is regarded as a threat to livelihoods and local resources in Central Kalimantan, rather than a means of protecting the peat swamp forests.

In a strongly-worded message, ARPAG, the People's Peat Management Alliance, calls on the UNFCCC to halt climate change negotiations which dress up resource exploitation projects as conservation and which force countries like Indonesia into a new kind of "conservation colonialism".

ARPAG, which claims 7,000 members among farming, fishing and indigenous communities in 52 villages in Central Kalimantan, points to the Indonesian Constitution and the United National Declaration on the Rights of Indigenous Peoples (UNDRIP) as the basis for local people's rights to manage their traditionally-owned peatlands.

The group has been replanting peat swamp trees, rehabilitating their rattan and rubber tree gardens, grasses, traditional fish ponds and wet rice fields, and guarding 200,000 hectares of customary forests. They have also set up a 'peat school' and have entered into dialogue with local and national governments and NGO networks.

ARPAG is against the development of a 377,000 ha national park in the area on the grounds that this threatens community access to livelihood resources. It is also opposing a 360,000 ha oil palm plantation which, says ARPAG, will destroy the peat ecosystem in order to supply palm oil to industrialised countries for food products and agrofuel.²²

agreement - though this fact is not mentioned in other KFCP documents. The agreement doesn't state how much BHP has provided towards the \$100 million target, but says only that its contribution will focus on activities "aimed at avoiding further deforestation of high conservation value areas within the

Indonesian part of the Heart of Borneo."²⁰ The company, which has operated in Kalimantan, has attracted criticism for continuing to mine coal - the dirtiest fossil fuel in terms of greenhouse gas emissions.²¹

Revenue-sharing for forest carbon projects in Indonesia (Regulation 36/2009)

No	Permit holders/forest type	Government	Community	Developer
1	IUPHHK-HA (Wood Use Licence for Natural Forest)	20%	20%	60%
2	IUPHHK-HT (Wood Use Licence for Plantation Forest)	20%	20%	60%
3	IUPHHK-RE (Wood Use Licence for Ecosystem Restoration Area)	20%	20%	60%
4	IUPHHK-HTR (Wood Use Licence for People's Plantation Forest)	20%	50%	30%
5	Hutan Rakyat (People's Forest)	10%	70%	20%
6	Hutan Kemasyarakatan (Community Forest)	20%	50%	30%
7	Hutan Adat (Customary Forest)	10%	70%	20%
8	Hutan Desa (Village Forest)	20%	50%	30%
9	KPH (Forest Management Unit)	30%	20%	50%
10	KHDTK (Special Purpose Forest Area)	50%	20%	30%
11	Hutan Lindung (Protection Forest)	50%	20%	30%

Source: adapted from http://news.mongabay.com/2009/0713-redd_indonesia.html

Note: subsidiary legislation on *hutan adat* (customary forest) has not yet been passed. A draft regulation was recently criticised by AMAN as offering no solution to current conflicts over forests.¹³

New Indonesia REDD website

A new website, www.redd-indonesia.org, jointly managed by the CIFOR, the World Wildlife Fund (WWF) Indonesia and the Indonesian Environmental Information Center (PILI) has been launched to contribute to the growing national discussion on REDD.

Notes

1. See DTE 79:1, <http://dte.gn.apc.org/79are.htm> and 80-81:3-6, <http://dte.gn.apc.org/80bcl.htm>, <http://dte.gn.apc.org/80ccl.htm> for more background on REDD and REDD plans in Indonesia.
2. See FIP <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/ENVIRONMENT/EXTCC/0,,contentMDK:22106056~menuPK:5924904~pagePK:210058~piPK:210062~theSitePK:407864,00.html> and FCPF <http://www.forestcarbonpartnership.org/fcp/>, Fern http://www.fern.org/media/documents/document_4316_4321.pdf, and DTE 76-77:8, <http://dte.gn.apc.org/76cde.htm> for background.
3. May 2009 version previously available online at <http://www.forestcarbonpartnership.org/fcp/Node/180>
4. These concerns are expressed in letters from HuMa to FCPF, June 15th, 2009; Sawit Watch and AMAN to Forestry Minister MS Kaban, May 15th, 2009; Rainforest Foundation Norway to FCPF, 14th July 2009, Rainforest Foundation UK to the UK government, 16th July, among others.
5. Further information available on Forest

- Peoples Programme website: <http://www.forestpeoples.org> and Bank Information Center <http://www.bicusa.org>
6. Safeguarding rights in the FCPF, Presentation by Marcus Colchester, Forest Peoples Programme, Rights & Resources Initiative and Chatham House Dialogue on Forests, Governance & Climate Change, London, 8/Jul/09
 7. For a list of FCPF participants see <http://www.forestcarbonpartnership.org/fcp/node/18>. Indonesia is listed as a REDD country participant.
 8. FPP, RFN and RFUK letters as above and Bank Information Center letter to Senator Leahy 13/Jul/09.
 9. English and Indonesian version available from http://aseanforest-chm.org/document_center/knowledge_networks/arkn_fcc/redd_documents/indonesian_minister_of_forestry_regulation_on_redd_permenhut_p_30_menhut_ii_2009.html
 10. The regulation can be viewed in Indonesian at <http://www.dephut.go.id/index.php?q=id/node/5428>
 11. See DTE 80-81:5, <http://dte.gn.apc.org/80ccl.htm>
 12. See DTE 79:4, <http://dte.gn.apc.org/79are.htm> and DTE special report *Forests, People & Rights*, 2002 <http://dte.gn.apc.org/srfin.htm>
 13. See DTE 80-81:5, <http://dte.gn.apc.org/80ccl.htm>
 14. Australia has provided AUD 11.7 million to the FCPF and is contributing AUD 10 million to the Forest Investment Program, see <http://www.climatechange.gov.au/international/publications/fs-ifci.html> accessed 22/Jul/09.
 15. See <http://www.climatechange.gov.au/international/publications/fs-ifci.html>
 16. <http://www.climatechange.gov.au/international/publications/fs-ifci.html>, accessed 24/Jul/09
 17. See DTE 80-81:2, <http://dte.gn.apc.org/80acl.htm> and Friends of the Earth publication, *A Dangerous Distraction*, June 2009. http://www.foe.co.uk/campaigns/climate/new/s/dangerous_distraction_20319.html.
 18. See DTE 80-81:3; <http://dte.gn.apc.org/80bcl.htm>. the Anchorage Declaration can be accessed from www.tebtebba.org
 19. See http://www.climatechange.gov.au/international/publications/pubs/a_redd.pdf
 20. See <http://www.climatechange.gov.au/international/publications/pubs/kalimantan.pdf>
 21. Australia launched the Global Carbon Capture and Storage Institute in April this year - founding members include the Australian, Indonesian, UK government and the EU as well as mining companies BHP Billiton and Rio Tinto. Many NGOs are sceptical that carbon capture and storage (CCS) can be viable and consider it a get-out for governments wanting to avoid tackling coal-generated energy companies. See http://www.globalccsinstitute.com/downloads/The_Global_CCS_Institute_Founding_Members.pdf and DTE 80-81:15, <http://dte.gn.apc.org/80hpt.htm>
 22. ARPAG: *Menyelamatkan Ruang Hidup Rakyat dan Ekologi Gambut*, via Sarekat Hijau website at <http://www.sarekathijauindonesia.org/?q=id/content/arpag%3A-menyelamatkan-ruang-hidup-rakyat-da>. See also <http://www.petakdanum.blogspot.com/> and <http://www.sekolahgambut.blogspot.com/> ♦



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What is CSF's agenda for Copenhagen and beyond?

Up to Copenhagen our target is to raise the issue of climate change and to push for the adoption of HELP by Gol as the framework for its policy-making and reference point during negotiations. Having one foot in the official camp (eg via the intervention team), we can intervene on policy-making by providing inputs to the negotiation text. On the other hand, being a pressure group, we will keep campaigning on the urgency to adopt HELP as a framework. In short, this is

how we keep the balance between working from within and pushing from the outside. All this work should be done at all levels including with local communities at grassroots level. Indeed, our campaigns and intervention work have been informed by reports about the real situation on the ground.

We don't see the Copenhagen summit as our ultimate goal. Instead it is a milestone in the negotiation process, providing there is no breakdown in the talks. Our focus remains on national policies, how they answer public needs.

How widely known is CSF in Indonesia?

Communities who work with CSF member organisations should know us. Beyond that, it varies. More importantly, however, we welcome any interested party to join us. Our target is to get the widest possible engagement of civil society.

CSF's website is at <http://csoforum.net/>.
Email: csoforum@cbn.net.id.
DTE is a member of CSF. ♦

Indonesia's Civil Society Forum for Climate Justice

A DTE interview with Giorgio Budi Indrarto, Coordinator of Indonesia's Civil Society Forum for Climate Justice.

How is Indonesian civil society addressing climate change?

Climate change is not new for us. In fact, we have been talking about it since the beginning of the environmental movement in Indonesia. It is not an isolated issue but an accumulated impact of unsustainable development.

The momentum created in the run-up to COP 13 in Bali in December 2007, led to the birth of the Indonesian Civil Society Forum on Climate Justice, known as CSF. It was set up by a group of CSOs in Indonesia to address COP 13. As we are an open forum, CSF membership has up to now been quite flexible, however, we are now about to make changes to give us a clearer structure as an organisation.

Twenty nine civil society organisations (CSOs) are part of CSF. From the outset CSF has aimed to be both a pressure group and reference group centre for information at the same time. We want to be involved in the negotiation and deliberation of national regulations on climate change.

To achieve these aims, CSF has 3 working groups:

- ♦ A field team which monitors livelihoods affected by climate change-related crises at grassroots level. It also supports grassroots initiatives to address climate change.
- ♦ Our Intervention team aims to influence policy-making at national level and in the international arena, relying on the information provided by the field team.
- ♦ The third group, the campaign team, works to amplify the voices from the grassroots, to put government decisions on climate change issues under the spotlight and to apply pressure where needed.

What is CSF's take on the series of negotiations leading up to Copenhagen?

We haven't seen any positive developments up to Bonn Talks 3 (August 2009). Negotiators are buying time by delaying decision-making. Take REDD as an example: since Bonn Talks 1 we have seen REDD 'growing' to become REDD+. Since COP 13

Human security **E**cological debt **L**and Tenure **P**roduction and consumption

HELP is a framework to ensure climate change measures, including negotiations on climate change, meet the basic requirements of **human security** and especially those of vulnerable groups.

Natural resources management should respect human rights to ensure security of **land tenure**.

The **Ecological debt** of developed countries should be paid to lessen the burden of developing countries, at the very least by emissions reductions at home.

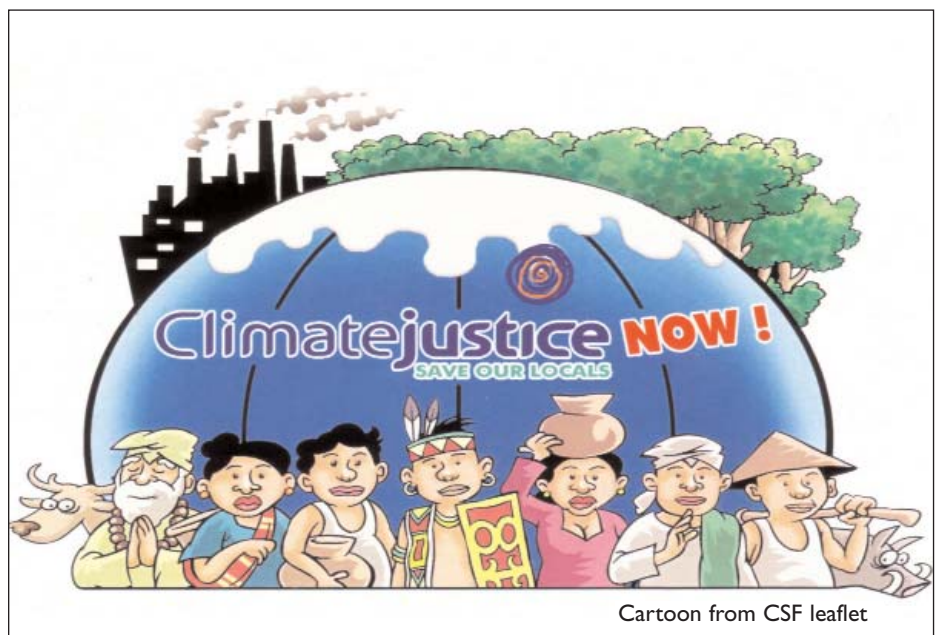
Lastly, the patterns of **production and consumption** have created inequality. The impacts of climate change have been a hindrance to the economic progress of developing countries.

in Bali, we have remained consistent with our stance that developed countries have the responsibility to cut their emissions to avoid more than a 2°C increase. CSF also campaigns for HELP (see box), our common call since Bali. The four pillars of HELP should be used to measure mechanisms being negotiated at the UNFCCC. Unless it meets the HELP criteria, any mechanism will be viewed as a bogus answer to climate change.

What does CSF think of the Government of Indonesia's (Gol) position in the international climate change negotiations?

In our view, Gol's position is very weak in the negotiation process. For example, in Poznan, Gol clearly didn't have any coherence on various measures under discussion (adaptation, mitigation, financing). On REDD, for instance, Gol is very keen to implement REDD without considering the complexity of national forest management. On adaptation, Gol hasn't made much progress since Poznan, even though Indonesia is vulnerable to the impacts of climate change and hence action is urgently needed. To move forward, the government should make it a priority to tackle underlying problems at home, then it can gain a stronger standing in the negotiations.

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Indigenous Peoples and climate change

AMAN calls for emissions reductions and FPIC in REDD projects

AMAN, Indonesia's Indigenous Peoples' Alliance, has issued a statement on climate change.

The Sinar Resmi Declaration was agreed at a national meeting of the organisation, hosted by the Banten Kidul indigenous community in West Java.

The following is an abridged version of the statement, which was translated by DTE

We, the Indigenous Peoples of the Archipelago, whose homes are in the mountains and forests, including the coasts and small islands, feel the impacts and threats of climate change. We are very well aware that climate change now threatens not only the survival of Indigenous Peoples worldwide but the future of the human race.

It is our opinion that the global climate change we are now experiencing is the result of the failure of a development model which is contingent on using up natural resources with no consideration for sustainability. Greed and control over resources have resulted in the powerlessness of our national decision-makers in the face of pressure from industrialised nations.

We assert that Indigenous Peoples have, so far, been able to manage and protect their resources sustainably throughout the generations. There is no denying the close connection between nature as the source of life and livelihoods where Indigenous Peoples safeguard nature for our grandchildren's future.

For these reasons, we, the Indigenous Peoples of the Archipelago:

1. Call on governments of the industrialised countries listed in Annex I of the Kyoto Protocol immediately to take substantial steps to reduce their emissions to 45% of 1990 levels by 2020 and to 95% by 2050, in support of the fundamental aims of the United Nations Framework Convention on Climate Change (UNFCCC);
2. Stress that the UNFCCC, as a United Nations Convention, is subject to the decisions of the UN General Assembly which adopted the Declaration on the Rights of Indigenous Peoples. Countries which have signed up to the UNFCCC must therefore acknowledge and protect the Indigenous Peoples' rights contained in its policies;
3. Stress that all initiatives relating to adaptation and mitigation of the impacts of climate change must be based on the principles of Free, Prior and Informed Consent (FPIC). This entails carrying out

consultations and guaranteeing Indigenous Peoples' involvement in decision-making;

4. Affirm that all initiatives on Reducing Emissions from Deforestation and Forest Degradation (REDD) must guarantee the acknowledgement and protection of Indigenous Peoples' rights, including protecting our rights to land, customary domains and ecosystems and providing maximum opportunities for indigenous communities;
5. Agree and insist that, in the absence of such guarantees, Indigenous Peoples will reject the implementation of all REDD plans and any other climate change mitigation initiatives;
6. Urge the World Bank, in particular, to implement the UN Declaration on the Rights of Indigenous Peoples in all Bank policies relating to REDD and to hold consultations with Indonesian indigenous communities immediately.

Within the national context we:

1. Urge the Indonesian government to rescind the 1999 Forestry Law (No 41) and replace it with one which recognises and protects Indigenous Peoples' rights;
2. Urge the Indonesian government to amend clause 33/sub-clause 3 of the 1945 National Constitution which reads "The earth, water and all the natural wealth contained therein are to be controlled by the State to be used optimally for the prosperity of the people". The word 'controlled' must be changed to 'protected';
3. Urge the Indonesian government to implement, with immediate effect, clauses 18b and 28i of the Constitution; the law on the management of coasts and small islands (No 27/2007); Resolution No 9/2001 of the People's Consultative Assembly on Agrarian Reform and Natural Resource Management¹; plus the UN Declaration on the Rights of Indigenous Peoples²;
4. Call on all levels of the Indonesian government not to grant permits to any parties for the exploitation of forests or other natural resources which lie within our customary lands without the consent of the indigenous community concerned, given through a mutually agreed

mechanism;

5. Urge the Indonesian government to act immediately to promote public awareness and consultations on climate change and REDD with indigenous communities;
6. Demand that the principles of Free, Prior and Informed Consent are implemented in all decisions and policy-making processes at all levels of governance - national, regional and in local communities;
7. Urge the Indonesian government to set up forthwith a Ministry of Indigenous Peoples Affairs;
8. Urge all levels of the Indonesian government to act immediately to resolve conflicts over land and natural resources in customary domains by using a human rights approach;
9. Urge the Indonesian government to implement the UN Declaration on the Rights of Indigenous Peoples within Indonesian laws and regulations;
10. Urge the Indonesian government to stop issuing individual land ownership certificates on the customary lands of Indigenous Peoples.

Finally, we call for, urge and demand that the government passes a law on The Recognition and Protection of Indigenous Peoples' Rights in Indonesia as soon as possible.

As the Indigenous Peoples of the Archipelago, we are prepared to work with the government and all other relevant parties to realise the fulfilment of our rights in Indonesia.

Notes

1. See DTE 52:3, <http://dte.gn.apc.org/52MPR.htm> and DTE 57:15, <http://dte.gn.apc.org/57MPR.htm>
2. See <http://www.un.org/esa/socdev/unpfii/en/declaration.html> ♦



palm oil

Sawit Watch calls for EU to face up to oil palm responsibilities

European countries are turning to agrofuels for energy and transport as part of their strategy to move away from fossil fuels and meet greenhouse gas emissions reduction targets. The use of palm oil as an agrofuel source has drawn strong criticism due to the severe social, environmental and negative climate change impacts, which contradict industry claims that it is a 'green' fuel.

Now, a leading Indonesian NGO has called on the European Union to face up to its responsibilities. By driving demand for palm oil, argues Sawit Watch, European states are encouraging Indonesia's oil palm plantation expansion programme, which destroys forests and peatland and causes human rights abuses and social conflict.

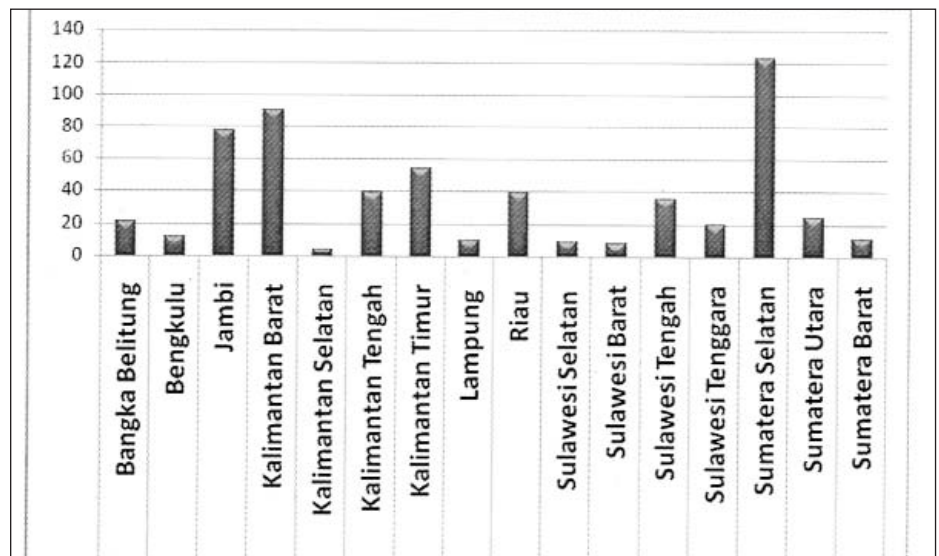
In a meeting with EU representatives in July, Sawit Watch called on the EU to ban imports of oil palm for agrofuel and energy until safeguards addressing social and environmental issues are in place. A statement prepared by the group also called on the EU to:

- ♦ adopt legally binding restrictions on investments in and subsidies for the use and marketing of edible oils and palm oil-derived energy sources from unsustainable sources;
- ♦ abandon targets for agrofuel use in member countries, such as the Fuel Quality Directive and the Renewable Energy Directive;
- ♦ strongly support actions by governments of producer countries to ensure that EU member state companies obey Indonesia's national laws and that those which do not do so are prosecuted;
- ♦ introduce tighter regulations on companies to ensure that they fulfil their social and environmental responsibilities.

The Sawit Watch statement highlighted Indonesia's place as the world's top palm oil producer, its palm oil industry controlling 7.5 million hectares of plantations in 23 of the country's thirty three provinces. While bringing prosperity to some, the oil palm boom has been associated with a range of serious social and environmental problems, including intimidation against indigenous peoples and local communities, detention and violent conflict.¹ In January this year, Sawit Watch documented 576 ongoing land conflicts between communities and oil palm companies. Some of the social problems listed are:

- ♦ Violation of indigenous peoples' customary rights;
 - ♦ Lack of free, prior and informed consent from affected communities and cases where consent is obtained through coercion, where customary leaders are manipulated into surrendering community land that legally cannot be sold, and where after land has been taken, the money was not paid;
 - ♦ Failure to fulfil socio-economic benefits promised by companies;
 - ♦ Violation of the terms and conditions of partnership agreements between companies and smallholder palm oil growers and indebtedness of smallholders who have not been informed of the financial arrangements;
 - ♦ Addressing community resistance to projects with coercion and the use of force;
 - ♦ Serious human rights abuses.
- The failure to protect indigenous peoples' rights was noted by the UN Committee on Elimination of Racial Discrimination, which has called on Indonesia to review its laws and their implementation to ensure that they "respects the rights of indigenous peoples to possess, develop, control and use their communal lands."
- The Sawit Watch statement also highlighted the significant climate change impacts of developing oil palm in peatland areas. Economic losses too were underlined: according to a 2006 study by WALHI (Friends of the Earth Indonesia) on a plantation in West Kalimantan, the conversion of 17,998 hectares of mixed use forest and agroforest into oil palm plantations, led to an estimated loss to the local people of 272.26 billion Rupiah (US\$ 27 million).

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Number of conflicts by region in Sumatra, Kalimantan and Sulawesi, Indonesia (Source: Sawit Watch Memorandum to European Commission, Sawit Watch 2009).

Sawit Watch is calling for an agreement between the EU and the Indonesian government to ensure that the use of renewable energy derived from Indonesian oil palm is bound by principles on accountability; respect for universal human rights (including the rights of local communities, indigenous peoples, children, women and workers); biodiversity and livelihoods; based on respect for all relevant international instruments; and abstention

Audit exposes World Bank failures in Wilmar case

Not only the EU, but the World Bank Group is under fire for promoting oil palm expansion at the expense of local communities and forests.

A long-running campaign to hold the World Bank to account for failing to uphold its own standards has borne fruit. An internal audit, made public in August, found that the Bank's private sector investment arm, the International Finance Corporation (IFC), went ahead with loans to the Wilmar palm oil trading group in violation of its own safeguard policies. The IFC failed to check the damaging impacts of Wilmar's subsidiary plantations which were taking over community lands and forests in Kalimantan and Sumatra.

The audit was issued by the IFC's Compliance Advisory Ombudsman and was triggered by a detailed complaint filed by the UK NGO Forest Peoples Programme and a coalition of 19 CSOs and indigenous organisations, including Sawit Watch, Gemawan and Down to Earth.

Source: FPP, Sawit Watch and Gemawan press information 10/Aug/09. For more background see DTE 76-77:17, <http://dte.gn.apc.org/76gw1.htm>. For the complaint and follow-up correspondence see http://www.forestpeoples.org/documents/ifc_igo/ifc_wilmar_fpp_let_jul07_eng.pdf and http://www.forestpeoples.org/documents/p_rv_sector/bases/oil_palm.shtml For the CAO audit report see http://www.cao-ombudsman.org/uploads/case_documents/Combined%20Document%201_2_3_4_5_6_7.pdf

from armed and violent security measures, police brutality and militarisation.²

The EU's Renewable Energy Directive

In December 2008, the European Union reached an agreement on the Renewable Energy Directive. By 2020, 20% of all energy used in the EU will have to come from 'renewable sources'. Also by 2020, each EU member state must ensure that 10% of total road transport fuel comes from 'renewable energy', defined to include biofuels and biogas, as well as hydrogen and electricity from 'renewable energy'. The vast majority of this is expected to be met from biofuels.



Oil palm plantation

Despite intensive campaigning by civil society groups in the run-up to the December 2008 decision, the RED contains a very minimum list of 'standards' which exclude most aspects of environmental sustainability and all social aspects.

There is a very weak reporting requirement on wider sustainability issues, including social impacts, but this excludes biofuels for power generation and only applies to transport fuel use.³

According to the campaign group Biofuelwatch, there need to be strong EU measures to support sustainable and clean renewable energy such as wind and solar power, but the Renewable Energy Directive which has been agreed "is so deeply flawed that it will accelerate climate change, cause major biodiversity losses, significantly worsen the food crisis, and lead to more evictions and displacement and more land-grabbing across the global South."⁴

RSPO Greenhouse Gas criteria

The Roundtable on Sustainable Palm Oil, the business-led multistakeholder body set up to promote certified sustainable palm oil, has acknowledged that greenhouse gas emissions must be included in sustainability criteria due to increased concern about climate change impacts of palm oil.

Oil palm plantations in Indonesia have been responsible for rocketing levels of CO₂ emissions in recent years, due to the clearance and drainage of peatlands for oil palm, and the associated seasonal peat and forest fires.⁸

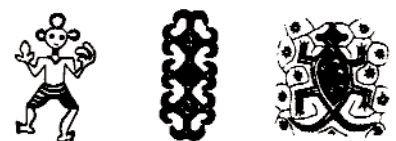
In March 2009 the RSPO set up a working group to work out how to give greenhouse gas emissions a 'clear position' in the RSPO Principles and Criteria. A consultation document which consists of a literature review and recommendations for amending the organisation's Principles and Criteria (P&C), is open for public comment until September 10th 2009.⁹

Certifications

Earlier this year, three Indonesian companies (PT Musim Mas, PT Hindoli and PT Lonsum Tbk) secured RSPO certificates despite being involved in unresolved conflict with local communities.¹⁰ A further six companies were waiting audits for certification.¹¹

In May, Indonesia's director-general of plantation said he hoped that ten companies would have RSPO certification by the end of the year.¹²

Meanwhile, agriculture minister Anton Apriyantono said the government was planning a research and development centre in Sijunjung, West Sumatra, to gather genetic resources and boost output.¹³



Objections to UK power plants

Protests have been directed against several agrofuel-based power plants in Europe in recent months, including three in the UK: in Newport, Wales, in Southall, West London, and in Portland, southern England. Blue NG, the company planning the 18.5MW Southall project, has said it would try and use domestic or even local rapeseed oil, although it does not rule out imports, provided that those are certified by 'internationally recognised certification schemes'. The company has not made any binding commitment to not use palm oil. In June 2008, the same company was granted qualified permission to build a 19.5 MW plant in Beckton, East London.⁵

Another energy company, VO-Gen Energy Ltd, applied earlier this year to Newport Council in South Wales to build a power station, which would burn up to 40,000 tonnes of virgin vegetable oil per year. It is clear that it will rely on imports of palm oil and possibly soya.⁶ Meanwhile, W4B Renewable Energy Ltd, the company that wants to build a plant in Portland, says it plans to source palm oil from Southeast Asia.

Alerted by the campaign group Biofuelwatch, DTE and others submitted objections on the grounds that the use of palm oil as a feedstock for these power plants would lead to negative impacts in producer countries like Indonesia.⁷

AS DTE went to press, we heard that Southall's planning committee has voted against permission for the power plan there. The planning decisions on the other cases are expected in September 2009.

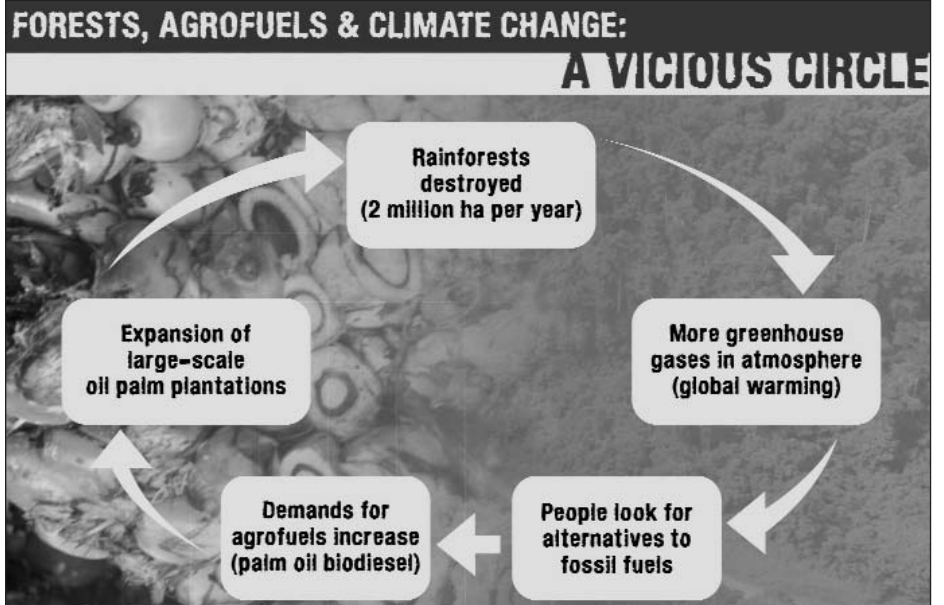
UK company involved in Aceh peat conversion

Jardine Matheson, a UK company is unlawfully draining and burning the Tripa peat swamp forest in Aceh, according to the international conservation NGO, Wetlands International.

The company is developing an oil palm plantation in a forest area which is home to endangered orangutans, and is violating Indonesia laws to protect peatland over 3m in depth as well as Aceh's 2007 moratorium on logging. The legally required Environmental Impact Assessment has never been shared with, or approved by, local institutions or community representatives.

Wetlands International and a coalition of other NGOs have written to the chairman of Jardine Matheson, owners of the oil palm developer, PR Astra Agro Lestari and have launched a public petition to stop the destruction.

(See <http://www.wetlands.org/NewsandEvents/NewsPressreleases/tabid/60/articleType/ArticleView/articleId/1815/Default.aspx>)



Swiss and French companies backs Sinar Mas

Swiss NGO Bruno Manser Fund (BMF) reported in July that two Swiss banks, Credit Suisse and UBS, together with French bank BNP Paribas, are helping Indonesia's palm oil group Sinar Mas to raise up to USD 258 million in new capital.

Sinar Mas was called a 'forest and climate criminal' by Greenpeace Indonesia in a recent protest against the company's continuing destruction of carbon-rich peatland for oil palm projects.¹⁴ It is one of the companies investing in large-scale oil palm developments in Papua, raising concerns that local peoples' land and resource rights will be swept aside. Sinar Mas also owns Southeast Asia's biggest paper pulp plant.¹⁵

BMF is calling on the banks to stop their dealings with Sinar Mas. It reports that the banks have refused to publish their policy guidelines on forest-related commercial operations.¹⁶

Malaysian Indigenous Organisations call for plantations moratorium

Indigenous peoples in Malaysia issued a statement on World Indigenous Peoples Day (August 9th) calling for a stop to large-scale plantations and other extractive activities on their customary lands until effective measures to safeguard their rights and the environment are in place.¹⁷

Notes

1. The economic downturn has affected farmers who benefited from the oil palm boom - see <http://dte.gn.apc.org/79cpa.htm>
2. Memorandum, 'Issues Surrounding Indonesian Palm Oil Industry' submitted by Sawit Watch, July 24, 2009 to the Delegation of the European Commission to Indonesia.
3. For full details and analysis of the RED see Biofuelwatch paper Biomass and Biofuels in the Renewable Energy Directive, January 2009 at <http://www.biofuelwatch.org.uk/docs/RenewableEnergyDirective.pdf>
4. Biofuelwatch paper, as above.
5. For more information about Blue NG, see http://www.biofuelwatch.org.uk/files/blue_ng_factsheet130409.pdf
6. For more information see Biofuelwatch alert at <http://www.biofuelwatch.org.uk/vogenmay2009.php#furtherbackground>
7. See for example Biofuelwatch letter objecting to Portland plant at <http://www.biofuelwatch.org.uk/docs/Portland-objection.pdf>. DTE's letters of objection are available upon request.
8. See DTE 79:4, <http://dte.gn.apc.org/79are> and DTE 75:10, <http://dte.gn.apc.org/75dpe.htm>, <http://www.wetlands.org/WatchRead/tabid/56/mod/1570/articleType/ArticleView/articleId/1491/Peat-CO2.aspx> for background.
9. See [http://www.rspo.org/GHG_emissions_from_palm_oil_production\\$\\$_Draft_for_public_consultation.aspx](http://www.rspo.org/GHG_emissions_from_palm_oil_production$$_Draft_for_public_consultation.aspx)
10. See DTE 80/81: 17, <http://dte.gn.apc.org/80jop.htm>
11. See <http://dte.gn.apc.org/80an.pdf>
12. *The Jakarta Globe* 7/May/09
13. *The Jakarta Globe* 7/May/09
14. <http://forestpolicyresearch.org/2009/03/20/indonesia-greenpeace-does-direct-action-on-huge-destroyer-big-sinner-sinar-mas/>
15. See DTE 75:2 for further background.
16. Bruno Manser Fund Media Release 7/Jul/09
17. News release, 9/Aug/09 at <http://www.rengah.c2o.org/news/article.php?id=de0721t> ♦

coastal communities

Coastal communities want rights upheld

Coastal communities have been marginalised by big business, as well as policies and legislation that favours large companies. They now face additional threats from the impacts of climate change. In August, a coalition of fishing community representatives, NGOs and academics called for the needs and customary rights of coastal communities, and environmental sustainability to be put at the heart of coastal management in Indonesia.

The Lombok Statement, endorsed by twenty community organisations and NGOs, asserts that centuries-old customary law and traditional knowledge can make a significant contribution to just and sustainable fisheries and marine resources management.

The statement, issued at a workshop held from 2-5 August on Lombok, calls for the reversing of laws which lead to the privatisation of coastal resources, and their monopolisation by business interests. Parts of Law No. 27 of 2007 on Coastal Area and Small Islands Management and Regulation No.5 of 2008, issued by the marine affairs and fisheries minister, now revised and reissued as Regulation No.12 of 2009 on Capture Fisheries, are singled out as harmful to coastal communities' interests.

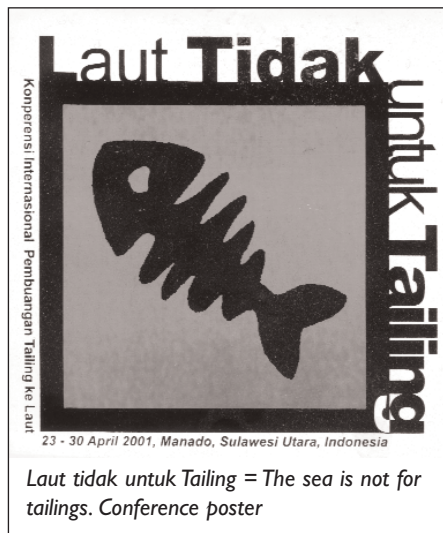
The statement also calls for the strengthening of customary law institutions through legal recognition and protection of customary law in coastal communities, and through documentation and publicity.

"We believe that marine and coastal resources management should uphold environmental sustainability and social justice and gender equality, especially of marginalised members of coastal communities, including poor widows, neglected children and the permanently ill."

(Lombok Statement)

The workshop's title: "Customary institutions in Indonesia: do they have a role in fisheries and coastal area management?" was answered by the statement's call on the Indonesian government to:

"Acknowledge and protect customary law and traditional knowledge that have been handed down from generation to generation, have become part of our nation's cultural identity and have helped in conserving and managing marine and fisheries resources. This can be achieved by recognising and integrating adat law and traditional knowledge into the national legal system, giving due consideration to diversity of



value systems, national unity and gender equality."

The statement also calls for priority to be given to sustainability and domestic fish needs and for effective prevention of illegal and unregulated fishing, and environmental violations by extractive industries. It ends with an appeal for support both in Indonesia and internationally for an economic model which is based upon people's needs, *adat* law and traditional knowledge which uphold social justice, equality and environmental sustainability.

Indonesia pushes Manado Declaration at Bonn Climate Talks

One task of Indonesia's delegation to the Bonn climate change talks in June, was to push for ocean-related issues to be included on the official agenda for December's global climate change summit in Copenhagen.

The Manado Declaration, agreed at the previous month's World Oceans Conference (WOC) in North Sulawesi in May, was highlighted at a side event co-hosted by Indonesia at the Bonn talks.

The WOC itself and the Coral Triangle Initiative, which met on the same occasion, had been lambasted by Indonesian civil society groups as a waste of public money, with an agenda which failed to address

the root causes of marine resources destruction and climate change. Police action against prominent environmental activists at a parallel civil society meeting also drew strong criticism from Indonesian and international NGOs.²

At the Bonn side event, Indonesia drew attention to the need to mainstream oceans into the 2009 Copenhagen climate change talks and to promote affordable, environmentally sound and renewable ocean technologies particularly for developing countries.³

Before the June talks, Indonesia's environment minister Rachmat Witoelar was keen to promote the view that oceans should be regarded as means of mitigating climate change due to their carbon storage capacity. "We hope carbon mechanisms such as those regulating forests can be applied to ocean issues", he said, as quoted by the *Jakarta Post*.⁴

Indroyono Soesilo from Indonesia's marine affairs and fisheries ministry said the Manado Oceans Declaration had achieved its goal of having oceans included on the UNFCCC agenda. Five paragraphs were included in documents for the Ad Hoc Working Group on Long-Term Cooperative Action (AWG-LCA), including sections on an adaptation fund, monitoring, marine and coastal management, and the sharing of information.

"It will bring us much more strength because now we have two advantages, forests and oceans," he was quoted as saying by the *Jakarta Globe*, adding that Indonesia had been referred to as the oceanic equivalent of the Amazon.⁵

However, the lack of scientific knowledge about the role of oceans in storing and releasing carbon has prevented any reference to oceans' capacity to store carbon from being included in the draft AWG-LCA negotiating text.⁶

Communities vulnerable to climate change

Rising sea levels, more frequent and severe storms and more waterborne diseases are some of the impacts of climate change which make poor coastal communities particularly vulnerable.

According to Oxfam Indonesia, 20 million people depend on coastal and marine resources in Indonesia.⁷ Around 42 million people in the country live in areas less than 10 metres above the average sea level.⁸

In a 2005 study, the Asian Development Bank estimated that around 22% of Indonesia's population lives on the coast and about 60% on the coastal plains. It estimated that some 14 to 16 million people were directly employed in coastal and marine related activities and that the contribution of these activities - from both renewable and non-renewable extraction - was 20-25% of Indonesia's GDP.⁹

The UN's Food and Agriculture Organisation (FAO) estimates that around 520 million people - or around 8% of the world's population - depend on fisheries and aquaculture as a source of protein, income or family stability.

A 2009 briefing for the Bonn talks describes how higher CO₂ levels in the atmosphere are changing both air and sea surface temperatures, ocean acidity, sea levels and the intensity of tropical cyclones. Climate change is already causing changes to the distribution and productivity of marine and freshwater fish species.

As storms become stronger and more frequent, the need to protect mangroves in coastal areas becomes all the more urgent. These coastal ecosystems create barriers to destructive waves, hold sediments in place, reducing erosion.¹⁰ They also provide habitat, food and nurseries for fisheries - and a vital source of many food and non-food products for communities with the traditional knowledge to harvest them sustainably.

Outrage at WWF's Aquaculture Stewardship Council Plans

Human rights and environmental NGOs from around the world have protested against the planned launch of the Aquaculture Stewardship Council, a body to certify the industrial production of shrimp and salmon. The aim is to reassure consumers that certified products are produced sustainably.

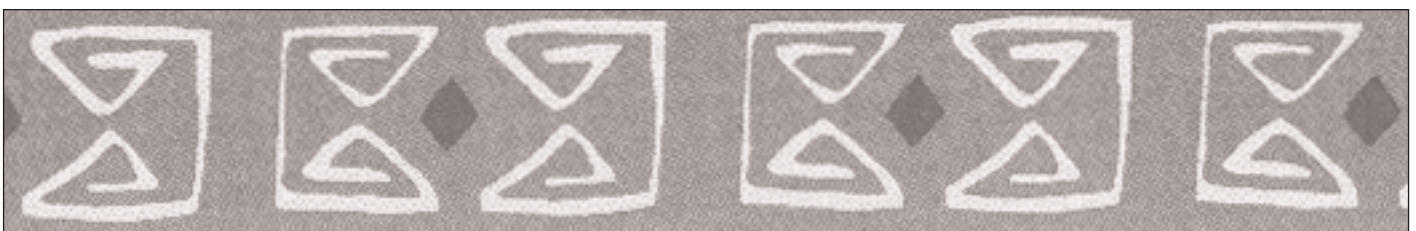
Over 70 groups wrote to the World Wide Fund for Nature (WWF) criticising the scheme. The said it was influenced by vested interests of the aquaculture industry and failed to take into account the wishes of local communities and indigenous peoples who live alongside shrimp and salmon farms. The campaigners say that WWF has repeatedly rejected calls for meetings with representatives from affected communities in six aquaculture regions across the world.

Industrial-scale shrimp farming has devastated vast tracts of mangroves in Indonesia and other countries in recent decades, as the trees are cleared to make way for intensive aquaculture. The groups campaigning against the certification plans point out that mangrove clearance causes serious declines in biodiversity and wild fisheries, shoreline erosion and increased vulnerability to hurricanes and tsunamis. They also point to the massive quantities of carbon released when mangroves are cleared.

A global network of civil society organisation is demanding a moratorium on further expansion of industrial aquaculture development. The letter to WWF ends with a demand that the conservation NGO halt the certification initiative and "immediately initiate real and meaningful dialogues with affected communities, not just with industry and a few NGOs and academics. There is still a great need for strict social and rights-based standards, not just environmental and technical fixes initiated at the aquaculture farm level."¹¹

Scientific research carried out in Indonesia to assess the effectiveness of certification schemes on farmed shrimp found systematic problems and concluded that "these systems may never fulfil any of their overarching objectives such as long term sustainability or reduced consumption of non-certified shrimp."¹²

For more background on Indonesia's shrimp industry and coastal communities, see Asia Solidarity Against Industrial Aquaculture, <http://www.asia-solidarity.org/>, the International Collective in Support of Fishworkers <http://icsf.net/icsf2006/jspFiles/icsfMain/>, Mangrove Action Project <http://www.mangroveactionproject.org/>, KIARA <http://www.kiara.or.id/>, DTE 58:13, <http://dte.gn.apc.org/58mar.htm>, DTE 51:1, <http://dte.gn.apc.org/51srp.htm> and DTE 45:4, <http://dte.gn.apc.org/45CRC.htm> and <http://dte.gn.apc.org/45shr.htm>.



Notes:

1. *The Lombok Statement*, ICSF [International Collective in Support of Fishworkers] Workshop on "Customary institutions in Indonesia: Do they have a role in fisheries and coastal area management?", 2-5 August, Lombok. Endorsed by 21 Indonesian organisations from Aceh to Maluku in eastern Indonesia. The workshop was also attended by organisations from neighbouring Southeast Asian countries.
2. See DTE 80-81:10, <http://dte.gn.apc.org/80ffi.htm> for more background. The Manado Declaration was signed by 76 countries and 11 international

- organisations. It can be viewed at www.cep.unep.org/news-and-events/manado-ocean-declaration
3. <http://www.iisd.ca/climate/sb30/enbots/10.html> [accessed August 28]
4. *The Jakarta Post* 4/Jun/09
5. 'Manado Pact Called Toothless', *The Jakarta Globe*: 20/Jun/09
6. For the draft text [June 22, 2009 version] see <http://unfccc.int/resource/docs/2009/awglca6/eng/inf01.pdf>
7. http://www.oxfam.org.uk/resources/countries/indonesia_livelihoods.htm
8. IIED, 2007. Climate change: study maps those at greatest risk from cyclones and rising seas. London, International Institute

- for Environment and Development www.iied.org/mediaroom/releases/070328-coastal.html
9. ADB Indonesia: Country Environment Analysis 2005, <http://www.adb.org/environment/cea.asp>
10. Climate change talks mustn't forget fisheries, say international groups, FAO, 1/Jun/09.
11. News release; Worldwide Protest Against WWF's Plans to Launch Aquaculture Stewardship Council, 14th May 2009, via Rettet den Regenwald.
2. <http://www.naturskyddsforeninge.n.se/upload/Foreningsdokument/Rapport/r/rap-inter-shrimp-naturland.pdf> ♦

West Papua / extractives

NGOs accused of 'crying wolf' over Tangguh human rights risks

The giant Tangguh gas project in Bintuni Bay, West Papua, has now started exporting LNG, amid continuing concerns about social and environmental impacts.

After many delays, the Tangguh project, operated by UK oil multinational, BP, has begun production, with the first shipments of Liquid Natural Gas (LNG) delivered to China and South Korea in July 2009. There is much at stake for many people in this operation, not least for the local communities who will be regularly seeing tanker ships ferrying LNG away from their shores. They and the wider Papuan community have been sold this project on promises of development and improved welfare. However, as income starts to flow from this project, concerns about increased militarisation, threats to livelihoods and resource rights persist.

Tangguh has contracts to supply 2.6 million tonnes of LNG per year to the Fujian gas terminal in China, 1.15 million tonnes a year to South Korea's K-Power and POSCO and up to 3.7 million tonnes a year to Sempra's Baja California terminal in Mexico.¹

TIAP's mission-fatigue?

The Tangguh Independent Advisory Panel (TIAP) was set up in 2002 and given the remit of helping BP achieve its potential to become 'a world class model for development'. With its latest report (7th TIAP report) and round of stakeholder meetings, the current committee of 4 members has completed its tenure. They have recently shown signs of fatigue: perhaps years of trying to perform the nigh-on impossible task of matching big business with sustainable development has taken its toll.

The London TIAP meeting was held on the 19th May 2009 and was attended by NGOs and civil society activists, as well as BP staff and other representatives of the private sector. One of the NGO representatives was Yan Christian Warinussy, director of LP3BH a legal advocacy organisation based in Manokwari, West Papua. After presentations by the panel and by various BP officials, questions were raised about the project's social and livelihood problems, environmental, security and human rights, land rights, transparency of revenue flows and concerns regarding the wider political and economic context.

"Back to Petroleum"

Since the departure of former CEO Lord Browne, BP seems to be making retrogressive steps on the environment and sustainability. Not only has BP invested in the Canadian Tar Sands in Canada (a particularly environmentally damaging form of oil extraction), but it has recently cut alternative energy funding from US\$1.4 billion in 2008 to US\$1 billion in 2009.

As a consequence, it appears that BP's alternative energy managing director, Vivienne Cox, has resigned, leading the UK's *Guardian* newspaper to quip that BP was no longer looking to move "beyond Petroleum" (as BP's logo said at one time), but "back to Petroleum".⁴

Given the urgent need for real sustainability and the dangers of the changing climate, there remains a lack of leadership and willingness to face these issues within the energy sector itself.

BP's insistence on developing the Bintuni Bay gasfield, despite its high levels of CO₂ content and the company's reluctance to engage in the debate around Carbon Capture and Storage⁵ underlines the fact that BP is refocusing on its core businesses.

One response, by TIAP member Lord Hannay, to a question regarding the Integrated Community Based Security system (ICBS) employed at the Tangguh project, showed clearly how this current panel appears to have lost its objectivity. John O'Reilly, himself a former BP manager in Indonesia and Colombia, raised concerns over the increased presence of the Indonesian military in Bintuni Bay and the associated human rights risks. He asked if and how lessons will be learned from past experiences both here and elsewhere at BP. Lord Hannay's response was to accuse him and others present of repeatedly saying that the ICBS 'will never work' and of, over the

years, 'crying wolf' over the increased militarisation of the area. He maintained that the 'wolf hasn't come' and that such predictions were apocalyptic and lacking belief in the successful implementation of this system of community-based security. This exchange revealed a lack of seriousness on the part of Hannay about the potential for human rights violations. There is a certain irony that the concern was raised by one of the initial designers of the ICBS itself.

In a letter to Tony Hayward, the Chief Executive of BP, a number of NGOs present at the TIAP meeting asked for clarification on this issue, and pointed out that similar concerns had been expressed by the TIAP panel itself.²

The letter said that "there is always the risk that human rights will be threatened if the TNI [Indonesian armed forces] decides to intervene in a heavy-handed manner in response to a particular incident or situation for whatever reason."³

(continued next page)



Reality gap

BP's rhetoric and the reality of the situation on the ground in Papua was highlighted by Yan Christian Warinussy from LP3BH at the TIAP meeting. Pak Yan spoke with force about the need for BP to improve its communication with the local community and to have a real dialogue with local communities (rather than a managed one). He emphasised that Papua is a region where human rights violations are endemic.

In response to concerns raised about compensation and responsibility for the wider situation in Papua, Pak Yan added his voice to others who had called for BP to take some responsibility for the wider situation in Papua.

He warned that, despite money and programmes provided for the directly affected villages, without greater clarity and real dialogue there was a strong risk that BP would become a source of conflict rather than a source of development.

Following this, Down to Earth raised the issue of the Immeko communities from the North shore of Bintuni Bay, who believe that the gasfields are located and drawn from underneath their lands. The head of BP Indonesia (William Linn)'s response to this was an unsatisfactory "to the best of my knowledge, the gas is not under the Immeko lands".

BP and TIAP were equally evasive on the question of *adat* (customary) law and indigenous Papuans' perceptions that they are the rightful owners of the natural resources in their areas, including gas reserves. Lord

Hannay claimed that BP was constrained by Indonesian law and therefore could not get involved in claims relating to customary land.

The gap between indigenous views of the reality in Papua and those of the government and multinationals like BP remains a principle cause for ongoing conflict.

Recent violence, including a series of shootings near the Freeport-Rio Tinto copper and gold mine show that these disparities continue to engender conflict, whether rooted in local indigenous community opposition or caused by the presence of security forces in the vicinity of the project.

BP always makes strenuous efforts to distance itself from previous examples of big business intervention in Papuan lives which have resulted in serious human rights abuses (see brief report on recent violence near the Freeport-Rio Tinto mine, back page). However, as the continuing concerns of NGOs both in Papua and internationally underline, there remains the constant risk that things could turn very ugly in Bintuni Bay also.

TIAP II

The new TIAP panel, chaired by former United States Senator Chuck Hagel and Augustinus Rumansara was announced by BP in July.⁶ Augustinus Rumansara has worked for Papuan NGOs as well as BP, and more recently for the Asian Development Bank. TIAP II will have its work cut out: advising BP on steering Tangguh through its first years of production and LNG exports and, at the

same time, presenting a positive picture on social and environmental impacts is no easy task.

However, it is the local communities who must bear the greatest risks with this project. They continue to face drastic changes to their customary lands, their environment, livelihoods, and must cope with expanding local administration, an increase in security personnel in their area and increased pressure on local natural resources.

It remains to be seen how far BP's community development programmes and the eventual flow of revenues into Papua can compensate for these changes imposed on Bintuni Bay and its peoples.

Notes

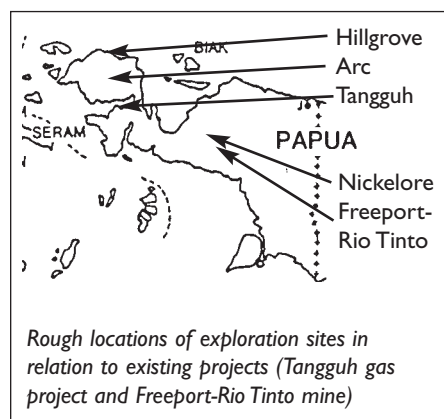
1. <http://www.bp.com/sectiongenericarticle.do?categoryId=463&contentId=2000625>, [accessed 1/Sep/09]
2. Eg, the 2008 TIAP report, p20, via <http://www.bp.com/downloadlisting.do?categoryId=9004790&contentId=7009155>
3. Letter to Tony Hayward, 26 June 2009. Signatories include DTE.
4. <http://www.guardian.co.uk/business/2009/jun/28/bp-alternative-energy>
5. See DTE 80-81:15, <http://dte.gn.apc.org/80hpt.htm>
6. See <http://www.bp.com/genericarticle.do?categoryId=9004787&contentId=7054896> [accessed 1/Sep/09].♦

More copper and gold mines for Papua?

At least three Australian mining exploration companies have released information recently about their activities in Papua, raising concerns over the potential for more serious human rights and environmental impacts for the local population and their livelihoods.

The companies are looking for major copper and gold deposits similar to those mined by Freeport-Rio Tinto (see p.16).

In May this year, Australian company **Hillgrove Resources Ltd** announced it had completed a 'socialisation process' to introduce the company's exploration plans to local communities, police and security forces and others in its 181,500 hectares exploration area in Sorong and Manokwari districts in the Bird's Head area of West Papua. The process, which involved company representatives visiting villages along the northern coast of the region, was a necessary step prior to a 'major exploration initiative', according to the company. Hillgrove holds a further exploration licence on the island of Sumba, in



East Nusa Tenggara province. The company's local Indonesian partner is PT Akram Resources.¹

A second project, called Aisasjur, to the south of the Hillgrove concession is being explored by **Arc Exploration, Ltd**. Arc, formerly known as Austindo Resources Corporation NL, was granted an initial 3-year

renewable 'KP' licence to explore 9,486 hectares of land in Bintuni Bay district in 2005.

In June this year, it secured two more exploration areas, covering a total of 51,410 ha. More applications are pending. The company has a funding agreement with UK-based mining multinational Anglo American. The permits are held by a company called PT Alam Papua Nusantara.²

In August, a third company, **Nickelore Limited**, announced an initial agreement to invest in the exploration of a 91 km² area bordering Freeport-Rio Tinto's mining concession. The 'Papua Gold & Copper Project' consists of 2 licence areas to the northeast of Freeport-Rio Tinto's Grasberg mine.³

Notes

1. <http://www.hillgroveresources.com.au/>
2. <http://www.arcexploration.com.au>
3. http://www.nickelore.com.au/uploads/file/docs/HOA_signed_to_Acquire_Gold_Copper_Project.pdf ♦

law

Indonesia's International Treaty Obligations

Indonesia's policy and practice in relation to sustainable development, climate change and human rights is to a significant extent governed by its obligations under international treaties and other international instruments. DTE will shortly publish a compilation of selected instruments applicable to Indonesia as a guide for civil society organisations and others working on these issues. In the following article, we set out some of the background information.

A treaty is a written agreement between States that is legally binding and governed by international law. It may be called by other names, such as convention or covenant, and is distinguished from an agreement that is not legally binding but may represent a broad consensus of opinion within the international community. The supreme human rights instrument, the Universal Declaration of Human Rights, for example, is not legally binding, but is nevertheless a standard-setting manifesto with the highest moral authority. The same applies to the UN Declaration on the Rights of Indigenous Peoples.

Climate change and sustainable development

The best known instruments on climate change are the 1992 UN Framework Convention on Climate Change agreed at the Earth Summit in Rio de Janeiro and the 1997 Kyoto Protocol. The Climate Change Convention establishes an overall framework for intergovernmental efforts to tackle climate change while the Kyoto Protocol sets binding targets for the reduction of greenhouse gases worldwide. The current implementation period covered by the Kyoto Protocol ends in 2012. Further measures will be agreed at the forthcoming Climate Change Conference in Copenhagen in December 2009.

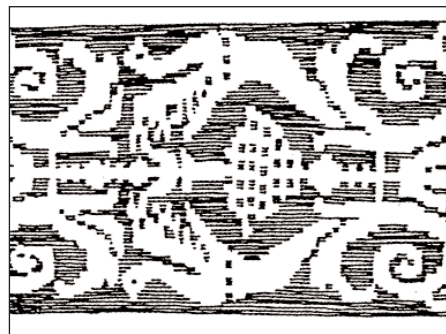
Other key instruments on sustainable development and climate change include the Convention on Biological Diversity, the Vienna Convention for Protection of the Ozone Layer and the Declaration on the Right to Development.

Human rights instruments

An International Bill of Rights, comprising the primary UN human rights instruments - The Universal Declaration of Human Rights ('the Universal Declaration'), the International Covenant on Economic, Social and Cultural Rights ('the ECOSOC Covenant'), the International Covenant on Civil and Political Rights ('the ICCPR') and the Optional Protocol to the ICCPR - exists to define and guarantee the protection of human rights. The ECOSOC Covenant and the ICCPR contain binding commitments based on the

principles set out in the Universal Declaration.

Work on formulating the Bill of Rights began immediately after the Second World War, but wasn't completed until nearly two decades later when, in December 1966, the UN General Assembly voted to adopt and open for signature the ECOSOC Covenant, the ICCPR and the Optional Protocol. The General Assembly had previously adopted the Universal Declaration in December 1948.



International treaties or agreements are not only multilateral. They can also take the form of bilateral agreements between two states or agreements open to only a few States, such as the ASEAN Charter.

While many international instruments set important standards for States to follow, others are of questionable effectiveness because of the political

compromises made to achieve agreement. The recently-agreed terms of reference for an ASEAN Intergovernmental Commission on Human Rights, for example, have been strongly criticised by Amnesty International and other human rights groups for failing to give sufficient emphasis to the protection of human rights and their emphasis on consensus and the regional principle of non-interference in the internal affairs of other states.

An international treaty has to go through a number of stages before it can be enforced in a particular country. After a text is agreed and adopted, the instrument is opened for signature and normally enters into force after a sufficient number of States have signed or ratified it. The instrument becomes enforceable in a particular country after it has been ratified or adopted by the necessary authority in that country.

Indonesia's Act No.24 of 2000 on International Treaties regulates the making and ratification of treaties. It provides that certain treaties (such as those relating to national security, human rights and the environment) have to be ratified by an Act of Parliament while others can be ratified by Presidential Decree.

Disputes and compliance

Disputes arising from a State's failure to live up to its obligations under a treaty can be

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Useful websites

- ◆ Convention on Biological Diversity, Indonesia profile: <http://www.cbd.int/countries/?country=id>
- ◆ Climate Change Convention and Kyoto Protocol: <http://unfccc.int/>
- ◆ Convention for the Protection of the Ozone layer: <http://ozone.unep.org/>
- ◆ Office of the High Commissioner for Human Rights, Indonesia Home Page (all the main human rights treaties can be accessed from here): <http://www.ohchr.org/EN/countries/AsiaRegion/Pages/IDIndex.aspx>
- ◆ UN Declaration on the Rights of Indigenous Peoples: <http://www2.ohchr.org/english/issues/indigenous/declaration.htm>

settled by negotiations between the parties, by mechanisms established by the treaty itself, or by referring the dispute to the International Court of Justice in The Hague.

The International Court option applies only to States that have accepted the jurisdiction of the Court; Indonesia has not done so in general, but could choose at any time to submit to the Court's jurisdiction in relation to any specific dispute.

State compliance with the main international human rights instruments is monitored by UN-based supervisory committees, such as the Human Rights Committee and Committee Against Torture. An Optional Protocol to the International Covenant on Civil and Political Rights establishes a mechanism for complaints by individual victims of abuse, but Indonesia has not yet ratified the Protocol.

The Committee on the Elimination of Racial Discrimination, which supervises the Convention on the Elimination of Racial Discrimination (CERD), has for example expressed concerns about the impact on indigenous rights of plans to establish oil palm plantations along the Indonesia-Malaysia border in Kalimantan¹ and has criticised draft regulations on Reducing Emissions from Deforestation and Forest Degradation (REDD) for being incompatible with indigenous rights. This followed submissions to the Committee by a number of NGOs, including AMAN and Sawit Watch.²

Notes

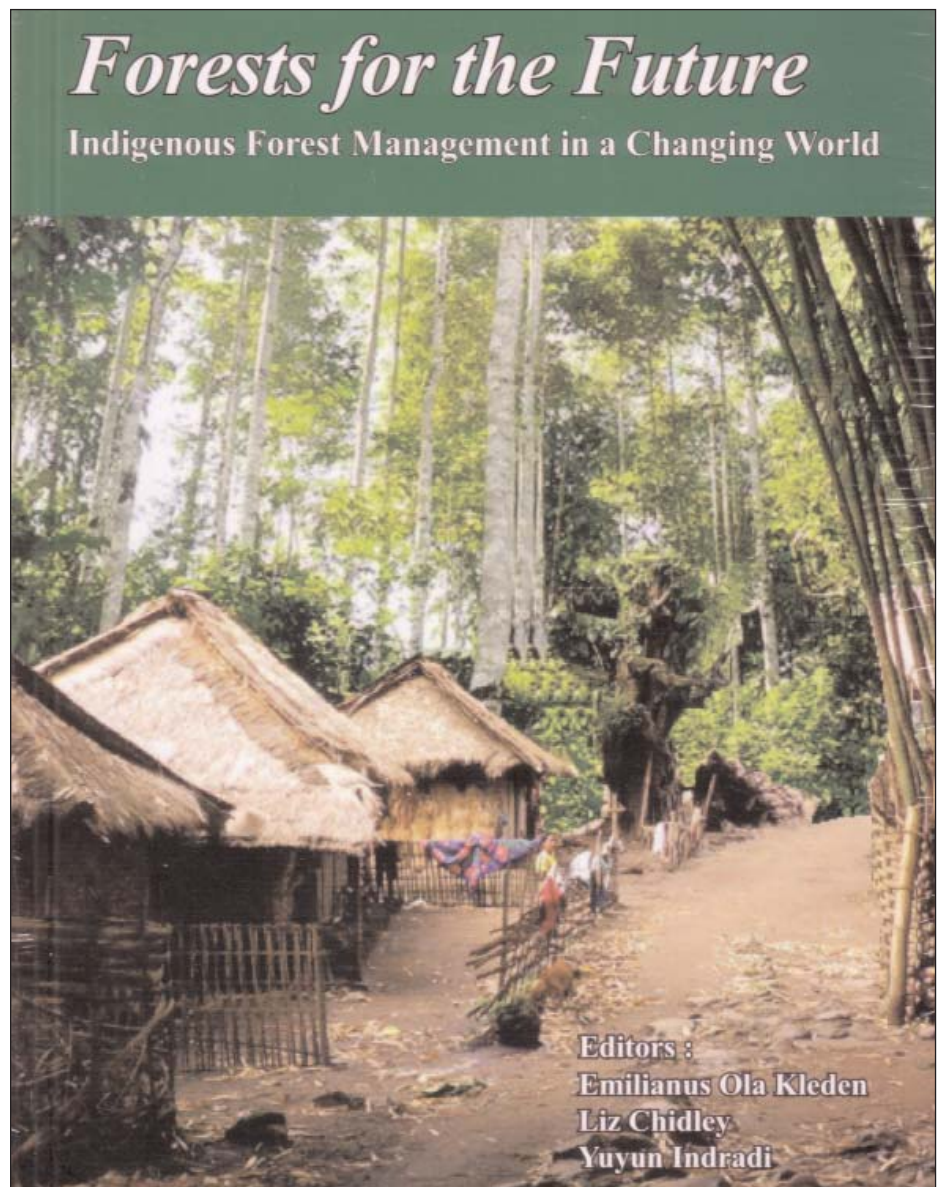
1. CERD/C/IDN/CO/3, 15 August 2007, para 17 at <http://www2.ohchr.org/english/bodies/cerd/docs/CERD.C.IDN.CO.3.pdf>
2. CERD letter to the Indonesian Government, 13 March 2009, at http://www2.ohchr.org/english/bodies/cerd/docs/early_warning/Indonesia130309.pdf. See also DTE 80/81: 5, <http://dte.gn.apc.org/80ccl.htm>. ♦

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livelihoods are threatened by the project. The Harapan project is run by PT Restorasi Ekosistem Indonesia (PT REKI), which consists of a local group Burung Indonesia, the UK's Royal Society for the Protection of Birds (RSPB) and BirdLife International. See <http://www.redd-monitor.org/2009/08/28/nobody-cares-about-the-poor-people-new-film-about-the-harapan-rainforest-project/> ♦

Aceh forest loss

A study by Greenomics Indonesia has found that more than 200,000 hectares of forest were lost in Aceh during rebuilding efforts following the December 2004 tsunami. Most was illegally felled to supply wood for infrastructure and house construction between 2006-2008. Greenomics said it was



Forests for the Future: the new book from AMAN and Down to Earth, with case studies written by indigenous communities from West Java, Jambi, South Kalimantan, Lombok, Central Sulawesi and Flores. Contact dte@gn.apc.org to order a copy.

the humanitarian mission with the world's fastest deforestation rate and the biggest use of illegal timber. (*Jakarta Post* 12/Aug/09) ♦

Guguk carbon stocks assessed

A rapid carbon stock assessment of Guguk customary forest in Jambi, Sumatra, found that it contained 261,25 tonnes per hectare. The assessment was done between August 2008 and Feb 2009 by KKI-WARSI. (See <http://www.worldagroforestry.org/sea/project/s/tulsea/node/32>).

Guguk is one of the case study areas in the AMAN-DTE book *Forests for the Future* (see http://dte.gn.apc.org/GN_S4.pdf). ♦

Land grabs website

A website to provide information on the new global trend to outsource food production has been launched by the NG GRAIN at <http://farmlandgrab.org>. The group says some 20 million hectares is being taken over by foreign investors around the world and that the practice is increasing. (Source: <http://www.grain.org/nfg?id=658>)

Merauke in Papua is one area being targeted by Saudi investors. Here, concerns have been raised that indigenous Papuans' land will be taken and their livelihoods destroyed, to make way for large-scale projects to grow rice and other crops, under ambitious schemes involving roads, ports and irrigation systems. (See DTE 78:6, <http://dte.gn.apc.org/78dpad.htm> for background.) ♦

In brief...

More deaths at Freeport-Rio Tinto mine in Papua

More violence near the Freeport-Rio Tinto copper and gold mine in West Papua resulted in three deaths - two Freeport employees and a police officer - in July. Police arrested seven people: two of them worked at the company's Grasberg mine. More shots were fired at a bus carrying the mine's employees in August, with one incident leaving five people injured.

A report in the Australian newspaper, *The Age*, blames militia backed by a unit of Indonesia's elite special forces (Kopassus) for the recent attack. It points to a previous attack in 2002, when fatal shootings were linked to the Indonesian military (see DTE 55:8, <http://dte.gn.apc.org/55frp.htm>, and full report on Tapol website <http://tapol.gn.apc.org/reports/murder63.htm>)

A July statement by Indonesian human rights and environment NGOs and church groups expressed concern at the escalating violence in other parts of Papua, as well as the shootings near the Grasberg mine in Timika district. It called on the armed forces and the government not to make any provocative statements linking the attacks to the West Papuan independence movement (TPN/OPM). At a press conference, the groups said that the many mistakes made over granting a concession to Freeport was the source of the many acts of violence in Timika. On the wider Papua situation, the statement called upon all sides to stop

accusing the Papuans of separatism and to seek a solution by means of peaceful dialogue.

Meanwhile, lawyers representing the Amungme people, whose customary lands have been mined by US-based Freeport, have filed a lawsuit against the company in Jakarta claiming USD30 billion in damages to compensate for environmental and human rights violations.

Freeport is continuing to pay for military protection at the mine, despite regulations which are supposed to prevent such payments. In 2008 the company said it paid 'less than USD1.6 million' to provide a monthly allowance to police and soldiers around the mine. This was part of 8 million dollars of 'support costs' for 1,850 police and soldiers protecting Grasberg last year. Past investigations have shown that Freeport paid around USD30 million between 1998 and 2004 to the military and police (see DTE 68:5, <http://dte.gn.apc.org/68wpr.htm> for background).

A new Human Rights Watch report, "What did I do Wrong?" Papuans in Merauke Face Abuses by Indonesian Special Forces" focuses on human rights abuses by Kopassus, in Merauke district, southern Papua. The report underlines the culture of impunity among Indonesia's security forces in the territory. See <http://www.hrw.org/node/84046>

(Sources: Mineweb 16/Aug/09; Los Angeles Times 7/Aug/09; Kompas 16/Jul/09; press release by Kontras, Papuan NGO Forum, PBHI, Imparsial, Praxis Alliance, Eknas WALHI, JATAM and the Indonesian Council of Churches, 15/Jul/09; AFP 23/Mar/09)♦

World Bank to assess carbon footprint

The World Bank has announced plans to estimate the carbon footprints of its future projects. Together with other multilateral development banks, the Bank is creating a common method for estimating a project's associated greenhouse gas emissions.

The move fits with the Bank's bid to become the major lender for climate change related projects, including REDD (see also page 1).

The Bank's decision follows decades of pressure from non-governmental groups, such as the Environmental Defense Fund and the Bank Information Center, to move its lending away from polluting fossil fuel energy projects, toward renewable energy and energy efficiency.

Last year, research by the Bank Information Center (BIC) showed that lending by the World Bank Group on the extractive industries had actually increased in the year from July 2007 to June 2008.

Among fossil fuel projects, BIC listed several loans by the IFC - the Bank's private sector investment body - to Indonesia. See DTE 78:5, <http://dte.gn.apc.org/78cmo.htm>

(Source: WorldWatch Institute, 28/Jul/09 at <http://www.worldwatch.org/node/6209?emc=el&m=277083&l=4&v=97362000ee>)♦

Harapan REDD film

A film about the controversial Harapan REDD project in Sumatra documents how local people are excluded and how their

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