

July 19, 2009

Mr. Benoit Bosquet

5Th Floor,
Room S-50431750
Pennsylvania Ave. N.W.
Washington D.C., District of Columbia 20433
United States

Dear Benoit Bosquet,

We are from Indonesian Civil Society Forum on Climate Justice (ICSF). We represent about 30 alliances and organizations of issue-based and multi-sectoral organizations from all over Indonesia including the national alliance of Indigenous Peoples' organizations, or *Aliansi Masyarakat Adat Nusantara* (AMAN), Sawit Watch, HuMa, Biodiversity Foundation, Indonesian Center for Environmental Law, Womens' Solidarity, and other NGOs advocating the mainstreaming of climate justice. We conduct research and facilitate exchange of scientific and people-based knowledge on climate mitigation and adaptation, advance equity and accountability in environmental issues, and engage in national policy reforms to promote climate justice on top of the agenda.

We are writing to express our deep concerns regarding the Readiness Preparation Proposal (R-PP) submitted by the Indonesian government to the FCPF. Our major concerns are on the governance aspect of the R-PP and the Indigenous Peoples Rights, which are elaborated in our attachment to this letter. Some of the alliances and organizations that we represent have also previously and continuously expressed their concerns with the Indonesian REDD planning processes, including through direct communications with the Government of Indonesia and with the Forest Carbon Partnership Facility of the World Bank.

Based on the June 16-18 2009 meeting of the FCPF in Montreux, we note that the Participant Committee (PC) did not conclude its discussion over the Indonesia R-PP but "is being reconvened by the FMT virtually with a view to reach an agreement on the pending [Indonesia R-PP resolution]." We also note that comments, if any, on the Indonesia R-PP Resolution are being sought by July 24, 2009, after which:

"If necessary, the FMT will then seek to produce the final Resolutions 4 and 5 and final Additional Decisions for adoption by the PC on a no-objection basis."

This process is flawed and will not assist in the development within Indonesia of broad-based support from Indonesian civil society groups, indigenous peoples' authorities and organizations or from other forest dependent people. Such support can only emerge when the basic issues of governance, tenure and indigenous peoples' rights are addressed in the R-PP and are addressed in an inclusive national process. We urge the FCPF PC and FMT not

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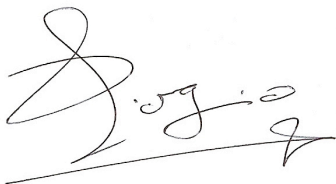
to proceed with the virtual discussion and not approve the pending resolution for Indonesia. In this regard, we respectfully request your office to contact the FCPF management team to postpone the discussions until the next FCPF meeting in October 2009. We would like to take this opportunity to share with you also the detailed critique that we have done of the R-PP (appended here. Based on this critique, we would like your support in requesting:

- a. That the FCPF Participant Committee address first and foremost the governance issues in R-PP before making any resolution to approve the flawed design. Failure to address governance problems could run the risks of complicating fragmented and contradicting policies used by government departments in forest governance as perpetuating corrupt practices by the “untouchables” in Indonesian government..
- b. That the rights of the Indigenous Peoples to their ancestral domains, natural resources, and all forest resources as enshrined in the United Nations Declaration on the Rights of Indigenous Peoples be recognized, advanced and safeguarded in the R-PP. Human security and ecological sustainability should be placed above the economic value of forests
- c. That free, prior and informed consent be adopted as the basic principle for engaging indigenous peoples and other forest communities in the design, implementation and other governance aspects of R-PP.

We have conveyed the same sets of comments and recommendations to the Indonesian Government. We have also urged them adopt a transparent, participatory and broad-based consultation in the design of R-PP to be able to reflect the realities, the opportunities and challenges in the governance of Indonesian forests. Finally, we have called on the government and the other players in REDD to ensure protection and promotion of the rights of indigenous people and improvement of the condition of forest communities are at the core of forest policy reforms and REDD proposal.

Thank you in advance for seriously considering the collective views and demands of the Indonesian Civil Society Forum..

Sincerely,



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Indonesian Civil Society Forum Coordinator

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CC:

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Attachments:

Indonesian Civil Society Concern Regarding to the Indonesian R-PLAN

In Indonesia, natural resources including forest, water and land have long been the battlefield of knowledge, competing interests and access by differentially-positioned actors including the government, logging, industrial, and mining companies, indigenous people, other forest-dependent communities, and other actors. Obtaining access or reclaiming the right to manage the common has been a long battle for forest community. Given the current circumstances on projects of mitigation and adaption of adverse impact of climate change, we are concerned that REDD proposals may create the risks of complicating the painful experiences forest community have faced in their fight to reclaim their rights to access and manage forests and land, which are already made difficult by Indonesia's legal system.

We submit our comments to the Indonesia REDD-Preparation Proposal (R-PP) to the World Bank's Forest Carbon Partnership Facility (FCPF). We note that the R-PP is a proposal from the Indonesian Government with inputs from multilateral and bilateral agencies, international conservation NGOs. The R-PP we referring is the May 2009 version that has already been published online via <http://www.forestcarbonpartnership.org/fcp/Node/180>. Our comments point to specific sections and provisions that present substantive issues on governance, tenure and rights. They are summarized into a matrix below.

Section	R-Plan Text	Comment
General Information Part. Section 2 : Current Country Situation	.. "The government has made extensive efforts to accommodate community rights in forest management through forestry regulations and laws" ... (page 3, paragraph 2)	Although there are some policies that gives access to forest to the community, for examples policy on the scheme of Village Forest, Adat Forest and "Hutan Kemasyarakatan", but the administrative procedures to having access in and around forest are very complex and nested (Simarmata, 2006: 316-317). In particular, those schemes do not respond on the needs of historical title of Indigenous people who owning the forest for centuries to which

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		<p>they have any reason to propose for collective rights on the forest. Those schemes are thus affirm the ignorance of Indigenous Peoples rights which are widely exist in some of Indonesia’s law (mining, land) including forest. In this context, it is not true that the government has made extensive efforts to accommodate community rights in forest. The truth is in the number of laws, the basic rights of Indigenous People are already listed in the Indonesian constitution, particularly section 18 paragraph 2 B and section 28i paragraph 3 and also supported by international human rights instruments such as the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Ignoring these rights is parallel with ignoring constitution as the basic foundation of state.</p>
	<p>... “Forestry sector has set up five priority policies, namely: (1) combating illegal logging and its associated illegal trade, (2) ... (3) ...” (page 3, Paragraph 4)</p>	<p>The Indonesian Government is currently working to combat illegal logging. However, the effectiveness of law enforcement is challenged by governance problems, such as corruption and collusion, a less management of bureaucracy as well as undermine of law enforcement. For instance, in 2003, from 966 cases of listed illegal logging crime, only 6 cases are resolved before the court or 1% at the average. Law and institutional weakness will only lead to entangle the small runners among the poor. Meanwhile, the drivers (Cukong) are free. This is happen in case of Hutan Lestari Operation II” in 2005 in Papua, where 21 brokers of the most suspected illegal loggers were released by the District Court (Pengadilan Negeri) of Biak, Jayapura, Nabire, Merauke and Sorong.</p> <p>While, looking at the priority of Forestry Department especially no.5 about Securing Forest Area, the fact is the legal status of forest area in Indonesia is only 10% of 120 million ha of forest area that has been met</p>

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		the conditions under the Forestry Law No.41 of 1999 (World Agro-forestry Center: 2006). Meaning that, only small area has been had legal certainty. While the 90% of forestry area is still remaining conflicts as well as overlapping claim of ownership and utilization. This 5 th Policy should be carried out with more serious political will before related schemes including mitigation will be done in Indonesia.
	... “The legal and policy framework already exists which contribute to creating enabling conditions for climate mitigation actions, through reducing emissions from deforestation and forest degradation, sustainable forest management, forest conservation, and through enhancement of carbon stocks from forest restoration, afforestation and reforestation.” (page 3, Paragraph 4)	It is true that the Indonesian government has made several steps in responding to mitigation efforts, such as the establishment of National Council on Climate Change (DNPI), Ministerial Decree No. 68/2008 and 30/2009. However, this effort is blocked by itself since this decree is only giving dominant role for the Forestry Department and does not encourage cross-sector cooperation. In this regard, although some government agencies have been putting the mitigation of climate change in various initiatives, existing rules and policies are still being in counter-productive. For example, the Ministry of Agriculture, issued the Ministerial Decree No. 14/2009 which open the peat-land area for oil palm concession. This policy is deeply against the policy to reduce emissions from deforestation and degradation.
	... “Sustainability of forest resources is crucial for the continuation of national development. Sustainable management of forest resources is a form of mitigation and adaptation measures, which is survival issue for Indonesia.” (page 3, paragraph 5)	Mitigation and adaptation is always considered important by the government, but those who highly vulnerable from climate change such as small farmers and fishermen, women as well as indigenous peoples, do not be involved in every phases of designing scheme of mitigation and adaptation. It is many times happen that designated schemes are solely provided by the government without adequate public participation.
	... “The process will cover a	This statement is being in contradiction with

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<p>Section 3:</p> <p>Definition of objectives, approach, and responsibilities for the R-Plan process</p>	<p>broad range of activities starting from analytical works, policy dialogue and stakeholders communications, shared learning, capacity building and awareness raising, to institutional arrangements including distribution of incentives and responsibilities at all levels.” (page 4, paragraph 2)</p>	<p>the two policies that just have been issued by the Forestry Department as well as Ministry of Agriculture. Both of them do not intend to be in scale of the "broad range" but trapped onto box with fully driven by the own interests of each department. In the process of making those policies, multi-stakeholder policy dialogue was done but only as justification on the substance that had already been made by themselves. It is happen in making process of Ministerial Decree No 30/2009. Despite its very crucial message for the mitigation of climate change in Indonesia, the proposals expressed by indigenous peoples especially the importance of Human Rights approach are not reflected in that policy. Subsequently, Ministerial Decree No. 30/2009 has no substantive changes since the draft was socialized in the public discussion in 2008.</p>
	<p>... “A number of of aspects need to be addressed appropriately across levels and demand for a strong link between central and local governments, for example in determining methodology for REDDI monitoring and its implementation, as well as among sectors, for example in establishing reference emissions level (REL) and REDDI national registry. The process will have to also consider outcomes from negotiations in COP and SBSTA, and so, involvement of international partners is critical in providing necessary expertise, technology, access to data/information, and financial resources.” (page 4, paragraph 2)</p>	<p>Local governments already have several initiatives in responding to various schemes of REDD. Province of Aceh and Papua have been making their own agreements with companies in terms of carbon trading. It means that the Department of Forestry will face another conflict is that against local governments’ private contract with company. It is difficult for those local governments to pull back from the contract which tantalizing benefit in amazing scale.</p>

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	... “For the aspects which needs a comprehensive and in depth analysis as the basis to undertake activities under component described in the R-Plan, for example ... “ (page 4, paragraph 3)	Of the five aspects, none mentioned about rights-based approach as one of the crucial components that should be applied in the R-Plan. This tendency is a step backwards compared to the SBSTA decision in COP 14 in Poznan and rolling discussion after that. SBSTA proposed to have in depth discussions dealing with methodology that considers indigenous peoples in the REDD scheme. While the draft of R-Plan is only likely to be technical methodologies and ignore the substantial recommendation of SBSTA.
Component 2 : Management of Readiness Section 2b.1.e : stakeholders identification	“Forest dwellers and indigenous people, like other Indonesian citizens, have the same rights and responsibilities as Indonesian citizens according to national regulations. At the policy level, the guidance is clear that REDDI must benefits local communities. This guidance need to be translated further ...” (page 25, paragraph 4)	This is completely a sort of idea of ignoring constitution which is explicitly recognizing the rights of indigenous peoples, as mentioned in section 18B paragraph 2 and section 28i paragraph 3. Section 18B paragraph 2 saying that State should recognizes and respects entity of indigenous peoples dealing with their traditional rights. Indonesia’s government argument is coming out with new idea about equality which is proposing the same rights based-citizenship, but it is really out of historical responsibility of government to recover and comply with the rights of indigenous peoples. This is the background of the idea underlined in constitution. Ignoring this idea means that the government is trying to reproduce the massive coercion and violence which systematically done in New Order era of Soeharto.
	“Forest dwellers and indigenous peoples and other forest dependent communities will play an enormously important role for the success of REDDI in reducing effectively and sustainably deforestation and forest degradation rates. Adequate involvement ...” (page 25, paragraph 5)	The idea behind this argument is that indigenous peoples with their vast contribution to sustainable forest mostly are designated to pool success of REDDI. But how this REDDI enabling the way of indigenous to persistently doing sustainable ways is not specifically taken. Given that in the fact, it is difficult to indigenous peoples to benefit from any kind of previous policies to them (Simarmata, 2006: 316-317), we do

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		think that this argument will be in contradiction with its implementation.
	“Relevant traditional knowledge and wisdom can be the basis for identifying what the best roles local communities at different bio-geographical regions of Indonesia can play for REDDI implementation to reduce deforestation and forest degradation and providing real benefits to them at the same time.” (page 25-26, paragraph 6)	Role of communities in conserving carbon stock based on their wisdom is recognized but this document does not come out with a specific methodology or relevant framework which guaranteeing the rights of those sustainable way of life.
	What roles of forest dwellers and indigenous peoples could play in REDD, based on Regulation (PERMENHUT) No. P. 30/2009 they can be as REDD implementers, for example, REDD in ‘Hutan Adat’ for indigenous people and REDD in ‘Hutan Desa’ or ‘Hutan Kemasyarakatan’ for other forest dwellers. In the case ...“ (page 26 paragraph 2)	Indonesia’s government claiming that Indonesia is the first country which already set up a policy on REDD at the national level (Ministerial Decree 68/2008 on Demonstrative Activities on REDD and Ministerial Decree 30/2009 on Guidelines of REDD project in Indonesia). This is a kind of success in promoting REDD although apparently current tendency showing that it is as the only single mechanism of Indonesia in mitigating climate change. Substance of policy institutionally came from the only interest of centralistic-closed way of thinking of forestry Department. For years, they have been building centralistic power which controlling natural resources related to forest for setting up and continuing status quo in having dominant position in current politics of departmental fragmentation of governance in Indonesia. On the first stage, this policy is trying to craft a kind of co-benefit among entities, both national and international, which involve in designated-smooth scheme of carbon trading, while communities including indigenous peoples are never been referred to. Indigenous merely is identified as poor people who will be suggested as considerable aspect in the

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		scheme of REDD benefit. That's why on the next stage, the policy has no regard on land tenure issues. Moreover, those policies completely are driven by offsets mechanism as red carpets for carbon brokers to invest their polluting money somewhere within.
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