Caught REDD Handed

How Indonesia's Logging Moratorium Was Criminally Compromised on Day One and Norway Will Profit

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Introduction

As the signing of Indonesia's moratorium on forest conversion captured the attention of the international media on May 19th, it was business as usual in Central Kalimantan. With the spotlight on bureaucrats in Jakarta, Indonesia's climate crooks continued to ply their trade in the forest.

Just as the President of Indonesia was declaring an area of peat swamp forest in the REDD+ Pilot Province out of bounds to loggers, EIA and Telapak were documenting a plantation company illegally clearing it.

Palm oil firm PT Menteng Jaya Sawit Perdana (PT Menteng), a subsidiary of Kuala Lumpur Kepong Berhad (KLK), was caught destroying the very peat forests Indonesia needs to protect to meet its ambitious carbon emission reduction targets.

The Norwegian government will be disappointed to learn that the moratorium, a cornerstone of its US$1billion climate deal with Indonesia, was breached on day one. Yet conversely, through its US$41.5 million shareholding in KLK, Norway stands to profit from the illegal clearance.[1]

Through the Government Pension Fund Global (GPFG), Norway has invested in scores of plantation and logging companies in Indonesia with scant regard for social, environmental or legal safeguards. With the level of criminality in the sector, any investment may be an investment in crime and is irreconcilable with Norway's position as a global leader on REDD+.

PT Menteng is only the tip of the iceberg. Information released by the Indonesian authorities show that hundreds of plantation companies are operating beyond the law in Central Kalimantan alone, where illegal plantations now substantially outnumber legal plantations.

Research by EIA/Telapak suggests that the regulatory chaos and culture of impunity in Indonesia's plantation sector poses a serious threat to the moratorium and to any meaningful attempt to protect the nation's forests and reduce carbon emissions.

While the moratorium's significant loopholes exclude huge swaths of Indonesia's primary and secondary forests, it is a positive step of sorts. However, evidence in this briefing demonstrates that while it might delay and reduce legal deforestation, it alone cannot stop illegal deforestation.

The case of PT Menteng is a timely reminder that effective action to reduce deforestation in Indonesia must include robust law enforcement, good governance and a clampdown on corruption. Further, that efforts to resolve the chaos in the forestry sector are fundamentally undermined when major REDD+ donors invest in forest crime.

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PT Menteng Jaya Sawit Perdana

In 2005 PT Menteng obtained an oil palm Location Permit for a concession of just under 7,400 hectares of forest. The land is located in Kotawaringin Timur (Kotim) regency, some 25km south of Sampit in the peatlands of Central Kalimantan. In 2007 PT Menteng was taken over by the Malaysian multinational KLK for US$ 2,072,000.[2]

As PT Menteng only had a Location Permit for the concession - its principal asset - KLK only paid US$ 1,184,000 for its 80% stake in the company. The remaining US$ 888,000 would be paid when it had obtained the remainder of the range of permits required to convert forest land to a plantation.

In its 2010 annual report, KLK reported that PT Menteng still only had a Location Permit, and under the date of expiry recorded merely a dash. In 2011 EIA/Telapak obtained government records confirming that the company still did not have a Plantation Business Permit (IUP), as required under the 2007 plantations law,[3] or a permit from the MoF releasing the 7,400 ha concession from the designated forest area.

On 19th May this year EIA/Telapak investigators visited the concession to establish how far PT Menteng had developed its operations, and found that large areas have already been cleared of forest and planted.

EIA/Telapak also documented areas that had more recently been cleared, where commercially valuable tree species were being harvested. As the area is peat, canals have been dug to drain the land.

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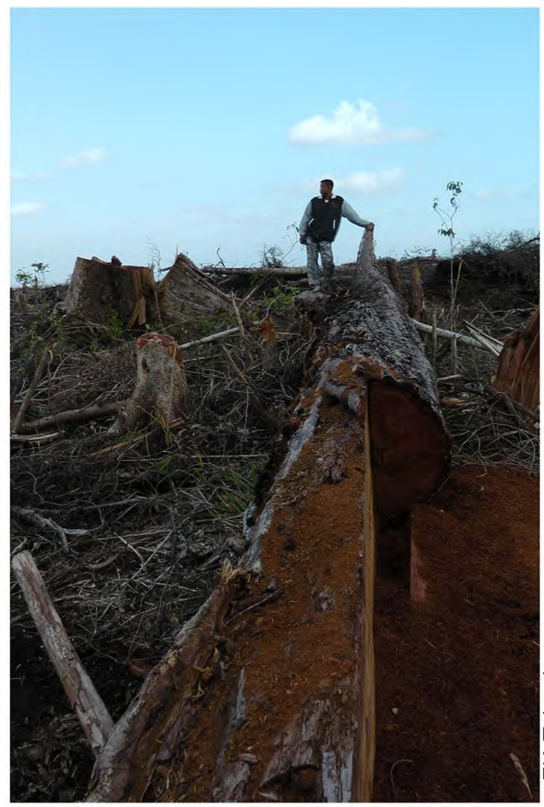

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ABOVE LEFT:
Young oil palms in PT Menteng area, May 2011

ABOVE:
Log in land cleared By PT Menteng, May 2011

PREVIOUS PAGE:
Excavator clearing forest in PT Menteng area, May 2011

LEFT:
Cleared land in PT Menteng area, with canals to drain peat, May 2011

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ABOVE: Excavator clearing Forest in PT Menteng area, May 2011

Further into the plantation, EIA/Telapak found several excavators in the process of clearing forest. As this land has not been released from the forest estate, all of this activity is in breach of Forestry Act 41/1999.[4]

Beyond the area currently being cleared, EIA/Telapak investigators travelled along roads that had been carved into the forest prior to further clearance. The tree species left in the forest included ramin, which provides the habitat for orangutan. Cutting ramin has been banned in Indonesia since 2001 and it is globally protected under the Convention on International Trade in Endangered Species (CITES).

From EIA/Telapak's fieldwork it appears likely that just under half of the concession has now been cleared.

While EIA/Telapak were on the ground in Central Kalimantan, the Government of Indonesia (GoI) released a map indicating for the first time the areas of land that were to be included in its moratorium on new permits.[5] A comparison between this map, concession maps and GPS locations in the plantation clearly indicate that PT Menteng is operating within the moratorium zone.

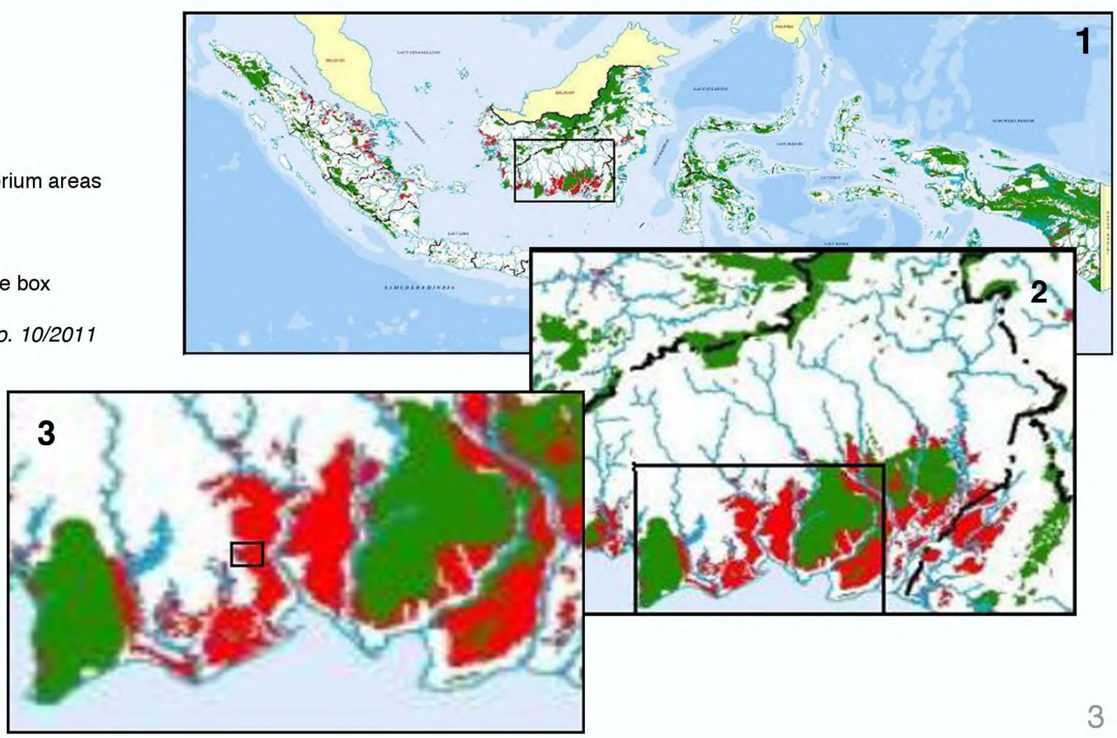
However, as the moratorium includes a loophole that may exempt concessions with principle permission, and the map is to be updated every six months, there remains the worrying possibility that PT Menteng's concession might shortly be excised from the moratorium area. This puts the Indonesian government at a crossroads, at which it can either enforce the law and preserve the moratorium peatlands, or remove the protection and allow crime to go unpunished.

ILLUSTRATIVE MAPS:
Map 1: Moratorium map
Central Kalimantan in box

Map 2: Central Kalimantan moratorium areas
Kotim in box

Map 3: Detail of Kotim
PT Menteng's area is located in the box

Source: Presidential Instruction No. 10/2011



KEY:
Peat lands in moratorium
Primary forest in moratorium

Kotim Chaos

While PT Menteng is notable for its clearing of the moratorium zone, it is only one of hundreds of plantations operating illegally in Central Kalimantan. In April this year the Ministry of Forestry (MoF) released the findings of an investigation that painted a striking picture of the extent to which criminality still pervades Indonesia's plantations sector.

Of an estimated 325 plantation companies in Central Kalimantan, 282 were suspected of 'non-procedural' forest use.[6] Mining and plantation firms that had violated spatial plans and failed to obtain permits were reported to have cost the state Rp 158.5 trillion (US$ 18.6 billion).[7]

The report cited 13 cases, covering 107,276 ha of forest, of companies clearing forest in Kotim without it being released from the designated forest area - more than in any other regency.

But there is evidence to suggest that the true picture in Kotim is even worse. According to data submitted by the provincial to the central government, plantation companies are active in 405,717 ha, but only 140,389 ha of land has been released by the MoF. Factoring in companies the provincial government believes to be inactive, but identified as being active by EIA/Telapak, the area of illegal plantations may be in excess of 300,000 ha.

Of the 53 companies registered at the provincial level, only seven have Plantation Business Permits (IUP). There are, further, at least 24 more plantations that have been registered by regency authorities but not yet at the provincial government level.[8]

On 28 March this year Hanif Budi Nugroho, head of the Department of Forestry in Kotim, was reported as saying that illegal logging without timber utilization permits (IPK) has been carried out by "almost all" palm oil companies in the regency.[9] Given this evidence, it is pertinent to ask if the MoF has underestimated the scale of the problem in this regency.

The moratorium was intended to provide the GoI breathing space during which time the regulatory chaos that pervades the sector could be resolved. Two of the key issues are a reconciliation of overlapping spatial plans and, latterly, a diversion of new plantations to degraded land. These are vitally important steps, but Kotim demonstrates that they must be accompanied by robust law enforcement. Regulatory reform without enforcement will create a situation in which it is harder to work within the law than outside it; while companies cannot legally secure new concessions within the moratorium zone, it appears they can do so illegally with impunity.

There is evidence to suggest that beyond creating an institutional environment in which the aims of the Letter of Intent can be better met, enforcement alone could deliver substantial gains in reducing deforestation.

A study into forest loss in Kalimantan and Sumatra between 2000 and 2008, published in February this year, found that 20.1% took place in areas in which clearing is either prohibited or restricted.[10] The rate of deforestation in this period was markedly high in Central Kalimantan, which, along with Riau, accounted for nearly half of the total forest cover loss in the study area.

The authors concluded: "The high observed fraction of forest cover loss in zones where clearing should be restricted, or where clearing is prohibited, points towards a significant potential for reducing forest cover loss in Indonesia via the effective enforcement of existing forest land use designations."

Norwegian Investments in Deforestation

That Norway is set to profit financially from illegal land clearance inside Indonesia's moratorium zone in the REDD+ Pilot Province – as detailed in this briefing - is of no surprise to EIA/Telapak.

In fact, EIA/Telapak can reveal that Norway has made roughly five times more money from plantations and logging in Indonesia and neighboring countries over the past year - including in illegal operations - than it has granted to Indonesia thus far under the US$ 1 billion Letter of Intent on REDD+.

In July 2010 EIA wrote to the Norwegian government about US$ 437 million Government Pension Fund Global (GPFG) shareholdings in 30 groups with plantations and logging related operations covering nine million hectares of land, largely focused in Indonesia. EIA argued that such investments were in clear danger of breaching the fund's Ethical Guidelines, and undermined the country's REDD+ goals in Indonesia.

The Norwegian Government claimed EIA's concerns had been duly noted and would be addressed by the Ethical Council to the Fund.

However, in March 2011, following the release of the GPFG 2010 annual report,[11] EIA felt compelled to write to the Norwegian government again to restate our concerns.

The letter explained how the value of Norway's investments in these same companies had increased by a staggering US$ 241 million, or 55% in a year - from US$ 437 million to US$ 678 million.

Roughly US$ 145 million of this is profit for Norway from increased company share values – nearly five times Norway's US$ 30 million REDD+ grant to Indonesia.

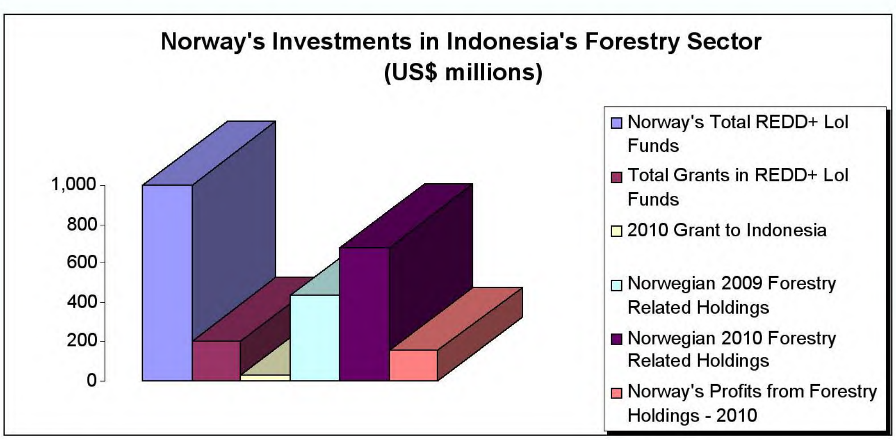
Incredibly, about US$ 95 million of the increase is new funds invested during 2010 – more than three times Norway's contribution to REDD+ in Indonesia during the period.

EIA also highlighted that Norway held significant stakes in four major groups operating 24 plantations subsidiaries without relevant permits in the REDD+ Pilot Province, Central Kalimantan.

EIA recommended that Norway demonstrate leadership in responding to these issues by increasing cross-departmental policy coherence in Norway in support of REDD+, and by tabling international discussions on how investment markets and sovereign wealth funds can become REDD Ready.

The Norwegian government has declined to respond to EIA.

Norway's stake in KLK alone – which is illegally clearing moratorium land - increased by US$ 30 million during 2010 – the same sum provided to Indonesia to prevent forest crime and deforestation over the period.



TOP:
Young oil palms in another concession Norway has invested in through KLK, May 2011

Conclusions

Crime and corruption in Indonesia's forestry and plantations sectors has resulted in President Yudhoyono's forest conversion moratorium being broken on day one.

Systemic governance and law enforcement failings are to blame, and remain the most serious threat to the country's forests and the success of REDD+.

Repeated promises of improved law enforcement and anti-corruption drives have thus far failed to deliver, providing no incentives for reform.

That Indonesia's main REDD+ donor partner, Norway, stands to profit from the breach of the moratorium is symptomatic of the perverse incentives available to international investors in Indonesia's crime riddled, though booming, resource economy.

Recommendations

The Government of President Yudhoyono should:

• Immediately cease the activities of PT Menteng Jaya Sawit Perdana and investigate how the company was clearing peat forest in the moratorium area with impunity.

• Significantly improve law enforcement in the plantation sector, in cooperation with the Corruption Eradication Commission (KPK) in line with its pledges.

• Employ the Sistem Verifikasi Legalitas Kayu (SVLK) to audit for forest clearance without relevant permits.

• Ensure the moratorium map is strengthened rather than further weakened in future revisions.

The Government of Norway should:

• Empower the Ethical Council to the Pension Fund Global to immediately investigate the plantations operations of the KLK group, and three other groups with operations in Central Kalimantan, in which the country holds significant shares.

• Institute formal policy and investment coordination between the Ministry of Finance and the Ministry of Environment, to ensure Pension Fund investments adhere to the goals of REDD+ in Indonesia and worldwide.

• Use its privileged financial position and positive climate change reputation to engender frank and open debate at the international level on how to make investment and commodity markets crime and deforestation free.

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ENVIRONMENTAL INVESTIGATION AGENCY (EIA)
62/63 Upper Street; London N1 0NY; UK
T: +44 (0)20 7354 7960 E: ukinfo@eia-international.org
www.eia-international.org

TELAPAK
Gedung Alumni IPB; Jl. Pajajaran No. 54;
Bogor 16143; INDONESIA
T: +62 251 8393 245
www.telapak.org

Acknowledgement: EIA/Telapak would like to thank NORAD for its generous support