

E-mail from Chris Lang, REDD-Monitor, 5 December 2012

Dear Michael,

Greetings from Jakarta! My name is Chris Lang and I work on a website called REDD-Monitor (www.redd-monitor.org). I understand that BMU, through its International Climate Initiative, is supporting the Harapan project in Sumatra. There are several posts on REDD-Monitor about Harapan, here: <http://www.redd-monitor.org/?s=Harapan>.

As I'm sure you are aware, there is a serious on-going conflict between people living near the Harapan project area and PT REKI, the company that is managing the project. The project has released photographs and satellite images showing the settlements inside the project area and the resulting damage to the forest (<http://bit.ly/JHHWAI>). I was surprised, therefore, to find the following statement on BMU's website, implying that there is no conflict (<http://bit.ly/Vj5PTN> dated 23 July 2012):

"In consultation with the residents, the project creates new sources of income through reforestation work, the use of non-timber products, sustainable agriculture in the buffer zone and ecotourism. Together with the local authorities, Yayasan KEHI engages in an ongoing dialogue with new settlers to keep them informed of the current geographical boundaries and to enter into agreements on sustainable use of the forest."

Further evidence of the ongoing conflict, from the Harapan project perspective, is documented here: <http://www.harapanrainforest.blogspot.com/>. According to a recent post about a visit to Harapan by the Minister of Forestry, Zulkifli Hasan, 17,000 hectares of the project area has been occupied. The Minister's response was to say that, "The squatters must be removed from the forest and moved to another place." (<http://bit.ly/WHYk9R>)

I understand that in August this year, KfW (which is implementing the € 7,575,000 BMU grant for Harapan) sent a mission to Harapan. Could you please send me a copy of KfW's report of the mission? I have also written to Marcus Stewen at KfW to request a copy of the report.

On 19 September 2012 (i.e. after KfW's mission), the Federal Government responded to a "Kleine Anfrage" about Germany's involvement in REDD. The Government response included the following statement about Harapan:

"Criticism has been raised in the context of a tropical forest conservation project in Indonesia (protection of the "Harapan Rainforest" in Sumatra, supported by the International Climate Initiative of BMU). In the project good relations based on partnership exist with the Indigenous People living there, whereby mistakes and inaccuracies were detected in the media coverage. The complaints are thus not from the local population, but by new settlers who exploit the partially unclear legal situation and partly promoting illegal logging and land grabbing in protected areas under the cover of advocacy for the rights of small farmers. A clarification process with Indonesian (government) institutions has been initiated."

Could you please provide further details of the "clarification process" that has been initiated with the Indonesian government? Which Indonesian government institutions are involved? Which organisation initiated the clarification process?

Is BMU, KfW, Yayasan KEHI, PT REKI or any other institution involved with the Harapan project in the process of establishing a conflict resolution process, or already involved in a conflict resolution process?

Thank you for your time and I look forward to hearing from you. I would be grateful if you could respond by 12 December 2012. Please consider your response to be on the record.

Regards, Chris Lang

Response to Chris Lang, REDD Monitor, 20 December 2012

Dear Chris,

Thank you for your inquiry. This response to your letter from 5 December 2012 was prepared as a joint reply by BMU, KfW and the Programme Office of the International Climate Initiative (ICI).

The information on the ICI website does not intend to pretend that there is no conflict in the project area. We are aware of the difficult and very complex situation. The text on the ICI website is primarily a description of the project's goals and activities, but is in its format unsuitable to outline the conflict in an appropriate manner.

We regret that the requested Report of the KfW mission is an internal project document, which cannot be shared publically. Of course, BMU as the funder as well as KfW as the implementing organisation of the project promote transparency in all our projects, and therefore would like to answer your questions as follows:

Your letter refers to previous reporting about the situation in Harapan on the REDD Monitor website. A comprehensive response was given at the time, and we would like to reiterate the importance of Harapan not only in protecting globally important wildlife and forests, including one of the last lowland forests in Sumatra, but also in safeguarding the lives of some of the most marginalised peoples in Indonesia, the Bathin Sembilan, who depend on the forest. Since the response by the management team earlier this year, there has been continuous encroachment related to illegal land-grabs by groups claiming affiliation to Serikat Petani Indonesia (SPI). Background information on the source of this conflict and the significance of the encroachment caused by settlers claiming to be affiliated to SPI for the integrity of the forest is provided in the previous response to REDD-Monitor¹. As the information below indicates, there have been concerted efforts to follow a negotiation process with these groups. However, not all of them have been willing to participate in such a process.

[CL question: Could you please provide further details of the "clarification process" that has been initiated with the Indonesian government?]

In order to address the observed increasing encroachment, the Ministry of Forestry's Director General of Forest Conservation and Nature Protection (PHKA) and the responsible provincial administration (*Assisten II Sekda Prov Jambi*) established a team in June 2012. The Governor of Jambi Province agreed that the team would oversee a process known as Kegiatan Penangan Permasalahan Perambahan di IUPHHK Restorasi Ekosistem REKI (KP3RE), or Managing Encroachment in the PT REKI Ecosystem Restoration Area.

The formation of this KP3RE team was formalized by a decree from the Jambi Governor: 458/Kep.Gub/Setda.EkBang & SDA-4/2012 dated 13 July 2012, with the Governor as the coordinator of the steering committee. The team includes representatives from the Ministry of Forestry in Jakarta, Jambi provincial government, Batanghari district, police at provincial, district and sub-district levels, security forces at provincial, district and sub-district levels, as well as Jambi high court, district court, district government and sub-district government. In addition, representatives from Bungku village as well as from PT REKI, the responsible concession holder, also participated in the team.

¹ http://www.redd-monitor.org/2012/04/30/response-from-harapan-rainforest-project-the-spi-settlement-is-deep-inside-harapan-on-a-scale-large-enough-to-compromise-the-ecological-integrity-of-the-forest/?utm_source=feedburner&utm_medium=email&utm_campaign=Feed%3A+Redd-monitor+%28REDD-Monitor%29

As a result of repeated intimidation of Harapan staff, especially guards, by some of the encroachers, which included kidnapping of staff and arson of Harapan Rainforest buildings², the team included also representatives of the police and security forces to:

1. Ensure that all field workers in Harapan Rainforest are protected from intimidation in the face of violent activity by settlers claiming to be affiliated to SPI
2. Promote law enforcement, for example in cases of illegal logging, damage of private property, kidnapping etc.

The KP3RE process was divided into three separate working groups:

Working Group 1:

The focus of this group is socialisation (i.e. the process of clarification among concerned stakeholders and raising awareness known in Indonesian language as *sosialisasi*) of the legal status of the concession, and of the legal status of settlers within the concession. It is led by the head of the forest production monitoring unit, Region IV Jambi (BP2HP).

Some farmer groups and NGOs demanded an enclave within the concession. The Ministry of Forestry formally confirmed that no enclaves in the concession are legally possible (confirmation in note KT.1/PHM-1/2012 issued by the Head of the Public Affairs Centre at the Ministry of Forestry on 19 November 2012).

WG1 completed awareness raising in four areas in June and July 2012 (Kunangan Jaya 1, Kunangan Jaya 2, Tanjung Mandiri and Alam Sakti), as well as a broader consultation with stakeholders and coordination meeting in the district capital, Muara Bulian. The settlers who have recently arrived after the concession entered into force and are claiming affiliation to SPI refused to accept the presence of the Working Group team when they visited the Bukit Signal SPI encroachment site. Those settlers declared that they do not accept the partnership concept as outlined in WG2 (below) – in contrast to all other settlers groups in the four areas where awareness raising was completed.

Working Group 2:

The main focus of this group is to undertake mediation and consultation with settlers within the concession area to agree who may be included within a community partnership scheme as proposed within the PT REKI concession. The proposals for the community partnership schemes were developed by the working group. This scheme would allow those settlers who depend on the forest for their livelihood to live in a defined zone within the concession for a certain period of time. The exact criteria for this arrangement and length of the period are still to be defined in the consultation process. The scheme does not provide a mechanism for land speculators or people who seek to plant oil palms within the concession which is prohibited under Indonesian law.

In concrete terms, the group is tasked with developing and agreeing a community partnership scheme for the area, including:

- a. Criteria for inclusion of people in the scheme;
- b. The rights and responsibilities of those participating in the scheme;
- c. Agreement on locations for settlements;
- d. Agreement on commodities that can be grown within the settlement zones;

² See <http://harapanrainforest.blogspot.co.uk/> for examples of kidnapping and arson committed against Harapan Rainforest staff and assets by settlers claiming to be affiliated to SPI.

e. Identification and quantification of land claims within the Tanjung Mandiri and Alam Sakti area.

The Kunangan Jaya 1 group has already agreed to seek a mediated and negotiated solution. Negotiation on this solution is ongoing. The first phase (identification) of the Kunangan Jaya 2 group has been completed, and the working group is seeking to enter a mediation phase with this group.

The process has been rejected by the groups claiming affiliation to SPI. Reasons for blocking can only be speculated. However, in the area these groups clear and settle, targeted illegal logging takes place, in the heart of some of the best quality forest.

The members of WG2 include Batanghari Regional Secretary (Sekda), representatives from Jambi province and Batanghari district forest services, the legal affairs office at Jambi province, the head of the legal department at Batanghari district, representatives from the Economy and Development section in Jambi province, representatives from PT REKI, and representatives from the Plantations Service for Jambi province and Batanghari district.

Registration of settler communities and the mediation that has taken place to date has involved inputs from AMAN Jambi chapter. The involvement of the National Human Rights Commission as observers in the field, if needed during the mediations as well as during possible evictions, has also been proposed by the Harapan management as well as participating NGOs, and independent mediators - who will be agreed by the communities as well as the concession holder –will lead the mediation process.

This working group process will result in signed community partnership agreements.

Negotiation and mediation with these communities is just one part of the overall relationship between PT REKI and communities. In addition, there are examples of positive and supportive interaction, specifically with communities that are indigenous to the forest and those that are willing to use the forest in a way that does not compromise the long term sustainability of the forest³.

For example, some Bathin Sembilan communities, who lived traditionally for generations in the Harapan forests and work in a collaborative manner with the Harapan management for years, have already chosen to become involved in settlement within a defined settlement zone on the border of Harapan Rainforest. This option is also open to a wider range of settlers, dependent upon their livelihood need, and willingness to support the long-term sustainability of the forest.

Working Group 3:

This consists of representatives from Batanghari district police, Jambi province forest police, security forces from the provincial and district levels, Batanghari district forest police, BKSDA (Natural Resource Conservation Office) Jambi and PT REKI.

It is tasked with ensuring that appropriate responses are made against illegal activity within the concession, including illegal logging, forest fire, damage of private assets and intimidation and kidnapping of field workers.

This team also assists in ensuring that new encroachment into the concession is stopped.

While this is clearly an initiative started and driven by the Indonesian government, PT REKI develops and intends to adopt, with the support of KfW Development Bank, guidelines to ensure that national laws and international best practice relating to human rights (*UN-HRC Guidelines on Development-based Evictions and Displacement (UN - General Assembly A/HRC/4/18, 5.2.2007, Human Rights Council 4th session)* and *World Bank OP 4.1.2 pertaining to Involuntary Resettlement*) define the work of the

³ <http://www.bmu-klimaschutzinitiative.de/en/press?d=345>

working groups. Based on these documents, PT REKI, the management authority of the concession, and Yayasan KEHI, the non-profit foundation supervising the Harapan management, are in the process of developing draft guidelines.

In addition, the Indonesian government indicated very recently that activities to enforce law including evictions will be carried out in those areas where settlers are not willing at all to take part in the mediation process. Although this is clearly an initiative started and driven by the Indonesian government, as outlined above, PT REKI will advise and request that the responsible governmental institutions (i.e. BKSDA - SPORC (Indonesian Ministry of Forestry National Conservation and Natural Resources Department – Fast Response Team) in Jambi Province) will ensure compliance with the above mentioned human rights standards as well as the presence of independent observers.

[CL question: Which Indonesian government institutions are involved?]

The team includes representatives from the Ministry of Forestry in Jakarta, Jambi provincial government, Batanghari district, police at provincial, district and sub-district level, security forces at provincial and district level, Jambi high court, district court, district government, sub-district government, representatives from Bungku village, and representatives from PT REKI.

[CL question: Which organisation initiated the clarification process?]

The process was initiated by the Director General of Forest Protection and Nature Conservation (PHKA) and the Second Assistant to the Jambi Regional Secretary (Assisten II Sekda Prov Jambi). It was formalised by the governor of Jambi province's instructions 458/Kep.Gub/Setda.EkBang & SDA-4/2012 dated 13 July 2012.

[CL question: Is BMU, KfW, Yayasan KEHI, PT REKI or any other institution involved with the Harapan project in the process of establishing a conflict resolution process, or already involved in a conflict resolution process?]

Yayasan KEHI and PT REKI have the responsibility for establishing a conflict resolution process as outlined in the work of WG2 above, in close collaboration with the responsible governmental institutions as well as the settlers involved. Specific actions have included:

1. PT REKI, as the concession holder responsible for the management of the concession, is taking responsibility for implementing the registration of settlers, and being the lead negotiation partner for the Harapan Rainforest.
2. By providing strategic management at the highest level for Harapan Rainforest, Yayasan KEHI (with representation from BirdLife International, Burung Indonesia and the RSPB) seeks to ensure that PT REKI fulfils its responsibilities for ensuring a participatory and transparent conflict resolution process. As described above, Yayasan KEHI is taking explicit steps to assess the risk of human rights violation in the implementation of this process, by developing a set of guidelines that will minimise that risk, by having those guidelines independently reviewed, and by embedding the guidelines into the implementation of the process. Yayasan KEHI has sought the involvement of independent human rights NGOs and experts in drawing up these guidelines, and has sought to provide funds for an independent mediation process with communities in a way that engenders trust among the communities that the mediation and negotiation process is equitable and unbiased.
3. KfW Development Bank has provided expertise as might be needed by the management team. For example, KfW experts have provided advice on a fair and transparent mediation process and input to the draft guidelines drawn up to ensure that the process of handling encroachment is implemented in a way that meets both national human rights laws and international best practice (including the

above mentioned UN and World Bank documents as well as *IFC Performance Standards* including *UN code of conducts for Law Enforcement Officials*).

4. BMU consults regularly with KfW on the developments in the Harapan Rainforest. In addition, BMU frequently consults with and would be represented in related discussions in Indonesia – if needed - through the German Embassy in Jakarta.

Acknowledging that the current severe encroachment of the area is not only endangering one of the last lowland rainforests in Sumatra, but also threatens forest-dependent people endangered by illegal logging destroying their home forest, all efforts should be made to ensure that the forest is protected from encroachment and a successful mediation process with a sustainable outcome is achieved.

Best regards,

The Programme Office of the International Climate Initiative