

REDD+ Issues Influence in Indonesia's Regulatory Process  
Case studies: UNREDD Indonesia, REDD Plus Project Indonesia-Norway

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A dissertation  
submitted in partial fulfillment of the  
requirements for the degree of

Doctor of Philosophy

University of Washington

2013

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Law

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## Abstract

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In the last 15 years, Indonesia has enacted many regulations on climate change and also REDD+. Indonesia is pressured by external actors to reduce its emissions. REDD+ (Reducing Emission from Forest Degradation and Deforestation) means: placing a value on the role that forests play in saving the earth's climate. This research investigates the driving forces of Indonesian agencies in making REDD+ regulations and how REDD+ donor projects, as external pressure, influence Indonesia's regulatory process.

Indonesian agencies' involvement and ownership of the regulatory process and the influence of REDD+ donor projects are studied. The hypothesis of this research is that the regulatory processes in the agencies are influenced by external pressures through ownership and involvement in the projects. The higher the ownership and involvement of the agencies in the projects, the more active their regulatory process will be.

This research employs 2 case studies, using data collection and in-depth interviews. The independent variable of this research is '**external pressure**', measured by: conditionality of funding, decision making process, and monitoring activities. The dependent variable of this research is '**ownership and involvement of regulatory process**' measured by: bureaucratic change endured, time, money and human resources dedicated for these projects by the agencies.

Results from this research depict the inner workings of the administrative legal process of Indonesia. Indonesia holds the 3rd largest tropical forest and 4th most populous country in the world, so it is important for the world to know how Indonesia controls deforestation in order to avoid forest degradation.

**Key words:** Indonesia, REDD+ issues, external pressures, regulatory process, government agencies.

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## ACKNOWLEDGEMENTS

I think the road of writing this dissertation has been the hardest and most challenging road that I have taken so far. My small family moved all the way from Yogyakarta, Indonesia, to Seattle, United States, for almost 3 years, accompanying and supporting me, to study in the PhD program of University of Washington School of Law.

First, I would like to thank my dissertation committee. I was blessed with a dissertation committee whose members are insightful, kind and very supportive. **Prof. Jon Eddy** as my Supervisor and the Chair of my dissertation committee, who was always there for me whenever I needed him. Thank you so much for all your support and kindness *Pak Jon*. **Prof. Bill Rodgers**, one of the prominent figures in the US Environmental Law, is also my committee member. He is a father figure for me, who always give me reassuring hugs and I will never forget the up-beat feelings every time I enter his class room. Oh, what wonderful books that I will share with all my students in Indonesia. I am so grateful to you Prof. Rodgers. **Prof. Celia Lowe** for the ‘full circle’ in my PhD study. She interviewed me for Fulbright candidacy in Yogyakarta, and guided me all the way until I received my PhD. *Terima kasih banyak, Celia*. **Prof. Dongseng Zhang**, who acted like a brother figure to me, giving me a reassurance as he was once a PhD student and his kind availability for me to always send my draft to him. Thank you Prof. Zang.

I would also like to thank **Fulbright Presidential PhD Scholarship**, including IIE and AMINEF, which have given me the opportunity to live in the US and experience the magnitude of studying a PhD. Allyson Martinez, Tom Koeber and Pak Piet Hendarjo, thank you so much for your kind guidance and support.

All my resource persons in **Indonesian agencies** (BAPPENAS, MoF, MoE, DNPI and REDD+ TF), **UNREDD, UNDP Environmental Unit, Norwegian Embassy, FAO and UNEP**, thank you so much for your kind availability and willingness to share your opinions with me. I promise that this research will be followed up with a more and more thorough research, and I will keep contact with all of you.

My mentors in Fakultas Hukum Universitas Gadjah Mada: **Prof. Marsudi Triatmodjo, Dr. Paripurna Sugarda and Dr. Sigit Riyanto**, who supported me from the very beginning of my doctoral studies and always insisted that I can call UGM Law School as ‘my home’. Thank you so much. The late **Prof. Sugeng Istanto**, my bachelor degree supervisor, I wish I can show and discuss with you my dissertation. Thank you for your inspiration Prof. Sugeng.

My ‘independent’ supervisors: Mbak **Mia Siscawati** and Kang **Asep Suntana** for the late night discussions and the beautiful memories. Thank you so much for your willingness to read and re-read my drafts!

My colleagues of PhD cohorts in UW Law School, the people of the ‘dungeon’, thank you so much. Special shout out to **Hong Jay Jiang** and **JinKyo Lee** (you can do it, bros!) and Honorable Judge **Paul Chang**, thank you for your always inspiring conversations.

I will miss my workout and potluck buddies in Blakeley Village, what we do every day makes me feel at home and loved: **Dr. Kim Carter Munos** (you rock, Kim!), **Sommer Chetty, Tarah Helliwel**,

**Elizabeth Oestreich, and Suzanne Wilson**, I will miss our time in Blakeley, please visit us in Indonesia. Thank you so much for your friendship, I will never forget you!

To our Indonesian family in Seattle: **the Merediths, the Alfitris, the Ibrahims, the Iskandars** and all Indonesians who helped and hung out with us during our stay in Seattle, we will miss you all. Special shout out to Mas **Ahmad Safik** for his kindness and warm heartedness. Thank you all!

My Fulbright Indonesia 2010 cohort, who helped me through the long winding feeling of PhD stress, on Facebook and in person, I love you all. I know we can all do this! *Semangat!!*

My American family: **Mom, Dad, Katie and Grandma**. I can't believe it has been 20 years since my AFS experience, it feels like I never leave Maine every time we met. Mom and Dad, thank you so much for editing my dissertation, I love you so much! **The Bacon-Kischners**, we will never forget the kindness and the warmth of your family as the first persons we met in Seattle!

My family at home: **Mama (M3), Alm. Bapak, Mbak Sasha, and Drian and family**, without you I am nothing. I love all of you so much. *Matur sembah nuwun*. Thank you for putting out with me for so long. **Bapak and Ibu Syarwan, Mbak Nurul and family, Mbak Ndari and family, Mbak Rina and family, and Opik and family**, thank you for your kind love and support. *Maturnuwun*. **Keluarga Moeljoto Djojmartono and Keluarga Moelyarso Djojmartono** for all of the support and love, *maturnuwun*. The big family of **Moeljadi Djojmartono**, *maturnuwun* for everything.

To the core of my being: **Sekar and Seto**. It was because of you two we came all the way to the US. To teach you how to respect others as equals, as human beings who are worth to be loved. I love you dearest children, and thank you so much for making me the tough Mom that I am.

Last but not least, **Nugroho Ahmad Muswanto**, my ever-insightful husband, who has given up three years of his career to go to this 'PhD adventure' and always kept it cool when I was repeatedly 'overheated'. I love you. Because I can't draw pictures nor write good poems, this is what I can give to you, Mastok: an imperfect dissertation written with sweat, tears and love.

Seattle, June 7, 2013

Dr. Linda Yanti Sulistiawati.

## **DEDICATION**

To my husband, Nugroho Ahmad Muswanto.

## GLOSSARY

<b>AFOLU</b>	Agriculture, Forestry and Other Land Uses
<b>AMAN</b>	<i>Aliansi Masyarakat Adat Nusantara</i> (Indigenous Peoples Alliance of Archipelago)
<b>APBN</b>	<i>Anggaran Belanja Pembangunan Negara</i> (National Development Budget)
<b>BAPLAN</b>	<i>Badan Planologi Kehutanan</i> (Forest Planning Agency)
<b>BAPPENAS</b>	Badan/Kementrian Perencanaan Pembangunan Nasional (National Planning Agency/State Ministry of Development Planning)
<b>BAU</b>	Business as Usual
<b>BPN</b>	<i>Badan Pertanahan Nasional</i> (National Land Administration Authority)
<b>CDM</b>	Clean Development Mechanism
<b>CI</b>	Conservation International
<b>CIFOR</b>	Center for International Forestry Research
<b>CO2</b>	Carbon dioxide
<b>COP</b>	Conference of the Parties to the United Nations Framework Convention on Climate Change
<b>DG</b>	Directorate General
<b>DKN</b>	<i>Dewan Kehutanan Nasional</i> (National Forestry Council)
<b>DNPI</b>	<i>Dewan Nasional Perubahan Iklim</i> (National Council on Climate Change)
<b>DNPD</b>	Deputy of National Program Director
<b>FAO</b>	Food and Agriculture Organization of the UN
<b>FCPF</b>	Forest Carbon Partnership Facility
<b>FFI</b>	Fauna and Flora International
<b>FLEGT</b>	Forest Law Enforcement, Governance, and Trade
<b>FMU</b>	Forest Management Unit
<b>FOMAS</b>	Indonesia's Forest Monitoring and Assessment System
<b>FORDA</b>	Forestry Research and Development Agency
<b>FPIC</b>	Free Prior and Informed Consent
<b>FRA</b>	Forest Resources Assessment
<b>FRIS</b>	Forest Resources Information System
<b>GEF</b>	Global Environment Facility
<b>GIS</b>	Geographical Information System
<b>GoI</b>	Government of Indonesia
<b>GoN</b>	Government of Norway
<b>GTZ</b>	German Technical Cooperation Agency
<b>Ha</b>	Hectares

<b>HPH</b>	<i>Hak Pengusahaan Hutan</i> (forest concession)
<b>HR</b>	<i>Hutan Rakyat</i> (private forest)
<b>HTI</b>	<i>Hutan Tanaman Industri</i> (Plantation Forest/forest estate)
<b>HTR</b>	<i>Hutan Tanaman Rakyat</i> (Community Plantation Forest)
<b>HuMa</b>	<i>Perkumpulan untuk Pembaharuan Hukum berbasis Masyarakat dan Ekologi</i> (Community and Ecology Based Legal Reform Organisation)
<b>ICRAF</b>	World Agroforestry Centre
<b>IFCA</b>	Indonesian Forest Climate Alliance
<b>INPRES</b>	<i>Instruksi Presiden</i> (Presidential Instruction)
<b>IPB</b>	<i>Institut Pertanian Bogor</i> (Bogor Agricultural University)
<b>IPCC</b>	Inter-Governmental Panel on Climate Change
<b>INCAS</b>	Indonesia National Carbon Accounting System
<b>ITTO</b>	International Tropical Timber Organization
<b>IUPJL</b>	<i>Ijin Usaha Pemanfaatan Jasa Lingkungan</i> (Business Permit for Environmental Services)
<b>IUPHHK-HA</b>	<i>Ijin Usaha Pemanfaatan Hasil Hutan Kayu – Hutan Alam</i> (Business Permit for Timber Utilization from Natural Forests), a new name for HPH. See: HPH
<b>IUPHHK-HT</b>	<i>Ijin Usaha Pemanfaatan Hasil Hutan Kayu – Hutan Tanaman</i> (Business Permit for Timber Utilization from Plantation Forests), a new name for HTI. See: HTI
<b>JICA</b>	Japan International Cooperation Agency
<b>KEPPRES</b>	<i>Keputusan Presiden</i> (Presidential Decision)
<b>KpSHK</b>	<i>Konsorsium Pendukung Sistem Hutan Kerakyatan</i> (Consortium for Supporting Community Based Forest System Management)
<b>LoI</b>	Letter of Intent
<b>LULUCF</b>	Land Use, Land Use Change, and Forestry
<b>MDTF</b>	Multi Donor Trust Fund
<b>MoE</b>	Ministry of Environment
<b>MoF</b>	Ministry of Forestry
<b>MoU</b>	Memorandum of Understanding
<b>MRV</b>	Measurement (Monitoring) Reporting and Verification
<b>NFI</b>	National Forest Inventory
<b>NICFI</b>	Norway's International Climate and Forest Initiative
<b>NORAD</b>	Norwegian Agency for Development Cooperation
<b>NPD</b>	National Program Director
<b>ODA</b>	Official Development Assistance
<b>ODA</b>	Overseas Development Agency
<b>OECD</b>	Organization for Economic Cooperation and Development
<b>PB</b>	Project Board
<b>PDR</b>	Purchasing Development Right
<b>PERDA</b>	<i>Peraturan Daerah</i> (Regional Regulation)

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<b>PERMEN</b>	<i>Peraturan Menteri</i> (Ministerial Regulation)
<b>PERPRES</b>	<i>Peraturan Presiden</i> (Presidential Regulation)
<b>PERPU</b>	<i>Peraturan Pemerintah Pengganti Undang Undang</i> (Provisional Law)
<b>PEB</b>	Program Executive Board
<b>PES</b>	Payment for Environmental Services
<b>PMU</b>	Project Management Unit
<b>PMIG</b>	Project Management Implementation Guideline
<b>PP</b>	<i>Peraturan Pemerintah</i> (Government Regulation)
<b>PPP</b>	Polluter Pays Principle
<b>PROFOR</b>	The Program on Forests
<b>PSP</b>	Permanent Sample Plot
<b>RAN GRK</b>	Rencana Aksi Nasional Penurunan Gas Rumah Kaca (National Action Plan on Reducing GHG emission),
<b>RECOFTC</b>	Center for Peoples and Forests (Regional Community Forestry Training Center)
<b>REDD</b>	Reducing Emissions from Deforestation and Forest Degradation
<b>REDD+</b>	Reducing Emissions from Deforestation and Forest Degradation through conservation and sustainable management of forests.
<b>REDD+ TF</b>	Reducing Emissions from Deforestation and Forest Degradation Task Force.
<b>REL</b>	Reference Emissions Level
<b>SK</b>	<i>Surat Keputusan</i> (Decree)
<b>STRANAS</b>	<i>Strategi Nasional</i> (REDD+ National Strategy)
<b>TC</b>	Technical Committee
<b>ToR</b>	Term of Reference
<b>TNC</b>	The Nature Conservancy (US Conservation NGO)
<b>UKP4</b>	<i>Unit Kerja Presiden Bidang Pengawasan dan Pengendalian Pembangunan</i> (Presidential Delivery Unit for the Supervision and Monitoring of Development)
<b>UNDP</b>	United Nations Development Program
<b>UNDRIP</b>	United Nations Declaration on Rights of Indigenous Peoples
<b>UNEP</b>	United Nations Environment Program
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>UN-REDD</b>	United Nations Collaborative Program on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
<b>UU</b>	<i>Undang Undang</i> (Law)
<b>UNRC</b>	UN Resident Coordinator
<b>UUD</b>	<i>Undang Undang Dasar</i> (national constitution)
<b>WRI</b>	World Resources Institute

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## CHAPTER I: INTRODUCTION

*“We do not need more government or less government, we need better government”<sup>1</sup>*

### I. Introduction

REDD+ or ‘Reducing Emission from Forest Degradation and Deforestation through conservation and sustainable forest management’ arrived as a new concept in Indonesia under the umbrella of climate change. Since the arrival of REDD+ in Indonesia, the national regulatory process has increased dramatically, associated with many bilateral and multilateral agreements being made to encourage REDD+.

Climate change and REDD+ in particular have influenced not only the natural environment, but also governance in Indonesia. These changes, such as adoption of significant amendments to an existing statute or creation of a new agency to manage REDD+ issues are very influential in the development of Indonesia’s character. Theories suggest these changes are responses to external events involving the biophysical, socioeconomic or technological settings in the regime, or they serve to flesh out or update existing regimes, to extend the coverage of these arrangements to new issue areas and generally to enhance effectiveness of governance<sup>2</sup>. In Indonesia, these changes in regulatory process are felt, not only in the increased number of regulations, but also in the increased number of newly created institutions/agencies in REDD+.

These dynamics in Indonesia’s REDD+ regulatory process are not just nationally induced, but also influenced by an international atmosphere in REDD+. The primary international legal

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<sup>1</sup>D.OSBORNE& T. GAERBLER, REINVENTING GOVERNMENT 23-24.(Addison-Wesley,1992).

<sup>2</sup>O.R. YOUNG, INSTITUTIONAL DYNAMICS: EMERGENT PATTERNS IN INTERNATIONAL ENVIRONMENTAL GOVERNANCE I (MIT Press, London, 2010)

response to climate change to date is the United Nations Framework Convention on Climate Change (UNFCCC), which entered into force in 1994 and has been ratified by 189 countries and the European Economic Community<sup>3</sup>. The realization need for more substantive measures in greenhouse gases emission led to the adoption of the Kyoto Protocol to the UNFCCC at the Third Conference of the Parties in 1997. The Protocol entered into force in 2005 and currently has 169 States and the EEC as Parties<sup>4</sup>. Indonesia is both a party of the UNFCCC and a signatory of the Kyoto Protocol.

Indonesia gained her independence in 1945, and since then the forestry sector was set to be a provider in development fund. In 1965, President Suharto took power and his reign turned to forests and other natural resources to generate capital for economic recovery. This era of government had to face three challenges: the need to establish control, restore economic stability and initiate its legitimacy<sup>5</sup>. Indonesia became a centralistic government in a controlled democracy. In this era, there was very limited freedom for the people; everything was controlled by the central government. In 1998, came '*Reformasi*' where Suharto finally stepped down; the start of a growing awareness among the general public of their rights, for participation, for better tomorrow. They started to ask for accountability, for example, indicated by the rise in court cases against the government and assembly members whom are accused of corruption<sup>6</sup>. The public awareness also indicated in the rising of social movement in Indonesia. Environmental

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<sup>3</sup> [http://unfccc.int/essential\\_background/items/2877.php](http://unfccc.int/essential_background/items/2877.php)

<sup>4</sup> Id.

<sup>5</sup> MACANDREWS, C. (ed) *Central Government and Local Development in Indonesia*, Oxford University Press, Singapore, (1986).

<sup>6</sup> Id, pg.19.

and agrarian reform movements emerged supported by nongovernmental organizations (NGOs), laborer's, the rural and urban poor, and intellectuals<sup>7</sup>.

As the 4th most populous country in the world and the owner of 3rd largest tropical forests in the world, Indonesia is influencing the other countries with its perception, acceptance, performance and achievements in REDD+. Donor community, in this case, donor countries, in return are also engaging in REDD+ activities with Indonesia. This dissertation argues that dynamics of the REDD+ regulatory process between GoI and donor project is a 'dialog', not a monolog. In this REDD+ 'dialog', it is interesting to see how the international community, in the form of donor countries, influences national regulatory process through developmental donor projects. The question is, if these external actors put pressures influences national regulatory process, how does the national government perceive it? This dissertation argues that 'the right measure of external pressure gives just the right encouragement for the regulatory process to escalate'.

The purpose in this introductory chapter is to set the stage for a productive encounter between analytical perspectives and empirical observations derived from in-depth case studies. This socio-legal research approaches the effort to understand external pressures in the regulatory process as in governmental agencies related to REDD+ Indonesia. The elaboration begins with considering literature on regulation<sup>8</sup>, regulatory design and regulatory process<sup>9</sup>, institutional

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<sup>7</sup> [http://www.cifor.org/publications/pdf\\_files/Books/BMoeliono0801.pdf](http://www.cifor.org/publications/pdf_files/Books/BMoeliono0801.pdf), last viewed September 27, 2012, 1:55PM.

<sup>8</sup> BALDWIN, CAVE AND LODGE, THE OXFORD HANDBOOK OF REGULATION 3-17 (Oxford University Press, 2010), B.COOK, BUREAUCRATIC POLITICS AND REGULATORY REFORM 4,15,145-149 (Greenwood Press, 1988).

<sup>9</sup> W.A.FISCHEL, REGULATORY TAKINGS (Harvard University Press, 1995), O.R.YOUNG, *supra*, J.BRAITHWAITE, RESTORATIVE JUSTICE & RESPONSIVE REGULATION (Oxford University Press, 2002).

change and dynamics<sup>10</sup>, to collect definitions and common understanding, as well as to find the gaps between theory and practice in Indonesia's regulatory process. It is important to note that this dissertation is not looking at REDD+ to mitigate climate change, but rather on the effects of REDD+ in Indonesia regulatory process.

This dissertation also argues that “the regulatory processes in the agencies are influenced deeply by external pressures. High level of external pressures influence the regulatory process in government institutions; and in REDD+ situation, this creates a higher degree of ‘buy-in’ by governmental agencies”. This buy-in can be seen in the ownership and involvement in the projects and in the REDD+ regulatory process. External pressures in this dissertation are mainly focused on donor projects.

This research unfolds several things: (1) external pressure - in the forms of donor projects - exists in Indonesia's REDD+ regulatory process. Government of Indonesia (GoI) is very flexible in understanding the donor's perspectives in the donor projects. There are two in-depth case studies employed in this research. (2) Five Indonesian agencies' perception on REDD+ donor project involvement. These agencies are tested in REDD+'s regulatory process in terms of their ownership and involvement. All have high ownership and are very involved with REDD+ activities.

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<sup>10</sup> O.R. YOUNG, *supra*.

The enduring problem in Indonesia's governance is coordination and communication. This study argues that the model of setting up a new agency to eliminate coordination and communication problem can work, although in the end there have to be steps taken to really attack the core if the problem in the existing government.

The chapter proceeds as follows: (1) the first section lays out the first substantive section, which is the conceptual framework for the analysis to come. Definitions and understandings of regulation, regulatory design and regulatory process are paired with terminologies in institutional change and dynamics, which then connects to applicable theories such as external pressures and regulatory co-opetition, and how they are perceived in Indonesia. This understanding of terminologies is crucial since these terminologies are used repeatedly in this dissertation. (2) The next section focuses on the background of Indonesia's forestry and condition of forest degradation and deforestation as the main locus for this research. (3) The following section then provides the activities which degrade the forest and deforestation. The end of the first chapter is chapter's conclusion which opens the door to the empirical heart of the dissertation.

## **II. Theoretical Framework**

### **II.1. Regulation, Regulatory Instruments, Regulatory Process and Parties in Regulatory Process**

The starting point of this research is proving that REDD+ regulation and regulatory process in Indonesia is not 'sterile' but influenced by external pressures. In this section, regulation, regulatory instruments, regulatory process and parties in regulatory process' theories are discussed.

It is understandable when the word ‘regulation’ is mentioned, one would automatically think that we are talking about the measures done and/or created by the government to govern certain issues. In fact, there are several other types of regulation that are also included in ‘regulation’ or ‘regulatory instruments’.

Gunningham et.al<sup>11</sup>, states that at least there are at least four varieties of regulatory instruments: (1) command and control regulation, (2) economic instruments, (3) self-regulation, and (4) voluntarism. The term of ‘command and control’ or formerly known as ‘direct regulation’, has spread through the writings of neo-classical economists, who annunciate ‘command and control’ as a negative aspect of government interference in the market<sup>12</sup>. This type of regulatory instrument (command and control) remains the most used and acknowledged type of regulation in the environmental sector of Indonesia. Although other varieties of regulatory instruments exist and are known in Indonesia, most of the government’s approaches are still in the command and control ‘mode’.

This research pays close attention to the parties in the regulatory process, since they are the ones who make the ‘decision’ in creating regulations. Parties in regulatory process, to this research, are the ones who are involved in the regulatory making process and external parties who are not directly involved in the regulatory making, but deeply involved in preparing the condition for regulatory making. Keith Hawkins examines in ‘Environment and Enforcement’, pollution

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<sup>11</sup> Id.

<sup>12</sup>GUNNINGHAM AND GRABOSKY, *supra*, at 204.

control agencies in England and Wales and found that regulations “are shaped by features inherent in the nature of regulation itself...” and that in the vast majority of cases of regulatory deviance a confusion of interests and values exists. This confusion is manifested in doubts about whether agencies are protecting the public good when sanctioning behavior which is a consequence of economic activity beneficial to the public. Traditionally in regulatory process, also acknowledged by Braithwaite<sup>13</sup>, in regulatory process parties are thought to be two eminent parties: the government, as the regulator, and the business sector as the regulatee.

As time goes by, ‘third’ parties are also involved in the regulatory process. Gunningham, et.al., pose that there are third parties such as the public interest groups, NGOs, commercial third parties such as green consumers, institutional investors, financial and insurance institutions, and environmental consultants. It has to be acknowledged that although these third parties might seem to be emerging in the regulatory process theory realm, in reality; their influence in regulatory process is still questionable. Here is where this research is going to fill in the ‘gap’. This research unfolds the influence of international actors in the form of donor projects in Indonesia’s REDD+ regulatory process.

## **II.2. Regulatory Agencies and Enforcement**

Regulatory agencies as legal institutions<sup>14</sup> are the center point of this research. Kagan<sup>15</sup> argues that these agencies make, enforce, and apply law. Their decisions are subject to challenge and

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<sup>13</sup>JOHN BRAITHWAITE, *RESTORATIVE JUSTICE AND RESPONSIVE REGULATION* 31 (Oxford University Press, 2002).

<sup>14</sup>ROBERT KAGAN, *REGULATORY JUSTICE, IMPLEMENTING A WAGE-PRICE FREEZE* 8, (Russel Sage Foundation, 1978).

review in the courts and to reversal for failure to adhere to legal justification. This research examines five regulatory agencies (including one national council) who are working on one issue: REDD+. Instead of individually picturing each agency, the interaction between the agencies in REDD+ Indonesia is unfolded in this research.

Kagan examines ‘freeze agencies’<sup>16</sup> and identifies the sources of variation in the ways regulatory agencies cope with the dilemmas of policy and legal method. In his research, he examines thoroughly the freeze agencies from source of regulatory policy and legal structure, down to its rule application in a bureaucracy, and found that the freeze agencies, while providing an example of a successful regulatory program—intelligently run, on balance, and fairly administered—do not give an example that stringent regulation is always ideal or readily attainable.

Although this research do not look specifically at enforcement, it is important to have an understanding of the ‘continuation’ of regulatory process. After a regulation is made, the next step would be implementation and enforcement of the regulation. Hawkins points out that regulatory agencies must operate in a political environment between two broad public views or constituencies with competing views about the proper realm of government in the regulating the economy<sup>17</sup>. He calls this ‘a reflection of ideological differences’ and represents the opposing

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<sup>15</sup> Id.

<sup>16</sup>ROBERT KAGAN, *supra*. Regulatory Justice is a thorough study on administrative process ‘wage-price freeze’ implemented by the Cost of Living Council (CLC) and Office of Emergency Preparedness (OEP) during the Nixon administration in 1971.

<sup>17</sup>KEITH HAWKINS, ENVIRONMENT AND ENFORCEMENT 9,(Clarendon Press, 1984).

positions of the fundamental political dilemma of regulation: the extent to which economic restraint by the imposition of legal rules is justifiable<sup>18</sup>.

Hawkins<sup>19</sup> then argues that regulation may be contemplated by the law as the dispassionate sanctioning of misconduct by the even-handed application of a criminal law unconcerned for the niceties of *mensrea*, but in regulation practice, mediated as it is by a bureaucracy, in which people have to exercise their discretion in making judgments, is funded upon notions of justice. He is saying that although it might seem that enforcement of regulations is not as simple as it seems, there are 'obvious cases' in which there is a clear moral offensiveness, in which the agencies are demonstrably doing something while offending few. There are also cases which are less obvious, for example when causing pollution is often viewed, see often as the inevitable consequence of physical impediment, limited economic means, or the result of carelessness or inefficient management, or of accident. The agencies then shifted from formal law to the area of *mensrea* to narrow the field of incidents deserving of prosecution. According to Hawkins, enforcing regulations is done in a moral, not a technological, world.

Hawkin's research, although conducted in a different sector, at different levels and in a different environment none the less has implications for REDD+ implementation in Indonesia. As Hawkins describes, all regulatory agencies face challenges in developing their regulations and enforcing them. This research uses some of Hawkins methods in observing and describing the works of Indonesian regulatory agencies, and their regulatory process implementing REDD+.

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<sup>18</sup>Id, pg.9.

<sup>19</sup>Id, pg. 245.

Finally, in terms of enforcement, it will prove useful to take into account Braithwaite's concept of the Regulatory Pyramid<sup>20</sup>. Braithwaite explains the steps to un-puzzle the regulatory dilemma of when to punish and when to persuade. At the base of the pyramid lies the most restorative dialogue-based approach where there is secure compliance with a just law. As we move up the pyramid, more and more demanding and punitive interventions in peoples' lives are involved. Braithwaite argues that the idea of the pyramid is that our presumption should always be to start at the base of the pyramid, then escalate to somewhat punitive approaches only reluctantly and only when dialogue fails, and then escalate to even more punitive approaches only when the more modest forms of punishment again fail<sup>21</sup>.

### **II.3. Factors Influencing the Regulatory Process**

Like all institutions, environmental and resource regimes—assemblages of rights, rules and decision making procedures that influence the course of human-environment interactions—are dynamics<sup>22</sup>. They are dynamic because they are influenced by change(s)<sup>23</sup>. Some changes are developmental in character, and enhance the effectiveness of governance systems; some are responses to external events involving the biophysical, socioeconomic or technological settings in which regimes operate<sup>24</sup>. The sources change can be internal, external or both<sup>25</sup>.

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<sup>20</sup>John Braithwaite, RESTORATIVE JUSTICE AND RESPONSIVE REGULATION 31, (Oxford University Press, 2002).

<sup>21</sup> *Id.*

<sup>22</sup> ORAN R. YOUNG, INSTITUTIONAL DYNAMICS: EMERGENT PATTERNS IN INTERNATIONAL ENVIRONMENTAL GOVERNANCE 1-5, (MIT Press, 2010).

<sup>23</sup> YOUNG, *id.*, pg 1-5.

<sup>24</sup> YOUNG, *id.*, pg 1-5.

<sup>25</sup> YOUNG, *id.*, pg. 6.

Young, in his *'Institutional Dynamics: Emerging Patterns in International Environmental Governance'* explores the determinants of patterns of change. He distinguishes between endogenous and exogenous factors. Endogenous factors he defines as those having to do with attributes of the regime, such as the locus of the regime on a hard law-soft law continuum; the nature of the relevant decision rule(s); provisions for monitoring, reporting and verification; funding mechanism; procedures for amending a regime's assemblage of rights, rules and decision making procedures; and so forth<sup>26</sup>. Exogenous factors include conditions pertaining to the character of the overarching political setting; the nature of the prevailing economic system; the rise of new actors, technological innovations and the emergence of altered or entirely new discourses; as well as significant changes in broader biophysical systems<sup>27</sup>. The categorization of these factors are not limited, there is always possibility that one or more previously unidentified factors will emerge and play an important role in individual cases<sup>28</sup>.

This study will look at the Indonesia's environmental regulatory process, especially in the nature of the relevant decision rule(s); provisions for monitoring, reporting and verification; funding mechanism; procedures for amending a regime's assemblage of rights, rules and decision making procedures—as external pressures to the agencies<sup>29</sup> and examines internal factors of the agencies which foster the success of regulatory process within the agencies namely involvement and ownership of the agencies to the (project) activities.

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<sup>26</sup> YOUNG, *id.*, pg.14.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> According to Young they are named under the 'endogenous factors'.

## II.4. Regulatory Co-opetition

*Regulatory co-opetition* surfaces as a critique to the more traditional regulatory theory of the *regulatory competition*<sup>30</sup>. There are different levels of regulatory co-opetition: (1) inter-governmental (among/between the governmental agencies); (2) intra-governmental (within governmental agencies); and extra-governmental (government and non-governmental actors).

This dissertation mainly discusses the intra-governmental regulatory co-opetition. This type of coordination and competition mainly happens within a multi-ministry executive. Ministries often hold competing views over the need for and the content of a proposed legislation, a specific activity/project/action. This dynamic strengthens the regulatory process by forcing those initiating the regulatory process to come up with innovative and analytically serious proposals and to justify their approaches against the alternatives proposed by others. In Indonesia, the REDD+ issues is being handled by 18 different ministries. Each of them has different agendas and understanding of what REDD+ is and how this REDD+ can be beneficial to the public at large and for their respective institutions.

Confusion and overlapping authority in REDD+ is clear to see, and the co-opetition is also clear. Each of the ministries are trying to be the ‘first’ or the designated agency for REDD+. According to the co-opetition theory, this dynamic strengthens the regulatory process by forcing

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<sup>30</sup> Regulatory competition is an economic theory of government organization that equates decentralization with efficient results. This theory makes an analogy between law and commodities and asserts that lower level governments should compete for citizens and factors of production when they regulate, *mentioned in* Geradin & McCahery, *Regulatory co-opetition: transcending the regulatory competition debate* 93, in *THE POLITICS OF REGULATION: INSTITUTIONS AND REGULATORY REFORMS FOR THE AGE OF GOVERNANCE*, (Jordana & Levi-Faur, eds., 2004).

each ministry to come up with innovation. In Indonesia's case, there are also external pressures which work in this co-opetition, which is support by donor funding for REDD+ activities. This dissertation discusses on how external pressures such as donor projects can be influential to REDD+ issues regulatory process in 5 agencies in Indonesia.

## II.5. Terminologies' Definition

For present purposes, environmental law, regulation and governance are treated as three points on a continuum. At one end, **law**<sup>31</sup> is highly specific state-based law, promulgated by parliament and interpreted by the courts.

**Regulation** is a rather broader category and includes much more flexible, imaginative and innovative forms of social control which seek to harness not just governments but also markets (as with economic instruments), business and third parties<sup>32</sup>. It may involve persuasion, self-regulation and co-regulation. It may utilize both commercial interests and non-government organizations (NGOs). It may invoke surrogates for direct government regulation—mechanisms that are only partially or indirectly related to state law. But it still involves the state as a central player because even mechanisms that are not reliant on legislation for their authority are negotiated directly with the state and operate 'in the shadow of the state'<sup>33</sup>.

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<sup>31</sup>Neil Gunningham, ENVIRONMENT LAW, REGULATION AND GOVERNANCE: SHIFTING ARCHITECTURES 181, 21 JENVTLL 179, (2009).

<sup>32</sup>GUNNINGHAM&GRABOSKY, *supra*, pg. 38.

<sup>33</sup>GUNNINGHAM&GRABOSKY, *supra*, pg. 39.

In contrast, at the other end of the continuum, **governance** does not privilege the state and state law is simply one node amongst many in a world of diffused power and responsibility.

Governance, so defined involves:

*‘...an inchoate post-modern world where there is ‘no longer a single sovereign authority’ and in which regulatory mechanisms do not need to be endowed with formal authority to function effectively. The consequence is a ‘centreless society’ or ‘polycentric state’ characterised by multiple centers in which the amorphous tasks of government are described in unaccustomed fashion as being ‘to enable socio-political interactions, to encourage many and various arrangements for coping with problems and to distribute services among the several actors’<sup>34</sup>.*

Typically, the detailed specification, enforcement, and application of rules are entrusted to specialized **regulatory agencies**<sup>35</sup>, established to concentrate on control of a particular sector. In Indonesia, regulatory agencies can take such forms as a ministerial department, an agency (such as the National Planning Agency/ *Bappenas*), an independent body under the President, or smaller local agencies at the Sub-district or City level.

**Regulatory officials**<sup>36</sup>, are legal officials; they make and enforce and apply law, and generally seek to justify their actions. Their persuasive justifications must be grounded in the legal and moral values of their culture.

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<sup>34</sup>Rhodes cited in C Harlow, ‘Deconstructing Government?’ in T GINSBURG AND R RABIN (EDS), INSTITUTIONS AND PUBLIC LAW, COMPARATIVE APPROACHES 59 (P Lang, New York 2005).

<sup>35</sup> ROBERT KAGAN, *supra*, at 8.

<sup>36</sup> *Id.*

**Regulatory co-opetition**<sup>37</sup> is appropriate where optimal governance requires a flexible mix of competition and cooperation between governmental actors, as well as between governmental and non-governmental actors.

As these terminologies appear often during the discussion of this research, I limit the use of the terminologies to the above mentioned definitions.

### III. Background of Indonesia's Forestry

The section elaborates Indonesia's forestry, including Indonesia's forest degradation and 'drivers' of forest degradation and deforestation in Indonesia. This dissertation groups these drivers into two large groups: external drivers and internal drivers<sup>38</sup>. Further, analysis of Indonesian forestry cannot overlook the impact of corruption in the forestry sector. REDD+, which takes place in Indonesia, has been and continues to be affected by corruption. In this section, 'weak points' in the forestry sector affected by corruption are elaborated, as are the possible anti-corruption measures in REDD+.

Indonesia has rich forested areas which support a high level of biodiversity, and, unsurprisingly, are an important livelihood source for a great number of people. It is estimated that the number

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<sup>37</sup> Geradin & McCahery, *Regulatory co-opetition: transcending the regulatory competition debate* 93, in THE POLITICS OF REGULATION: INSTITUTIONS AND REGULATORY REFORMS FOR THE AGE OF GOVERNANCE, (Jordana & Levi-Faur, eds., 2004)

<sup>38</sup> Another distinction of drivers is mentioned by Contreras-Hermosilla, CIFOR, Occasional Paper No.3, June 2000, pg.5, there are two causes of forest decline: (1) Direct causes: natural causes, resulted from human activities and agent; and (2) Underlying causes: market failures, mistaken policy inventions, governance weakness, broader socioeconomic and political causes.

of forest-dependent people in Indonesia is about 6 to 30 million<sup>39</sup>. Indonesia is ranked 44 out of 139 developing countries<sup>40</sup>. The percentage of population living in poverty declined from 30% in 2006 to under 20% in 2009<sup>41</sup>. 10 million of the poorest people in Indonesia have forest-based livelihoods<sup>42</sup>. Apart from that, as a developing country, Indonesia's government also has a high dependency on the forestry sector, as well as on forestry-related sectors such as agriculture, estate crops and mining<sup>43</sup>. The pressures on the forest are not only from individuals who live in and surrounding the forest, but also from other actors, such as the government and business sectors.

Data of the current forest cover in Indonesia varies; this is understandable since there are discrepancies in defining the forest itself. Article 1 of Law No. 41/1999 on Forestry (Indonesia Forestry Law) defines 'forest' as: *'an integrated ecosystem within a landscape containing biological resources, dominated by trees in harmony with its natural environment inseparable from one another'*. The Forestry Law defines a 'forest area' as *a particular area designated and/or stipulated by the government to be retained as permanent forest*. The Forestry Law essentially regulates 'forest areas' rather than 'forest'. In fact, the Ministry of Forestry calculates forest area based on the size of the administrative areas or areas designated as 'forest areas', irrespective of whether or not these areas actually have trees on them; as such, some 'forest

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<sup>39</sup> Sunderlin, W. D., S. Dewi, A. Puntodewo, D. Müller, A. Angelsen, and M. Epprecht. *Why forests are important for global poverty alleviation: a spatial explanation*. 13(2) Ecology and Society 24 (2008). [online] URL: <http://www.ecologyandsociety.org/vol13/iss2/art24/>

<sup>40</sup> WFE Indonesia Report, available at [http://www3.weforum.org/docs/WEF\\_GCR\\_Indonesia\\_Report\\_2011.pdf](http://www3.weforum.org/docs/WEF_GCR_Indonesia_Report_2011.pdf), last viewed March 21, 2013, 12:18PM.

<sup>41</sup> *Id.*, pg. 4, figure no.2.

<sup>42</sup> UNDP-SEARCA, Small Grants Programme Promoting Tropical Forest, 2007.

<sup>43</sup> Indrarto, G. B., Murharjanti, P., Khatarina, J., Pulungan, I., Ivalerina, F., Rahman, J., Prana, M. N., Resosudarmo, I. A.P. and Muharrom, E. *The Context of REDD+ in Indonesia: Drivers, agents and institutions* 15 (2012). Working Paper 92 CIFOR, Bogor, Indonesia.

areas' may not have any forest<sup>44</sup>. On the other hand, FAO, for example, defines forest as 'land spanning more than 0.5 hectares with trees higher than 5 meters and a canopy cover of more than 10 percent, or trees able to reach these thresholds in situ<sup>45</sup>. These discrepancies are then resulting in different calculations of the amount of forested areas between the GoI/MoF and other bodies. The 'forest' according to GoI/MoF would include areas which are defined by FAO as 'other woodland'<sup>46</sup>.

### III.1. Causes of Forest Degradation and Deforestation in Indonesia

Indonesia defines 'deforestation' as a permanent change from a forested to non-forested area caused by human activity (Article 1(10), Ministry of Forestry Regulation No. P.30/Menhut-II/2009 on Procedures for Reducing Emissions from Deforestation and Forest Degradation). It also defines 'degradation' as a reduction in the quantity of forest cover and carbon stock over a certain period caused by human activity (Article 1(11)).

The Indonesia Forestry Law No. 41/1999 divides forest areas according to their functions<sup>47</sup>:

- (1) Production forest – forest with the primary function of producing forest products;
- (2) Protection forest –forest with the primary function of protecting life support systems to regulate water, prevent flooding, control erosion, prevent seawater intrusion and maintain soil fertility; and

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<sup>44</sup> Indarto, G. B., et al, *id*, pg. 1.

<sup>45</sup> Dieter Schoene, *Definitional Issues Related to Reducing Emissions from Deforestation in Developing Countries* 19, Forest and Climate Change Working Paper 5, FAO, Rome (2007).

<sup>46</sup> Indarto, G.B., et al, *supra*, at 5.

<sup>47</sup> Indarto, G.B., et al, *supra*, at 2.

(3) Conservation forest –forest with specific characteristics and the primary function of conserving plant and wildlife biodiversity and their ecosystems. Production forest is categorized further into *permanent production forest* (in which the whole area is allocated to the production of forest products), *limited production forest* (in which only part of the area is allocated to the production of forest products) and *convertible production forest* (which is reserved for other land uses).

It is apparent that the area of production forest exceeds the total area allocated as conservation and protection forest, which means there is a dependency in utilization of forest as a development resource in Indonesia. Unsurprisingly, the rate of forest destruction is increasing due to contribution from non-forestry activities, such as mining, change of forest allocation (from protection forest to production forest), and also from the discrepancies in regulatory framework<sup>48</sup>. MoF has the authority to establish which state forest area is available for non-forestry activities (eq. mining) through the issuance of lease-use permits, which can include protection and conservation forests<sup>49</sup>.

There are many drivers of forest degradation and deforestation in Indonesia. This dissertation groups these drivers into two big groups<sup>50</sup>: external drivers and internal drivers. External drivers are drivers that are brought by international actors and activities, such as development and

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<sup>48</sup> Indarto, G.B., et al, *supra*, at 2.

<sup>49</sup> Lease-use permits in forest areas are regulated by Government Regulation NO. 24/2010 on Use of Forest Areas, which superseded the guidelines for granting lease-use permits in MoF Regulation NO. P.64/Menhut-II 2006.

<sup>50</sup> According to Sunderlin and Resosudarmo *supra*, those factors are: development and economic interests; community reliance on natural resources; population growth and its ramifications; strong market demand for timber and timber products; strong demand and high prices for estate crop and mining commodities; unclear tenure; political interests; and poor governance and forest resource management.

economic interests, market demand for timber and timber products, gap in timber's supply and demand, strong demand and high prices for estate crop and mining commodities. Internal drivers on the other hand, are drivers that are internally developed by actors and activities in Indonesia. They are: community reliance on natural resources, population growth and its ramifications, unclear tenure, political interests, discrepancies of legal frameworks on forestry and poor governance and forest resource management.

### **III.1.1. External drivers of deforestation and forest degradation in Indonesia**

#### ***III.1.1.1. Development and economic interests***

These development and economic interests is a main driver in deforestation and forest degradation. Various parties have an interest in securing the greatest possible benefits from forest resources<sup>51</sup>. These interests sometimes can be very strong and demanding, both economically and also politically. International actors (business sector and/or forestry companies) can be very 'persuasive' to the national actors when it comes to the forestry industry. The interests of central and regional governments, forestry business people, domestic and foreign mining and estate crops companies that clear forest land, communities that depend on forest and other resources for their daily needs, and international financial institutions are intertwined, resulting in mutual dependence<sup>52</sup>.

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<sup>51</sup> Indarto, G.B., et al, *supra*, at 41-49.

<sup>52</sup> Indarto,G.B., et al, *supra*, at 9.

### *III.1.1.2. Gap in timber's supply and demand*

The intensive growth of Indonesia's timber industry started in early 1980's<sup>53</sup>. However, the growth has led to an enormous deficit in the nation's supply of timber. In 2003, the Decree of the Minister of Forestry on the implementation of soft landing policy<sup>54</sup> decreased the annual allowable cut for timber from natural forest to only 6.8 million m<sup>3</sup> per year. The total production of logs from timber plantation is approximately 10million m<sup>3</sup>/year. This means that Indonesia's legal timber production stands around 17 million m<sup>3</sup>. On the other hand, the total demand of round wood by the timber industry amounts to approximately 63.48 million m<sup>3-55</sup>.

Pulp and paper is the most voracious forest-related industry. Riau Province, for example, has the capacity of producing 3.9 million tons of pulp. This level of production requires 17.5 million m<sup>3</sup> of raw material, but timber plantations can only supply 3.5 million m<sup>3</sup> of timber<sup>56</sup>. The discrepancy of 14 million m<sup>3</sup> of timber is then fulfilled by using timber from natural forests, 4 million m<sup>3</sup> of which comes from illegal sources<sup>57</sup>. The gap between supply and demand has encouraged some business people to turn to illegal logging<sup>58</sup>, including, logging outside their schedules or concession areas.

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<sup>53</sup> Fahmi, Zul, et al, *Briefing Paper on Indonesia Timber Industry and FLEGT Initiative*, FLEGT Initiative (2007).

<sup>54</sup> No.19/Kpts-VI/2003

<sup>55</sup> Ditjen BPK, Dephut, 2004.

<sup>56</sup> Fahmi, Zul, et al, *Briefing Paper on Indonesia Timber Industry and FLEGT Initiative*, FLEGT Initiative (2007).

<sup>57</sup> Dinas Kehutanan Propinsi Riau, 2005.

<sup>58</sup> Brockhaus et al, *Guide for Country Profiles: Global Comparative Study on REDD (GCS-REDD)*, Policy Framework, CIFOR, 2012.

### ***III.1.1.3. Market demand and high prices for timber and timber products***

Indonesia supplies pulp, palm oil and coal to the world market. Indonesia is the world's largest palm oil producer<sup>59</sup> and the fifth largest coal producer in the world<sup>60</sup>. The high price of palm oil and rising global demand for CPO (Crude Palm Oil) have encouraged massive expansion of oil palm estates, which means more forest is being cleared.

Along with palm oil, coal production is also rising annually. As most coal is mined from open-cast mines located in forest areas, increases in coal production also mean that more forest is being cleared<sup>61</sup>. Consequently, since demand is very high and supply is very low, the prices for forestry product are also sky-rocketing. The fact that the market prices of the product are so handsome lures business people, local and national government and also the local people to pay more attention to the 'result' of the forest clearing (addition of income) and not the 'impact' of it (forest degradation and deforestation).

## **III.1.2. Internal drivers of deforestation and forest degradation in Indonesia**

### ***III.1.2.1. Community reliance on natural resources***

Indonesia's forest are populated by indigenous tribes and local people, but reliance on natural resources (including forest products) is experienced by most Indonesians, not just the ones who live in the forest. A good rule of thumb for natural resource intensive economies is that every dollar of natural resource rents extracted must be balanced by one dollar of investment in

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<sup>59</sup> Sheil, D., A. Casson, E. Meijaard, M. v. Nordwijk, J. Gaskell, J. Sunderland-Groves, K. Wertz and M. Kanninen. *The impacts and opportunities of oil palm in Southeast Asia: what do we know and what do we need to know?*. Bogor, Indonesia: Center for International Forestry Research (CIFOR), 2009.

<sup>60</sup> US Energy Information Administration, 2003 data.

<sup>61</sup> Indarto, G.B., et al, *supra* 12, pg. 10.

physical or human capital<sup>62</sup>. If the country is depleting its natural resources faster than it is sustainably investing the proceeds, then the real national savings rate—or its “genuine savings”—will fall<sup>63</sup>. In other words, a low genuine savings rate means that the country is consuming the proceeds of its resource endowment and leaving less for future generations<sup>64</sup>.

Indonesia’s genuine savings are the lowest in the region, even lower than the Philippines and Vietnam, despite the fact that the effects of deforestation are excluded<sup>65</sup>. In short, Indonesia is consuming the nation’s natural resource wealth and has little to show for it. Over the long period, a low rate of genuine savings will result in slow growth as the country runs out of resources but lacks the physical and human capital to engage in other value-generating activities.

### ***III.1.2.2. Population growth and poor governance and forest resource management***

The World Bank reported that Indonesia had 75 percent of low income workers in the informal sector; more than 60 percent of poor families depend on income from agriculture; 55 percent of the poor have limited primary education with 16 percent being illiterate; 50 percent of the poor lack of access to clean water; 75 percent have inadequate sanitation; 25 percent of malnourished children are under five; and a lack of adequate economic infrastructure such as reliable rural roads and efficient ports constrains growth for agriculture and agribusiness<sup>66</sup>.

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<sup>62</sup> Strategic Assessment, Harvard Kennedy School-Indonesia Program, *From Reformasi to Institutional Transformation: A Strategic Approach of Indonesia’s Prospect for Growth, Equity and Democratic Governance*, Harvard Kennedy School 50, April 24, 2010. Available at: <http://unpan1.un.org/intradoc/groups/public/documents/UN-DPADM/UNPAN042322.pdf>, last viewed February 11, 2013, 11:55 AM.

<sup>63</sup> Id.

<sup>64</sup> Id.

<sup>65</sup> Id.

<sup>66</sup> [http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2011/09/07/000386194\\_20110907030049/Rendred/PDF/595300revised00gress0report0english.pdf](http://www-wds.worldbank.org/external/default/WDSContentServer/WDS/IB/2011/09/07/000386194_20110907030049/Rendred/PDF/595300revised00gress0report0english.pdf), last viewed March 21, 2013, 1:14PM.

ADB states the Indonesia's population in 2011 to be 241.37 million, with 1.6% of annual population growth rate and 12.5% living below the national poverty line<sup>67</sup>. The growth of the population is increasing rapidly and is not in balance with depleting natural resources—including forestry resources. With the growing poverty and depleting of natural resources, Indonesia is on the brink for another national crisis.

### *III.1.2.3. Unclear tenure*

Forest area, according to the Forestry Law no. 41/1999, is a legal classification of an area designated for fixed forest and does not reflect the reality on the ground – forests exist outside of this Forest Area and, conversely, there are denuded areas within the Forest Area. The Forestry Law 1999 contains provisions relating to the sustainable use and multiple functions of forests. However, this law and its implementing regulations are problematic. **First**, it has to be understood that there are people who live in and outside the forest of Indonesia. They are the 'adat' (customary) people, or the non-adat people, who have lived for generations as forest dependent people—even in the conservation forests. **Second**, the law gives subsidiary position to adat forest as well as to the adat people and local people's 'ownership' living in and surrounding the forest. Hence, tenure security has very little clarity both in the forest and its immediate surroundings.

### *III.1.2.4. Discrepancies of legal frameworks on forestry*

REDD+ is a recent issue in the global environmental discussion, and Indonesia has adapted, initiated and enforced several rules, regulations and laws with REDD+. The Indonesian REDD schemes are subject to Article 33 (2,3) of the constitution: "*Sectors of production which are important for the country and affect the life of the people shall be controlled by the state. The*

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<sup>67</sup> <http://www.adb.org/countries/indonesia/main>, last viewed September 18, 2012, 2:46PM.

*land, the waters and the natural riches contained therein shall be controlled by the state and utilized to the greatest benefit of the people.”*

**Table 1 Laws related to the implementation of REDD+ schemes**

No	Law	Substance
1.	Law 12/2011	Legislation Composing
2.	Law 41/2009	Sustainable Food Agricultural Land Protection
3.	Law 31/2009	Meteorology, Climatology, and Geophysics
4.	Law 32/2009	Environmental Management and Protection
5.	Law 4/2009	Mining of Mineral and Coal
6.	Law 26/2007	Spatial Planning
7.	Law 17/2004	Ratification of Kyoto Protocol to the UNFCC
8.	Law 32/2004	Regional Governance
9.	Law 33/2004	Fiscal balance
10.	Law 7/2004	Water Resources
11.	Law 1/2004	State Treasury
12.	Law 17/2003	State Finance
13.	Law 41/1999	Forestry
14.	Law 20/1997	Non-Tax State Revenue
15.	Law 5/1994	Ratification of UNCBD
16.	Law 6/1994	Ratification of UNFCC
17.	Law 5/1990	Biological Resources Conservation
18.	Law 5/1960	Basic Rule of Agrarian

Source: Nurrochmat (2011a); Gintings (2011);  
UN-REDD-Indonesia, BENEFIT DISTRIBUTION ANALYSIS OF REDD+, 2012

It is understood that REDD+ issues are multi sectoral. They encompass 18 different line ministries in Indonesia (among others: Ministry of Forestry, Ministry of Environment, National Agency for Planning/BAPPENAS, Ministry of Agriculture, Ministry of Industry, Ministry of Trade, Ministry of Public Works, Ministry of Labor, Ministry of Foreign Affairs, Secretary of State, Ministry of Energy and Mineral Resources, Ministry of Housing, National Land Agency).

The Agencies and Ministries in Indonesia, have recently been very productive in producing REDD related regulations. For example: the Ministry of Forestry in 2009 produced two main REDD+ regulations on the procedure of REDD+ and REDD licenses in Indonesia. There are also instances of overlapping regulations. In 2009, the Ministry of Forestry enacted a regulation on REDD profit sharing, and the Ministry of Finance protested accusing the Ministry of Forestry of overstepping in their authority.

Moreover, technical regulations were enacted to prepare and implement REDD+ in Indonesia (Table 2).

**Table 2 : Implementative regulations related to the implementation of REDD**

No	Decree/Regulation	Substance
1.	Government Regulation (GR) No. 6/2007 jo. GR No. 3/2008	Forest Governance, Forest Planning Management and Forest Utilization.
2.	Government Regulation (GR) No. 55/2005	Fiscal Balance
3.	Presidential Decree 19/2010	Establishment of the Task Force on REDD+
4.	Forestry Minister Regulation P.30/2009	Procedure to Reduce Emission from Deforestation and Forest Degradation (REDD).
5.	Forestry Minister Regulation P.36/2009	Procedure of License on Utilization of Carbon Absorption/Stock in Production and Protection Forest.
6.	Forestry Minister Regulation P.68/2008	The Demonstration Activity of REDD
7.	Forestry Minister Regulation P. 49/2008	Village Forest
8.	Forestry Minister Regulation P. 18/2009	Community Forest

9.	Forestry Minister Decree No. 07/2008	Criteria and Standard of License on Utilization of Environmental Services in Production Forest
10.	Forestry Minister Regulation P. 32/2007	Procedure on Determination, Collection and Payment of License Fee on Forest Utilization in Production Forest.
11.	Forestry Minister Regulation No. 20/2012	Forest Carbon
12.	Presidential Regulation 80/2011	Trust fund
13.	Presidential Regulation 61/2011	RAN-GRK: National Action Plan on Greenhouse Gasses Emission
14.	Presidential Regulation 71/2011	Greenhouse Gasses Emission Inventarisation

Source: Gintings (2011) and various sources

**Table 3** pointed out overlap of laws and regulations related to REDD in Indonesia.

**Table 3 : Disharmony of laws and regulations related to REDD+**

No.	Substances	Laws & regulations	Contents & Problems
1.	Minimum area of forests in a province and regency/city	Law 26/2007: 17(5) Law 41/1999: 18(2)	Contents: Minimum area of forests in a watershed area/island/province is 30%. Problems: If a watershed area covering more than one regency or province, how to define a minimum area of forests? If a regency or province covering more than one island, how to define a minimum area of forests?
2.	Location of REDD	Government Regulation 3/2008, Paragraph 25,29,33 and 50 Forestry Minister Regulation P.30/Menhut-II/2009 Paragraph 5-10 (1)	Contents: REDD could be implemented in certain area as far as suitable with the criteria of REDD location. Problems: Those regulation created ambiguity because the criteria of REDD location was not stated clearly. The problem would be more complicated since REDD involved not only deforestation and forest degradation, but also governance and institutional aspects of forest management.
3	Time period of the utilization permit of environmental services	Government Regulation 6/2007 Paragraph 28 (1) jo. Government Regulation 3/2008 Paragraph 29 (1) and 50 (1) Forestry Minister Regulation P.30/Menhut-II/2009 Paragraph 13	Contents: The time period of utilization permit of environmental services for carbon is 30 years (Forestry Minister Regulation P.30/2009: 13) Problems: In the case of protected forest, it needs further explanation. Government Regulation 6/2007: 28 (1) stated that the maximum time utilization permit in protected forest is only 10 years.
4.	Carbon sequestration (RAP) and carbon stocking (PAN) in protected forests.	Law 41/1999 Paragraph 27 (2) Government Regulation 6/2007 Paragraph 25 Government Regulation 3/2008 Paragraph 25 (1) Forestry Minister Regulation P.36/Menhut-II/2009 Paragraph 3.	Contents: Implementation of carbon trading scheme with additionally concept in protected forests. Problems: Less additionally in protected forests. Usually protected forests are primary forests.
5.	Use of forest area	Law 41/1999 Paragraph38	Contents:

	for mining	Law 4/2009 Government Regulation 24/2010 Paragraph 4(1)	Use of forest area for other forest activities may be implemented for strategic purposes. Problems: No clear definition and further explanation of strategic purposes.
6.	Inventory of Green House Gases (GHG) Emissions	Law 32/2009 Paragraph 45; paragraph 63 (2) point “e”, and Paragraph 63 (3) point “e”	Contents: Each province government has to conduct natural resource inventory and GHG emission inventory. Problems: Inventory of GHG Emission is extremely difficult to be implemented by province government. No clear explanation about the scope, whether based on the temporary changing of stock carbon (degradation) or permanent landuse change (deforestation).
7.	Measurements of emission	Law 32/2009	Contents: Each region shall implement carbon emission inventory. Each region shall provide funds for forest protection and nature conservation. Problems: Regular measurement of GHG is not an easy task and it is also relatively expensive.
8.	Environmental Impact Analysis (AMDAL)	Law 32/2009	Contents: Environmental Impact Analysis (AMDAL) Problems: The law focused on environmental Impact Analysis (AMDAL), but pays less attention to the other programs.
9.	Zonation	Government Regulation 26/2008	Contents: Zonation of Forest Area Problems: Zonation could not be implemented effectively because of incomplete forest inventory.
10.	Decentralization of authority in forestry matters	Law 41/1999 Paragraph 66 Law 32/2004	Contents: Decentralization of forestry matters from central to the regions. Problems: No clear scope of authorities among central, province and regency/city.
11.	Forest Inventory at the Management Unit (FMU)	Law41/1999 Paragraph 13	Contents: Forest inventory shall be implemented at national level, watershed area, and Forest Management Unit (FMU). Problems: FMUs are not established right now.

Source: Nurrochmat

UN-REDD-Indonesia, BENEFIT DISTRIBUTION ANALYSIS OF REDD+, 2012

As can be seen in this table, the laws and regulations in relation to REDD+ are so diverse and yet also incomplete and overlapping. There needs to be an effort to compile, contrast and strategize all these laws and regulations in order achieve clear guidance for REDD+.

#### *III.1.2.5. Corruption in the Forestry Sector*

Corruption<sup>68</sup> is an important enabler of deforestation in developing countries as has been recognized by the international forest policy community for at least a decade. UN Food and Agriculture Organization (FAO) report from 2001 identifies forest corruption as a sub-category of a wider set of illegal forest activities, highlighting its detrimental financial, environmental and social costs<sup>68</sup>. Several studies have investigated the relationship between corruption and illegal logging in detail, although it is noted that greater research is required to determine the precise amount of deforestation (and, by extension, carbon emissions) that should be attributed to corrupt activity<sup>69</sup>.

Corruption within the forest sector is considered to undermine the framing, implementation and subsequent monitoring of policies aimed at conserving forest cover. Acts of corruption linked to the forest sector are often associated with interactions between public and private actors where financial or status-related incentives are offered (or sought) to deviate from an agreed framework of rules and regulations. Although such deviation is generally considered to prejudice attainment of forest conservation goals (since there is a means, albeit illegal, to circumvent formalized conservation rules), for some analysts it also helps explain why, in certain circumstances,

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<sup>68</sup> FAO, Illegal activities and corruption in the forestry sector, *State of the World's Forests 2001*, Food and Agriculture Organization of the United Nations, Rome, 2001.

<sup>69</sup> TACCONI L, F. DOWNS, P. LARMOUR (2009). ANTI-CORRUPTION POLICIES IN THE FOREST SECTOR AND REDD+, in Angelsen A. (Ed.) REALISING REDD+ NATIONAL STRATEGY AND POLICY OPTIONS, Center for International Forestry Research, Bogor.

corruption may serve to slow rates of deforestation: some actors may prefer to stick to the formal rules rather than pay the added cost of a bribe to harvest trees illegally. Some of the main links between corruption and deforestation described in recent literature are listed in Table below.

**Table 4: Links between corruptions and impact on deforestation**

<b>Stage in process</b>	<b>Corrupt activity</b>	<b>Possible impact on deforestation</b>
Land planning	Interest groups bribe public officials to skew design and implementation of land use plans	Contributes to deforestation by undermining land use allocation process and enforcement of land use plans
	Large-scale. farmers bribe politicians in exchange for agricultural subsidies	Contributes to deforestation by reducing agricultural productivity (farmers deliberately use land inefficiently to attract subsidies)
	Corruption limits private investment in agricultural land	Protects forests by limiting investments in extension of agricultural land
Harvesting	Loggers bribe forestry officials to harvest without legal permits, or to speed up the issuance of such permits	Contributes to deforestation by foregoing legal system for allocating harvesting right
	Logging operators bribe local officials to obtain logging permits not recognized by the forestry regulatory framework	Contributes to deforestation by facilitating forms of harvesting not allowed within the legal system for forestry
	Logging concessionaires pay bribes so that over-harvesting is not. monitored	Contributes to deforestation by foregoing the established system for monitoring logging activity
Transportation	Loggers bribe public. officials to allow transport of illegally logged timber	Contributes to deforestation through facilitation of exit-routes for illegally harvested timber

Source: Tacconi, *Id.*

The present stage in the evolution of REDD has been described as a critical juncture in the history of forestry research and practice: though the theories underpinning REDD are “not yet well understood or elaborated beyond a small inner circle” its practice is already underway in a number of demonstration projects worldwide. Scholars and policy analysts are attempting to

further elaborate the prerequisites and conditions for successful REDD implementation, and a number of studies have accordingly been commissioned to examine REDD from various perspectives. Lessons from on-the-ground implementation of demonstration activities are also being learnt, some of which are incorporated into recent study findings.

Much of the literature published on REDD since the beginning of 2009 makes reference to the importance either of addressing improved forest governance or controlling forest-linked corruption in order for REDD schemes to achieve their objectives. Skutsch et. al, highlight, for instance, the importance of robust monitoring and verification measures since the risk of cheating in carbon markets is “always present”<sup>70</sup>. They note that a main challenge will be to facilitate the functioning of bureaucracies which do not seek to consume for themselves the benefits derived from carbon stocks. Phelps et. al, address the potential for REDD to present incentives for potentially damaging re-centralization of forest management in some countries, arguing that with resources at stake on the scale envisaged, some host governments may seek to portray themselves as more capable and reliable than local communities at managing their forest base<sup>71</sup>. A further study - commissioned by Greenpeace International and addressing REDD from a conservationist perspective - notes that since illegal forest activity is responsible for a significant proportion of deforestation and forest degradation, governance issues present challenges for successful REDD implementation.

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<sup>70</sup> SKUTSCH M.M., E. ZAHABU, B.S. KARKY (2009). COMMUNITY FOREST MANAGEMENT UNDER REDD: POLICY CONDITIONS FOR EQUITABLE GOVERNANCE, Paper prepared for XIII World Forestry Congress, Buenos Aires, 18-23 October 2009.

<sup>71</sup> PHELPS, J., E.L. WEBB, A. AGRAWAL. 2009. DOES REDD+ THREATEN TO RECENTRALIZE FOREST GOVERNANCE? *Science*, Vol 328. No. 5976.

Despite this recognition of the importance of practically addressing and researching forest-linked governance and corruption challenges in the context of REDD, relatively few studies have so far attempted to provide detailed explorations of these challenges, or potential policy approaches for them. Recent literature reviewed for this study nevertheless revealed an already well-defined set of possible corruption risks for REDD. These are listed in Table below.

**Table 5: Possible corruption risks for REDD Activity**

<b>Governance Level</b>	<b>Corruption Risk</b>
National	<ul style="list-style-type: none"> <li>• Agricultural or timber conglomerates bribe national politicians to undermine establishment of national REDD mechanism</li> <li>• REDD project developers bribe national politicians or senior officials to promote fraudulent REDD schemes</li> <li>• Politicians and senior officials extract rents from REDD revenues</li> <li>• Officials responsible for reconciling REDD projects with national accounting take bribes from project developers to double-count project</li> <li>• Agricultural or timber conglomerates bribe national officials responsible for forest protection to ignore violations of conservation laws</li> </ul>
Sub-National	<ul style="list-style-type: none"> <li>• Agricultural or timber conglomerates bribe sub-national politicians and public officials to opt out of REDD implementation, or weaken REDD policies, in their areas</li> <li>• Agricultural or timber conglomerates bribe sub-national officials responsible for forest protection to ignore violations of conservation laws</li> </ul>
Local or Project	<ul style="list-style-type: none"> <li>• REDD project host bribes official monitors either to overstate avoided emissions or understate problems of permanence/additionally of the project</li> <li>• REDD project host intentionally increases emissions in lead-up to implementation in order to benefit from higher credits</li> <li>• Local administrator extract rentals from environmental service scheme aimed at benefiting local communities</li> </ul>

Source: Bofin P, 2011. REDD Integrity: Addressing governance and corruption challenges in schemes for Reducing Emissions from Deforestation and Forest Degradation, p.12

#### **IV. Activities Causing Forest Degradation and Deforestation**

Those driving factors foster activities which directly change the forest cover of Indonesia. Some of these activities are unplanned and to a certain extent illegal, but others are very well planned and legal. This part of the section will discuss the activities which degrade and deforest Indonesia's forest.

#### IV.1. Change of forest cover because of changes in forest allocation and function

Changes in forest allocation occur when the forest is released for non-forestry needs, for example changed to estate crops and hence the area is not a forest anymore. Changes from forest function also occur when a forest' function is changed. For example, a protection forest is changed to a production forest, while still remaining a forest area. In the context of deforestation, the change in function from production forest to convertible production forest is an example of planned deforestation<sup>72</sup>.

Aside from conversion to agricultural plantation or palm oil estate crops, a forest can also be designated as a mining area. Even though data presented by MoF seem to undersize the number of areas designated as mining (because they are insignificant when compared to estate crops or agriculture); in reality, mining in forest areas covers a much larger area<sup>73</sup>. This is due to the fact that mining in forest areas does not operate under lease-use permits<sup>74</sup>. Additionally, there are many small-scale illegal mining operations in forest areas<sup>75</sup>.

Changes of forest areas into mining areas have been very common in Indonesia in the past 30 years. Records in early 2000 showed that Indonesia supplied around 30 percent of the world's tin, 11 percent of its nickel, 6 percent of its copper and 5 percent of its gold<sup>76</sup>.

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<sup>72</sup> Indarto,G.B., et al, *supra* 10, pg. 4.

<sup>73</sup> Id.

<sup>74</sup> Id.

<sup>75</sup> RESOSUDARMO ET AL, SETTING THE SCENE: DRIVING FORCES OF CHANGE IN SOUTHEAST ASIA 2, The Arndt-Corden Division of Economics, College of Asia and the Pacific, the Australian National University, Canberra, ACT, 2000, Australia.

<sup>76</sup> Id.

## IV.2. Illegal logging, forest fires, palm oil plantation and mining activities

### IV.2.1. Illegal logging

Illegal logging has been one of the greatest deforestation threats in Indonesia. In Sumatra and Kalimantan, regions in Indonesia with the highest levels of deforestation and degradation, illegal logging has been rife in all types of forest (permanent production forest, conservation forest and non-forest areas)<sup>77</sup>.

The modus operandi can vary from small groups of youths with chainsaws chopping and sawing 3-4 trees a day (which can be found in the hundreds and thousands in Indonesia's forests) to bigger players who use boats and tugs to tow rafts of illegally cut wood through rivers headed for saw mills that are dedicated to the processing of illegal wood<sup>78</sup>. There are bigger companies that own logging concession hauling tons of wood<sup>79</sup>. These big companies are also converting thousands of hectares of land into oil palm plantations each year<sup>80</sup>.

### IV.2.2. Forest fires

In Indonesia, fire is employed in land preparation, which serves as a cheap and fast method of land clearing<sup>81</sup>. Traditionally, "slash and burn" agriculture (or swidden agriculture) has been

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<sup>77</sup> ICEL 2006, as mentioned in Indarto, G.B., et al, *supra* 10, pg. 6.

<sup>78</sup> JOY, AJIT, FOLLOWING THE MONEY TRAIL: THE CHALLENGES IN ILLEGAL LOGGING INVESTIGATIONS, Presentation at session on "Following the Money in Forest Crimes," 16th International Anti-Corruption Conference, Bangkok, November 2010.

<sup>79</sup> Id.

<sup>80</sup> Id.

<sup>81</sup> YANSEN, THE ENDLESS CYCLE OF FOREST FIRES, article in the Jakarta Post, available on <http://www.thejakartapost.com/news/2011/09/22/the-endless-cycle-forest-fires.html>, last viewed September 19, 2012, 12:44PM.

practiced by farmers in many places in Indonesia for generations. A study conducted in West Kalimantan showed that the application of slash and burn agriculture, in combination with land rotation, is ecologically sustainable and does not degrade soil conditions<sup>82</sup>. Unsurprisingly, from the total land affected by fires this year, more than 70 percent occurred in plantation fields<sup>83</sup>.

### IV.2.3. Palm Oil

Conversion in forest cover in Indonesia mostly involves establishment or activities of palm oil plantations<sup>84</sup>. High palm oil prices and rising global demand for crude palm oil (CPO) have encouraged massive oil palm plantation expansion, which can be seen in the number of vast forest area converted to palm oil plantations. According to Sawit Watch data, palm oil plantation area rose from 1 652 301ha in 1989; to 3 805 113 ha in 1994 and again grew to 8 204 524 ha in 2008<sup>85</sup>. Clearing of forested areas takes place not only within designated state forest, but also outside the designated areas, known as the ‘other land use areas’ (*areal penggunaan lain/APL*)<sup>86</sup>. Sadly, the increase of CPO is due to the growing global interest in renewable energy and biofuel (read: palm oil in this case) is an attractive alternative energy source.

### IV.2.4. Mining

MoF data (2009a) indicated that land use permits for mining covered 344 000 ha in 2008. In reality, there are many mining operations which do not operate under lease-use permits,

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<sup>82</sup> Kleinmann et al., 1996.

<sup>83</sup> Id.

<sup>84</sup> INDARTO,G.B., et al, *supra*, at 6.

<sup>85</sup> Sawit Watch 2009.

<sup>86</sup> INDARTO,G.B., et al, *supra*, at 7.

including small-scale illegal mining operations in forest areas<sup>87</sup>. Moreover, many mining operation areas are established in conservation areas or protected forests. Although the Forestry Law prohibits open-cast mining in protected forests, at least 13 companies had secured operating permits for almost 850 000 ha of land in protected areas before the law was passed and were made exceptions so that they could continue their operations (Annex to Presidential Decree No.41/2004)<sup>88</sup>.

The largest and best known of an international MNC project is the Freeport mine in Irian Jaya, run by Freeport-McMoRan. Freeport-McMoRan, based in New Orleans, has operated the Mount Ertsberg gold, silver, and copper mine in Irian Jaya, Indonesia, for more than 20 years and has converted the mountain into a 600-meter hole<sup>89</sup>. Freeport estimates that it generates 700,000 tons of waste a day and that the waste rock stored in the highlands—900 feet deep in places—now covers about three square miles<sup>90</sup>. Government surveys have found that tailings from the mines have produced levels of copper and sediment so high that almost all fish have disappeared from nearly 90 square miles of wetlands downstream from the operation<sup>91</sup>. Cracking down on the Freeport's environmental abuses and questionable human-rights practices has proved a challenge since the mine is one of the largest sources of revenue for the Indonesian government. An Indonesian government scientist wrote that "the mine's production was so huge, and regulatory

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<sup>87</sup> RESOSUDARMO et al, 2009 as mentioned in Indarto,G.B., et al, *supra*, at 6.

<sup>88</sup> INDARTO,G.B., et al, *supra*, at 6.

<sup>89</sup> <http://www.fcx.com/>, last viewed October 3, 2012, 10:35AM.

<sup>90</sup> <http://rainforests.mongabay.com/20indonesia.htm>, last viewed October 3, 2012, 10:36AM.

<sup>91</sup> *Id.*

tools so weak, that it was like 'painting on clouds' to persuade Freeport to comply with the ministry's requests to reduce environmental damage," according to the New York Times<sup>92</sup>.

It is also important to note that some literatures include 'swidden agriculture' as an activity that also impacts forest degradation and deforestation; even though the number of areas affected is insignificant when compared to the aforementioned activities. Some interviews in the field also reflect that swidden agriculture is not 'moving' agriculture but 'rotating' agriculture, which means that the local wisdom directed them to always go back to each place that they have planted previously in a rotating motion<sup>93</sup>.

## **V. Moving Forward**

The stage is now set for the empirical studies that follow. This chapter introduces the background of the research's topic and the research topic itself. The following chapter: Chapter II, introduces 5 governmental agencies as the population of this research. The research explores how two case studies are being perceived by 5 governmental agencies (Ministry of Forestry/MoF, Ministry of Environment/MoE, National Planning Agency/ BAPPENAS, National Council of Climate Change/ DNPI and REDD+ Task Force). Each of the agencies is introduced and their roles on REDD+ are highlighted. Then, the institutional networking between these agencies in REDD+ is analyzed. This analysis will give a framework for the discussion on how these agencies perceive the case studies.

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<sup>92</sup> [http://www.nytimes.com/2005/12/27/international/asia/27gold.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2005/12/27/international/asia/27gold.html?pagewanted=all&_r=0), last viewed October 3, 2012, 10:36 AM.

<sup>93</sup> Interview result, Toro, July 14, 2012.

Chapter III discusses the case studies. This research employs two case studies. They are: (1) UNREDD and (2) REDD+ Indonesia-Norway. The UN-REDD Program is the United Nations collaborative initiative on Reducing Emissions from Deforestation and forest Degradation (REDD) in developing countries<sup>94</sup>. REDD+ Indonesia-Norway is a bilateral project where Norway and Indonesia have entered into a partnership to support Indonesia's efforts to reduce greenhouse gas emissions from deforestation and degradation of forests and peat lands<sup>95</sup>. These case studies have a common structure. Each study resembles a brief in the sense that it sets forth a fact pattern or a brief history of the case and then moves on to an analysis of the endogenous factors that explain donor project's influence in REDD+ regulatory process. The studies then conclude with some observations of similarities and differences between them, and how these two projects can work together fostering Indonesia's REDD+ regulatory process.

This structure leads to a certain amount of repetition in the sense that each chapter delves into key issues in both descriptive and analytic terms. This is the strong feature of this dissertation, that each chapter contributes raw material for the Analysis chapter (Chapter IV) where the measurement and analysis is done and the empirical results are revisited and compared with existing regulatory theories. The final chapter or Chapter V, is a unique presentation; the last chapter of this dissertation presents the conclusion of the research and discussion of cutting-edge questions on Indonesia regulatory regime that will be of interest for those who have a passion for regulatory issues and development.

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<sup>94</sup> <http://www.un-redd.org/AboutUN-REDDProgramme/tabid/102613/Default.aspx>, last viewed August 31, 2012, 9:41AM.

<sup>95</sup> Id.

## Chapter II

### The Context of REDD+ in Indonesia: Regulatory Process and Co-opetition in Regulatory Agencies

*“Regulatory agencies are legal institutions that make, apply and enforce the law”.*<sup>96</sup>

This second chapter begins with introductions to the regulatory agencies in REDD+, and explorations of their organizational structures, related REDD+ regulations they produced and each of their roles in REDD+ networking. The following section sums up this discussion with analyzing how these agencies perceive themselves ideally in REDD+ networking, and compare these ideal positionings to their roles and existing REDD+ institutional networking. The next section then explores the current government-to-government donor funding projects, as an explanation of the REDD+ donor situation in Indonesia. The last section of this chapter teases out the interaction between REDD+ regulatory agencies and donor project relations.

#### I. REDD+ Regulatory Process in Indonesia’s Agencies

Indonesia has a range of policies and programs that are of direct relevance to the REDD+. **First**, there is a major problem in Indonesia’s forestry: corruption. The corruption in the forestry sector has been so deep and systematic, it is hard to identify the starting point of the problem<sup>97</sup>. Agencies/ministries, business sector, even the army, are involved in the so called ‘KKN’ (*Korupsi, Kolusi and Nepotisme*/ Corruption, Collusion and Nepotism) activities. REDD+, as a new initiative fell directly to the responsibility of MoF as the coordinator of forestry sector in

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<sup>96</sup> ROBERT KAGAN, REGULATORY JUSTICE, IMPLEMENTING A WAGE-PRICE FREEZE 1-200, (Russel Sage Foundation, 1978).

<sup>97</sup> Based on recapitulation of audits in 2009-2010-2011 done by National Auditing Agency (BPK), MoF ranks as no.6 most corrupt department in Indonesia, available at: <http://www.kemendagri.go.id/news/2012/07/16/10-kementerian-rawan-korupsi-berdasar-audit-bpk-kejangung-nomor-satu>, last viewed March 11, 2013, 7:01PM.

Indonesia. But, apparently, due to the problems of corruption, the President of Indonesia has another ‘strategy’ for REDD+.

**Second**, it is important to acknowledge that Indonesia has ratified: the Ramsar Convention; the UN Convention on Biological Diversity; the UNFCCC; and the Kyoto Protocol. **The Ministry of Environment** (MoE) is the key agency in developing environmental policies in Indonesia, including policies related to climate change<sup>98</sup>. The National Council on Climate Change (**DNPI**) leads Indonesia’s negotiations in the UNFCCC (previously, MoE was the focal point for the climate change negotiation in Indonesia). **Third**, the **Ministry of Forestry** (MoF) has so far proactively driven REDD+ process in Indonesia, starting with the establishment of the IFCA (Indonesian Forest Climate Alliance) in 2007 to conduct initial steps in REDD Readiness<sup>99</sup>. Since 2008, The Ministry of Forestry has issued four National Regulations on Reducing Emissions from Deforestation and Degradation in order to guide implementation of national REDD policy.

REDD and REDD+ came to Indonesia from international forums. It all started in the UNFCCC COP 13 Bali in 2007, when Indonesia decided to launch the National Action Plan of Climate Change (NAP). The action plan covers activities for climate change adaptation and mitigation in forestry, agriculture, land conversion and energy<sup>100</sup>. In December 2007, BAPPENAS (the National Development Planning Agency) released the ‘Yellow Book’ of climate change,

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<sup>98</sup> UN-REDD, Standard Joint Programme Document: Indonesia UN-REDD National Joint Programme 9, (GoI, UNEP, FAO, UNDP, 2011), available at: <http://www.un-redd.org/UNREDDProgramme/CountryActions/Indonesia/tabid/987/language/en-US/Default.aspx>, last viewed November 5, 2012, 3:21PM.

<sup>99</sup> Id.

<sup>100</sup> MoE 2007a, pg. 18.

formally titled as the ‘National Development Plan: Indonesia’s Response to Climate Change’. This policy document aimed to enhance and support the implementation of the Medium-Term National Development Plan (RPJMN) for 2004-2009 in climate change and was revised in July 2009, and to provide input on the plan for 2010-2014<sup>101</sup>. Soon after this, the President of Indonesia publicly announced Indonesia’s voluntary goal of GHG emission reductions: 26% by 2020 and 41% by 2050<sup>102</sup>.

This commitment came as a surprise to many parties in Indonesia, who see it as creating considerable responsibility and an onerous mandate, particularly for policymakers and relevant sectors<sup>103</sup>. This incident proves that there is a communication problem between the President and his ministries. Some of the ministries claimed that they did not even know about the commitment before they heard the President’s speech in G20 London meeting<sup>104</sup>. The target set by the President is then calculated based on a ‘business as usual’ (BAU) scenario, under which Indonesia’s emissions are projected to reach 2.95 Gt by 2020<sup>105</sup>. Based on this projection, of the 26% emission reduction target, the forestry sector is responsible for 14%, with the remaining 12% the responsibility of other sectors<sup>106</sup>.

Soon after this commitment speech was given, the Kingdom of Norway contacted GoI for possible funding of REDD+ in Indonesia<sup>107</sup>. The dialog between the Government of Norway

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<sup>101</sup> BAPPENAS 2009b, pg.2.

<sup>102</sup> President Susilo Bambang Yudhoyono speech in G20 Meeting London, 25 September 2009.

<sup>103</sup> Interview results, May 2012, and Indarto,G.B., et al 50, *supra* 12.

<sup>104</sup> Interview results, May 2012.

<sup>105</sup> MoE 2009.

<sup>106</sup> Id.

<sup>107</sup> PURNOMO AGUS, PROTECTING OUR FOREST: MORATORIUM ON FOREST AND PEATLANDS, A RADICAL POLICY, (Jakarta, 2012).

(GoN) and GoI then led to the signing of Letter of Intent of REDD+ collaboration between Indonesia and Norway. Other countries such as Japan, Australia and the US also approached Indonesia to collaborate under REDD+<sup>108</sup>.

### **I.1. Agencies and Institutions of REDD+ in Indonesia**

In Indonesia, there are two classifications of governmental agencies or governmental institutions, namely (1) based on source of authority of the institutions and (2) functioning quality of the institutions<sup>109</sup>.

Based on the newest amendment of the 1945 Constitution, there are 34 state institutions, 28 of which authorities are mentioned in the Constitution<sup>110</sup>. In principle, there are 8 ‘State High-Institutions’ which means that their authorities are explained in details in the Constitutions, they are: President and Vice President; *Dewan Perwakilan Rakyat*/People’s Assembly; *Dewan Perwakilan Daerah*/Regional Representative Assembly; *Majelis Permusyawaratan Rakyat*/General Assembly; *Mahkamah Konstitusi*/Constitutional Court; *Mahkamah Agung*/Supreme Court and *Badan Pemeriksa Keuangan*/Audit Board of the Republic of Indonesia. The rest of the institutions or agencies are grouped as *Lembaga Pemerintahan* (governmental institution) and *Lembaga Pemerintah Non-Departemen* (non-department governmental institution). Ministries are parts of governmental institutions. The terms agency and institution are interchanged-ly used in Indonesia. BAPPENAS, for example, the National

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<sup>108</sup> Id.

<sup>109</sup> ASSHIDDIQIE, JIMLY, PERKEMBANGAN DAN KONSOLIDASI LEMBAGA PASCA REFORMASI 7, SekJen MK RI,(Jakarta 2006).

<sup>110</sup> Id.

Planning Agency is called an ‘agency’ although it is a Ministerial Department working directly under the President.

In Indonesia, regulatory agencies can take form as a ministerial department, an agency (such as the National Planning Agency/ *BAPPENAS*), or as an independent body under the President, or smaller local agencies in Sub-districts or City levels.

Ministries and Agencies who are dealing directly with REDD+ :

1. National Planning Agency (BAPPENAS)
2. Ministry of Forestry
3. Ministry of Environment
4. National Task Force of Climate Change (Satgas REDD+)
5. National Council on Climate Change (DNPI)
6. Ministry of Finance
7. Ministry of Foreign Affairs
8. Ministry of Agriculture
9. Ministry of Public Works
10. Ministry of Trade and Industry
11. Secretary of State
12. Ministry of Energy and Mineral Resources
13. Ministry of Housing,
14. National Land Agency (BPN)
15. Ministry of Labor
16. Ministry of Welfare
17. Ministry of Women Empowerment
18. Ministry of Education

For this discussion, Agencies numbered 1-5 will be discussed.

### **I.1.1. National Planning Agency / BAPPENAS**

BAPPENAS is the national agency responsible for coordinating, prioritizing, monitoring and independently evaluating development planning at the national level. BAPPENAS is also responsible for financial arrangements (funding priorities and distribution) for development programs and it has a role to play in supporting rapid response to disasters. The main duty and function of BAPPENAS is enacted in the Presidential Decisions no. 4 & no. 5 of 2002. These

Presidential decisions explained the organizational structure, national planning process, human resources' background and education of BAPPENAS' staff.

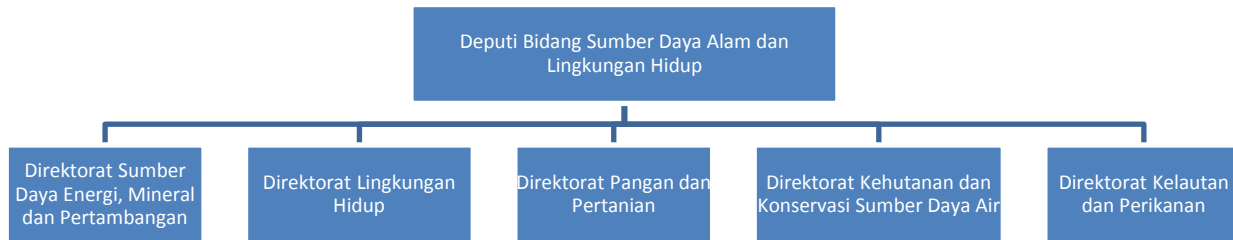
### *Organizational Structure of BAPPENAS*

The organizational structure of BAPPENAS is regulated in the Minister of National Planning Agency's Regulation No: PER.005/M.PPN/10/2007 on the Organization and Framework of the National Planning Agency.

BAPPENAS comprised of:

- a. Head of BAPPENAS/ MINISTER OF BAPPENAS;
- b. Vice Head of BAPPENAS;
- c. Secretary Minister BAPPENAS / Main Secretary BAPPENAS;
- d. Deputy Minister BAPPENAS/Head of Human Resources and Culture Section
- e. Deputy Minister BAPPENAS/Head of Politics, Law, Land and Security Section;
- f. Deputy Minister BAPPENAS/Head of Poverty, Labor and Small Scale Business Section;
- g. Deputy Minister BAPPENAS/Head of Economics Section;
- h. Deputy Minister BAPPENAS/Head of Natural Resources and Environment Section;
- i. Deputy Minister BAPPENAS/Head of Infrastructure Section;
- j. Deputy Minister BAPPENAS/Head of Regional Development and Regional Autonomy Section;
- k. Deputy Minister BAPPENAS/Head of Developmental Funding;
- l. Deputy Minister BAPPENAS/Head of Development Works Evaluations;
- m. Main Inspector;
- n. Expert Staff of BAPPENAS;
- o. Center of Education and Planning;
- p. Center for Info and Data of Developmental Planning;

**Figure No. 01. Organizational Structure of BAPPENAS**



### *REDD+ regulations in BAPPENAS*

BAPPENAS has two main planning documents to be developed each term, which are RPJM or Medium Term Development Plan, according to Presidential Regulation or *Perpres* no. 5/2010 and Government Work Plan or RKP based on *Perpres* no. 54/2012<sup>111</sup>. REDD+ issues in BAPPENAS is handled by a Directorate under the Deputy of Natural Resources and Environment's directorate, which is the Directory of Forestry and Water Resources Conservation. In this Directorate, their Medium Term Development Plan and Government Work Plan are based on the translation of strategic planning and work plan from the Ministry of Forestry<sup>112</sup>. The importance of these documents (Medium Term Plan and Government Work Plan) is that if the activities are compiled and listed in them, they will get funded by the National Budget (APBN: *Anggaran Pendapatan dan Belanja Negara*)<sup>113</sup>.

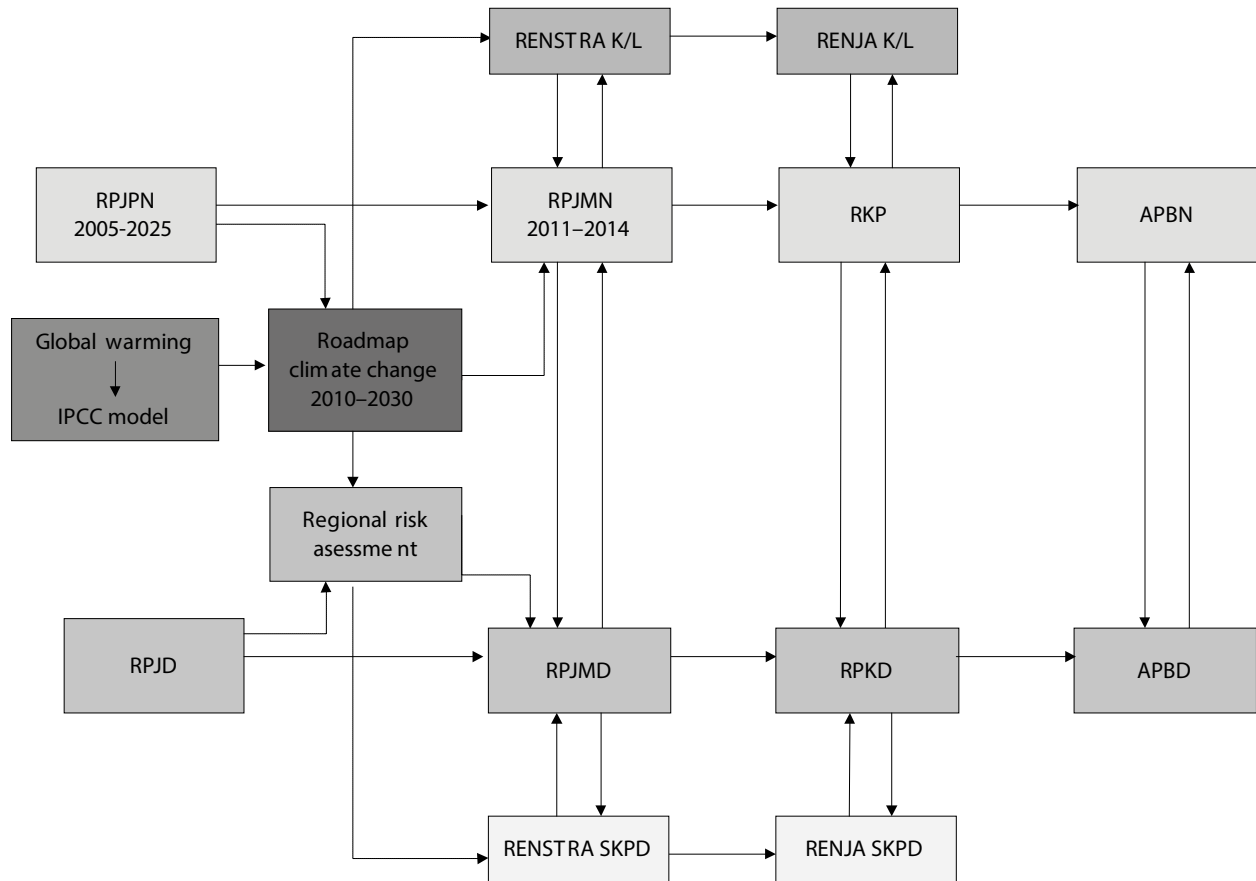
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<sup>111</sup> Interview result, May 30, 2012.

<sup>112</sup> Interview result, May 30, 2012.

<sup>113</sup> Interview result, May 30, 2012.

The budget submitted for the Forestry and Water Resources Conservation Directorate in 2013, was Rupiah 6.7 trillion, but was only approved for 6.3 trillion due to the State's limited budget<sup>114</sup>. The submitted budget comprising among others: the formation of state's delineation (63.000) and formation of Forest Management Unit (120 units).



**Figure No. 02. Regulatory Process in BAPPENAS<sup>115</sup>**

**Note:**

RPJPN: Rencana Pembangunan Jangka Panjang Nasional (Long-term National Development Plan)

RPJMN: Rencana Pembangunan Jangka Menengah Nasional (Medium-term National Development Plan)

<sup>114</sup> Interview result, May 30, 2013.

<sup>115</sup> BAPPENAS, 2009.

RKP: Rencana Kerja Pemerintah (Government Work Plan)  
APBN: Anggaran Pendapatan dan Belanja Negara (National State Budget)  
RPJPD: Rencana Pembangunan Jangka Panjang Daerah (Long-term Regional Development Plan)  
RPJMD: Rencana Pembangunan Jangka Menengah Daerah (Medium-term Regional Development Plan)  
RKPD: Rencana Kerja Pemerintah Daerah (Regional Government Work Plan)  
APBD: Anggaran Pendapatan dan Belanja Daerah (Regional Budget)  
RENSTRA SKPD: Rencana Strategis Satuan Kerja Pemerintah Daerah (Regional Government Work Unit Strategic Plan)  
RENJA SKPD: Rencana Kerja Satuan Kerja Pemerintah Daerah (Regional Government Work Unit Work Plan)  
RENSTRA K/L: Rencana Strategis Kementerian/Lembaga (Ministerial/Institutional Strategic Plan)  
RENJA K/L: Rencana Kerja Kementerian/Lembaga (Ministerial/Institutional Work Plan)

REDD+, on the other hand, was not included in the RPJM, and hence it cannot be financed by APBN<sup>116</sup>. Activities that are not in Medium Term Development Plan need to be funded by other mechanism, such as Trust Fund or other bilateral agreements<sup>117</sup>. Initially, some of the activities of REDD+ are either funded by the UNREDD (in the preparation phase) or by the bilateral agreement (LoI) Indonesia-Norway. The future REDD+ Agency's funding is problematic. If this REDD+ Agency is going to be a permanent agency, there has to be (national) funding for it<sup>118</sup>. There are efforts to submit the budgeting process under the Ministry of Civil Servants and Bureaucratic Reform (*Kementrian Pendayagunaan Aparatur Negara dan Reformasi Birokrasi*) but recently there is a Presidential Regulation on Moratorium of Permanent Non-Structural Agency/Institution<sup>119</sup>.

Again, this is a sign of lack coordination and planning in Indonesia's administration. One regulation is directly stopping an action of other ministries, but in return it also confuses future planning of the country's administration. It is common to find regulations and other legal products being enacted in a hasty manner, without proper research, public consultation and

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<sup>116</sup> Interview result, May 30, 2012.

<sup>117</sup> Interview result, May 30, 2012.

<sup>118</sup> Interview result, May 31, 2012.

<sup>119</sup> Interview result, May 31, 2012. There is news that this moratorium on the formation of new permanent non-structural agency in Indonesia, although up until this dissertation is written, the moratorium is still in effect.

discussion. Hence, overlapping, confusion of planning and regulations are easily found in almost all Indonesia's sectors.

### *Roles of BAPPENAS in REDD+*

As mentioned previously, in 2007-2009 BAPPENAS was the initiator of ICCSR and the Yellow Book: National Development Plan: Indonesia's Response to Climate Change. Furthermore, in 2010-2011 BAPPENAS also worked together with UNREDD to prepare the initial stage of the National REDD+ Strategy, before it was handed over to the REDD+ Task Force.

In the future, BAPPENAS' roles in REDD+ are going to increase. First, it will be the agency to turn to in regard to budgeting for two main things: (1) the establishment of REDD+ Agency and (2) REDD+ activities on the ground. After this period of donor funding for REDD+ activities, there has to be some national seed money to keep the momentum and sustainability of the REDD+ activities. In this matter, BAPPENAS will be the lead agency to 'translate' and include REDD+ activities into Medium Term Development Plan and Government Work Plan. They had already seen this coming, and this will be a burden, for the office and also for the budget<sup>120</sup>. The fact that there are unclear messages, from the donors as well as from the government (various ministries) on REDD+ sustainability, potentially be an administrative disaster<sup>121</sup>. It is a frustrating fact that currently coordination has not been achieved. There are coordination meetings and working groups under the REDD+ Task Force, but somehow most of them (deleteare) only touch the surface of the issues and have yet to dig deeper to the meat of the

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<sup>120</sup> Interview result, May 31, 2012.

<sup>121</sup> Interview result, May 30, 2012.

substance<sup>122</sup>. The GoI is optimistic that with good and strong coordination between line ministries; these problems will be overcome.

### **I.1.2. Ministry of Forestry (MoF)**

The Ministry of Forestry (MoF) was established in 1964, under President Sukarno's Old Order. But its authority began to flourish in 1967 in the New Order Era, under President Suharto. At that time, to enhance the Economic Growth Development, Suharto decided to: (1) invite all investors (national and foreign) to invest in Indonesia; and (2) with full awareness exploit forest resources and other natural resources, especially natural oil and gas, as state revenue, to fund the state's development<sup>123</sup>. GoI enacted Law No.5/1967 on Basic Law of Forestry, and this law has been criticized as being a tool for 'forest exploitation and foreign investment'. This Law however was followed by Government Regulation (PP) No.21/1970 jo PP. No.18/1975 on Forest Management Rights (HPH) and Forest Product Collection Rights (HPHH) which gave MoF the authority to execute licensing concessions for forest resources. Directly after the enactment of these Government Regulations, exploitation of forest in Sumatra, Kalimantan, Sulawesi, Maluku and Papua through HPH and HPHH of State Owned Companies (BUMN) and Private Companies (BUMS) was flourishing<sup>124</sup>.

The Ministry of Forestry's main function is to organize and develop aspects of forest management and forest conservation from the different sectors in Indonesia. It is responsible for

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<sup>122</sup> Interview result, May 31, 2012.

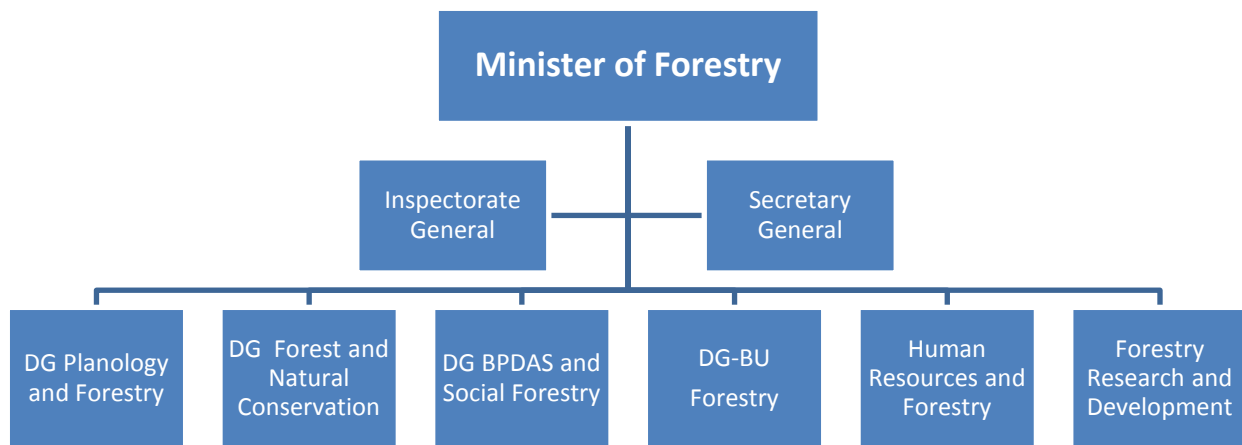
<sup>123</sup> Nurjaya, Nyoman, [http://eprints.ums.ac.id/347/1/3\\_NYOMAN\\_NURJAYA.pdf](http://eprints.ums.ac.id/347/1/3_NYOMAN_NURJAYA.pdf), *Sejarah Hukum Pengelolaan Hutan di Indonesia* 49, *Jurisprudence*, Vol. 2, No. 1, Maret 2005: 35 – 55 (Fakultas Hukum UNIBRA, 2005).

<sup>124</sup> Id.

managing and monitoring Indonesia's vast forest estate (*Kawasan Hutan*), which covers approximately 132 million ha, or 71% of Indonesia's total land area.

Based on that main duty and function, the Presidential Decision No. 15 / 1984 formed the MoF, as follows:

**Figure No.03. Organizational Structure of Ministry of Forestry**



There are also 12 Technical Organizer Units (UPT) and 24 Provincial Forest Offices under the Ministry of Forestry. Climate change and REDD+ issues in the Ministry of Forestry, are handled by the Directorate General of Forest and Natural Conservation.

### ***REDD+ regulations in MoF***

The MoF initially asserted itself as the lead agency of REDD+ in Indonesia<sup>125</sup>. It is understandable, since most of the activities under REDD+ are activities being done or planned to be done by MoF. In 2007, MoF assigned Forest Research and Development Agency (FORDA)

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<sup>125</sup> Interview result, June 6, 2011.

as the focal point to mobilize IFCA<sup>126</sup>. IFCA is Indonesia Forest Climate Alliance, a forum for communication, coordination and consultation of stakeholders working in forest and climate change in Indonesia.

There are three MoF Regulations worth mentioning in relation to REDD+, they are:

1. Minister of Forestry Regulation No. P.68/Menhut-II/2008 on the Establishment of Demonstration Activities for Reducing Carbon Emissions from Deforestation and Forest Degradation; The regulation governs provisions for outline mechanisms in submitting applications for the demonstration activities, from the application process (including maps, types, duration and value of the activities as well as detailing risk management and revenue allocations). All applications then will be assessed by MoF Climate Change Working Group (POKJA *Perubahan Iklim*/PI). However this regulation does not define the context of demonstration activities, and community rights in the demonstration activities.
2. Minister of Forestry Regulation No. 30/Menhut-II/2009 on Mechanisms for Reducing Emissions from Deforestation and Forest Degradation; This regulation is a general reference in implementing REDD+. It is very basic and includes details such as types of forest areas for REDD+ and types of entities which can be involved in REDD+<sup>127</sup>.

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<sup>126</sup> SCHEYVENS,H AND SETIYARSO, *A Development of a REDD+ System in Indonesia 30*, in IGES Report: Developing REDD+ System: Progress, Challenges and Ways Forward (unpublished).

<sup>127</sup> Indarto, G.B., et al, *supra*. The types of forest area for example, are: (1) timber concession areas in natural forests; (2) timber concession areas in plantation forests; (3) timber production areas in community forests; (4) timber production areas in community plantation forests; (5) ecosystem restoration timber forest production areas; (6) production forest management unit areas; (7) protection forest management unit areas; (8) conservation forest management unit areas; (9) conservation forests; (10) customary forests; (11) private forest; and (12) village forests. It groups the management of REDD+ project to two types of management, national entities and international entities. National entities can manage any of the 12 types of forest (listed) The regulation governs activities by national and international entities. International entities may be governments, corporate bodies, organisations, foundations or individuals that provide funds for REDD+. Practitioners from national entities can be managers of any of the 12 forest types listed; The regulation emphasizes that REDD+ activities will be closely linked to the presence of funding from international entities. The regulation also stipulates requirements for submitting applications to conduct REDD+ activities, and it is apparent that REDD+ practitioners will experience difficulties in meeting the requirements. In the case of customary forests, for instance, one requirement is to produce a copy of a Ministry of Forestry decree acknowledging the existence of the customary community. However, in reality, procedures surrounding recognition of customary forests are far from simple, and Indonesian Customary

3. Minister of Forestry Regulation No. 36/Menhut- II/2009 on Permit Procedures for Carbon Sequestration and/or Storage Enterprises in Production Forests and Protection Forests; This regulation is linked to REDD+ but does not specifically govern it. Rather, its emphasis is more on environmental services–based enterprises, and not only emission reductions<sup>128</sup>.

### **Latest developments**

MoF announced on March 2010, that they will review and revise their REDD+ related regulations, especially No. 30/2009, 36/2009 and 68/2008<sup>129</sup>. The review aims to identify and remove overlapping and contradictory elements of the legal framework and will include a reassessment of the revenue distribution system. The Ministry of Finance is insisting that payment and revenue distribution should be done under the Ministry of Finance, and they have developed a working group on fiscal policy on climate change which will decide the types of payment flows, groups entitled for payments, revenue distributions and all aspects in relation to money value in REDD+<sup>130</sup>.

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Community Alliance (Aliansi Masyarakat Adat Nusantara; AMAN) records show that no customary community has yet secured such a decree or recognition from the state.

Procedures and mechanisms for submitting applications for REDD+ activities are also set out in the regulation. Proponents must submit an application to conduct REDD+ activities to the minister demonstrating the satisfaction of predetermined prerequisites. The minister then submits the application to the ‘REDD+ commission’ for review. The regulation also sets out the criteria that the ‘REDD+ commission’ must follow in evaluating the feasibility of activities. Indicators include: (1) data and information; (2) biophysics and ecology; (3) threat to forest resources; (4) cultural, social and economic considerations; (5) economic feasibility; and (6) management. The minister is required to approve or reject the REDD+ application within 14 days of receipt. A REDD+ project may run for up to 30 years and is extendable. However, it is not clear in this regulation whether the institution referred to as the ‘REDD+ commission’ means the working group established under Minister of Forestry Regulation No. P.68/Menhut-II/2008 on Demonstration Activities. There is no clear guidance however, on how to implement this regulation specific to communities’ welfare.

<sup>128</sup> This regulation is also a good example of ‘institution competition’ in Indonesia. On April 29, 2010, the Ministry of Finance objected to this regulation, because they felt that they have not been involved in formulating the provisions in relation to the distribution of benefits between the government, community and business in the regulation. The Ministry of Finance referred to Law No. 17/2003 on State Finance, that the Ministry of Finance has the authority to manage state finances (Article 6(2)). The Law describes that ‘state finances’ are all of the state’s rights and obligations that can be measured by money, and all things in the form of money or goods that can become state assets related to the application of those rights and obligations. According to this law, the Ministry of Forestry has overstepped his authority in regulating the distribution of benefits from REDD+ and/or carbon storage/sequestration activities. This shows how ‘competition’ between institutions is not being balanced with coordination and synchronization. Consequently, the Ministry of Forestry announced plans to revise the regulation. However, until this dissertation is written, there has yet to be any revisions/improvement of the regulation that is announced by the Ministry.

<sup>129</sup> Reuters, March 19, 2010.

### *MoF Roles in REDD+*

Before the establishment of Satgas REDD+ (National Task Force of Climate Change/NTFCC), the MoF asserted itself as the leading ministry in REDD+, since most of Indonesia's GHG emission is from forest degradation and deforestation<sup>131</sup>. Almost all BAU activities of REDD+ are covered by MoF's annual work plan<sup>132</sup>.

In 2007, FORDA (Forest Research and Development Agency) was formed under MoF, to address climate change in forestry, and later, REDD<sup>133</sup>. MoF was also the leading agency of Indonesia Forest Climate Alliance (IFCA) which provides early analytical work for CoP 13<sup>th</sup> and REDD+ national strategy.

MoF listed its REDD+ activities under three names: (i) NAMA: National Appropriate Mitigation Action; (ii) UNREDD: United Nations Collaborative Program on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries as one of the main programs in REDD+ in Indonesia and was initiated and hosted by the MoF (2008-2012). ; and (iii) FPCF: Forest Carbon Partnership Facility.

MoF is also the main agency who holds all forest licensing in Indonesia. When the Presidential Instruction (Inpres) No. 10/2011 on the suspension of new permits for primary forests and peat lands was enacted, MoF became the primary agency fostering the moratorium<sup>134</sup>.

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<sup>131</sup> Interview results, October 15, 2011.

<sup>132</sup> Interview results, October 15, 2011.

<sup>133</sup> Interview results, June 6, 2012.

<sup>134</sup> Excerpted from Purnomo, Agus, *supra*.

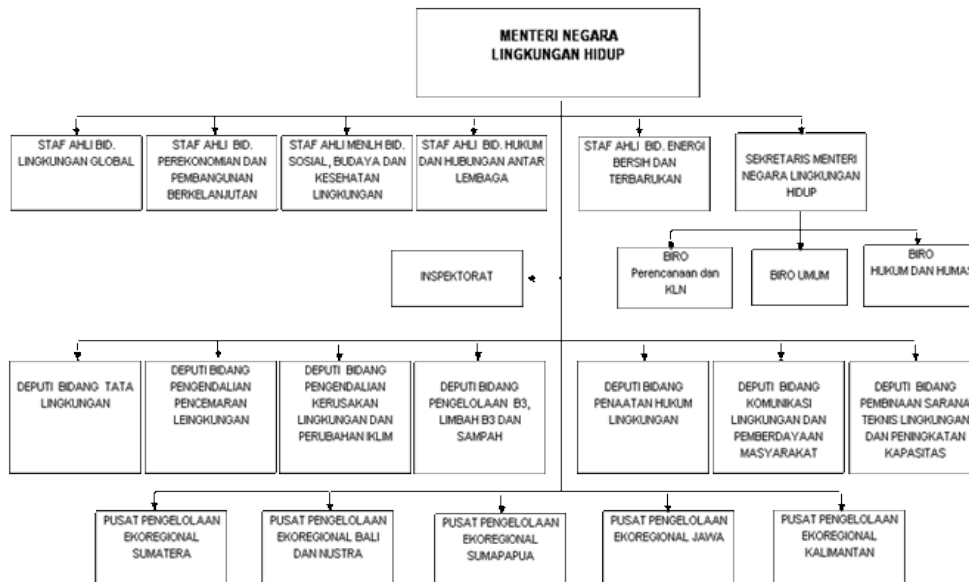
### I.1.3. State Ministry of Environment (MoE)

State Ministry of Environment was established in 1978, based on Presidential Decision/Keppres No. 28 /1978 jo. Keppres No. 35 / 1978. The main function was to coordinate environmental management of the different institutions (central and regional), especially to study into developing environmental aspects in development. Its main duty is to prepare government's formulation of development management and natural resources and environmental management.

Since establishing the National Committee on climate change in 1990, MoE has been a key actor in climate change issues. Law No. 32/2009 concerning environmental management and protection, states that the government should (i) develop GHG inventory in national, provincial and city level (Art.63 i) ; (ii) develop and implement climate policy and protection of the ozone layer (Art. 63 j); these activities should be under the coordination of the MoE.

The organizational structure of the MoE is as follows:

**Figure No. 04. Organizational Structure of Ministry of Environment**



## *REDD+ Regulations by MoE*

There are two REDD+ regulations worth noting initiated by the MoE:

1. Presidential Regulation No.61/2011 on National Action Plan of Green House Gasses Emission Reduction. This regulation aims to fulfill GoI's goal, independent and voluntary of 26% and 41% of GHG emission reduction with international support on 2020; targeting the forestry and peatland; energy and transportation; industry and waste management sectors.
2. Presidential Regulation No.71/2011 on Implementation on National GHG data compilation and collection. This regulation mandated MoE to coordinate all Governors and Head of Districts to collect and compile data of GHG and Verification Emission Reduction (VER) and all related budgets in the activities (which will be financed by APBN—the National Budget).

## *MoE Roles in REDD+ and Institutional Networking in REDD+ According to MoE*

When preparing, compiling data and inputs on the two regulations (above), MoE took the initiative to invite all related stakeholders and took notes of all their inputs<sup>135</sup>. Based on those two regulations, it is definitive that MoE's roles in REDD+ is in the MRV (Monitoring, Review and Verification) of GHG emission reduction, as well as in the data compilation and collection process<sup>136</sup>. MoE is also a 'state ministry' which does not have any vested interest in REDD+, as its roles in default is just to coordinate. So if there is a need for stronger coordination in REDD+, and if the REDD+ Task force is not capable of fulfilling the role, MoE should have been given

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<sup>135</sup> Interview result, May 22, 2012.

<sup>136</sup> Interview result, May 22, 2012.

the role of coordinating all REDD+ activities, or at least the MRV activities<sup>137</sup>. MoE is also active in Satgas REDD+'s working groups<sup>138</sup>.

#### **I.1.4. REDD+ Task Force**

The President set up this taskforce on the REDD-plus<sup>139</sup> in September. REDD+ Task Force is formed and is headed Mr. Kuntoro Mangkusubroto<sup>140</sup>, who has the president's and who is also trusted by the (foreign) donors based on his track record. Mr. Mangkusubroto was also the head of Aceh-Nias Rehabilitation and Reconstruction Agency (BRR), during the earthquake and tsunami in Aceh and Nias in 2004<sup>141</sup>.

The REDD+ Task Force assignment is to prepare the institutions needed to manage Reduction of Emission from Deforestation and Forest Degradation Plus (REDD+) in Indonesia implementation at the national level<sup>142</sup>. The taskforce will also implement the letter of intent (LoI) signed by Indonesia and Norway on the REDD partnership<sup>143</sup>. Mangkusubroto thinks that LoI is an entry point for Indonesia to accelerate processes to protect the forest<sup>144</sup>.

The Presidential Decision No. 25/2011, renewed the Task Force's mandate to organize REDD+ activities in Indonesia. According to Presidential Special Aide on Climate Change, Agus

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<sup>137</sup> Interview result, May 22, 2012.

<sup>138</sup> Interview result, May 22, 2012.

<sup>139</sup> <http://www.thejakartapost.com/news/2010/12/13/on-redd-and-reducing-deforestation-indonesia.html>, last visited April 14, 2011, 8:55AM.

<sup>140</sup> <http://www.thejakartapost.com/news/2010/09/24/kuntoro-mangkusubroto-chairs-redd-task-force.html>, last visited April 14, 2011, 8:45 AM.

<sup>141</sup> Id.

<sup>142</sup> Id.

<sup>143</sup> Id.

<sup>144</sup> <http://www.thejakartapost.com/news/2010/09/24/kuntoro-mangkusubroto-chairs-redd-task-force.html>, last visited April 14, 2011, 8:45 AM.

Purnomo, in its first stage the Task Force has succeeded in moratorium of forestry licensing<sup>145</sup>. On the other hand, the REDD+'s pilot project in Central Kalimantan was not yet maximally achieved, nor was institutionalizing REDD+, developing National Strategy of REDD+ and developing instruments and funding mechanism for REDD +<sup>146</sup>. Mostly the main hurdle is coordination between agencies/ministries.

Hence, the 'new' task force now is comprised of many ministries members; Kuntoro Mangkusubroto (Head of Task Force / *Ketua Unit kerja Presiden Bidang Pengawasan dan Pengendalian Pembangunan/UKP4*) and Agus Purnomo (Secretary of Task Force). The members are Anny Ratnawati (Ministry of Finance), Lukita Dinarsyah Tuwo (National Planning Agency/BAPPENAS), Bayu Krisnamurti (Ministry of Agriculture), Joyo Winoto (National Land Agency/BPN), Hadi Daryanto (Ministry of Forestry), Arief Yuwono (Ministry of Environment), Agus Sumartono (State Secretary Cabinet), Evita Legowo (Ministry of Energy and Mineral Resources), and Heru Prasetyo (UKP4).

With the renew mandate, Satgas REDD+ started its activities in 2011, among others, with: (i)determining Central Kalimantan province as a pilot area; (ii) establishing 10 Working Groups(WG), led by government officials and non-government officials, all who are professional on their field and understand REDD+ issues well. In these working groups, it is intended that they confront and resolve lingering problems in REDD+. The 10 WG consists of: REDD+ National Strategy compilation, REDD+ Institution, Funding Instrument, MRV, Pilot Province

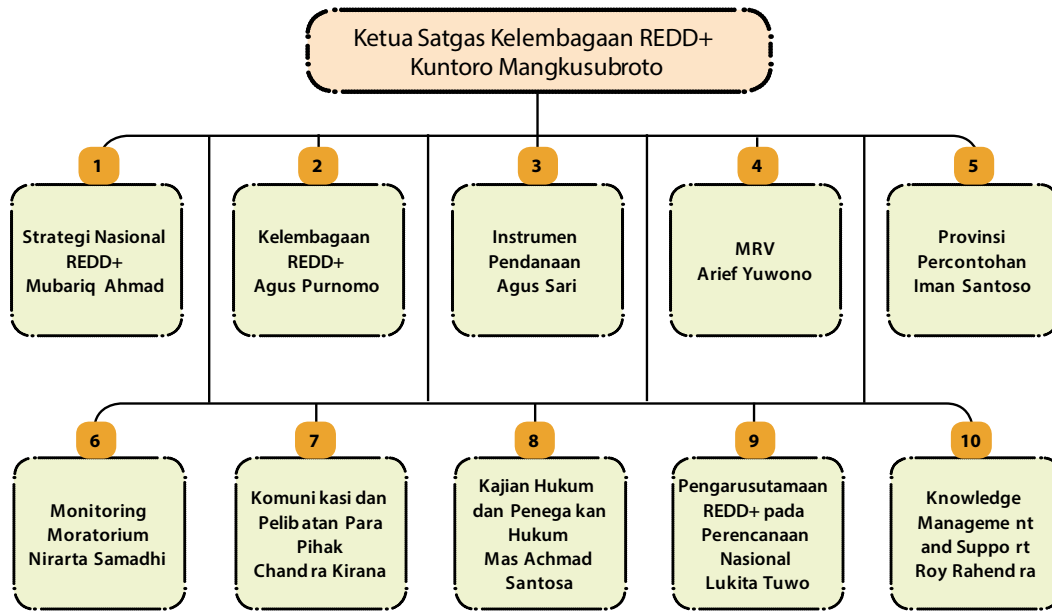
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<sup>145</sup> Purnomo, Agus, *supra*. pg.70-77.

<sup>146</sup> Kompas, February 17, 2012 (West Indonesian Time), <http://sains.kompas.com/read/2011/09/13/16200418/Satgas.REDD.Diisi.Berbagai.Kementerian>, last visited February 16, 2012, 3:43PM (Pacific Time).

Area, Monitoring on the Moratorium, REDD+ Enforcement and Legal Review, REDD+ Mainstreaming in National Plans, and Knowledge Management Support WG.

**Figure No. 05. REDD+ Task Force Structure**



### *Task Force's Roles in REDD+*

It is envisioned by the Satgas REDD+, that the designed REDD+ Agency will be a super body under the president in the form of an independent agency or an agency within a ministry<sup>147</sup>. From the REDD+ National Strategy document, it seems that coordination efforts and supporting implementation of REDD+ will be done by the upcoming National Agency of REDD+. But, in the meantime, there are two hurdles: (1) the REDD+ National Strategy did not clearly state the date of the establishment of the National Agency of REDD+. This is important because work on the ground (such as the pilot province's activities, mainstreaming of REDD+ to RPJM, other REDD+ related projects, etc) are on-going, and they cannot wait for too long in order to be

<sup>147</sup> <http://www.satgasreddplus.org/download/150612.REDD+.National.Strategy.Indonesia.pdf> (last viewed October 17, 2012, 2:34PM)

coordinated and organized under one roof. (2) The division of labor between the new National Agency of REDD+ with the agencies and align ministries who currently hold the mandate of REDD+ activities need to be crystal clear and well communicated, due to the high traffic of information which might confuse parties. Coordination and communication are the key factors to having well-managed REDD+ activities.

There is an urgency to quickly establish the National Agency of REDD+, **first** because REDD+ activities on the ground have already rolled off, the momentum is already created and reached its peaks, and public expectations to see ‘success’ of REDD+ activities are high. **Second**, the current administration under President Susilo Bambang Yudhoyono only has one more year to wrap things up by 2014. If by 2014 REDD+ National Agency is not yet established under an act of law of some kind, it will be hard to lock the commitment of the next administration to REDD+ related activities. **Third**, Indonesia will be the first nation in the world to establish a National Agency of REDD+, which will show to the world Indonesia’s commitment on combating deforestation and forest degradation and keeping our forests safe. A detailed workplan on when and what steps are to be taken to quickly establish the National Agency of REDD+ is needed. There is also a need to involve legislative members in the Task Force REDD+ work. The more involvement of the legislative members in the design of the National Agency of REDD+, the more political support the National Agency of REDD+ will get in the future.

## *National REDD+ Strategy*

The National REDD+ Strategy is a document compiled by the REDD+ Task force and REDD+ stakeholders. The National REDD+ Strategy architecture is based on the following five pillars: (1) development of REDD+ management institutions, funding instruments and MRV system; (2) development of related laws and supporting regulations; (3) planning of strategic programs; (4) shift in paradigm and working culture towards inclusive participation by community groups, including women and vulnerable communities, in developing policy, programs and protocols; and (5) effective involvement of the community through implementation of FPIC, safeguards and fair and transparent benefit-sharing processes. The National REDD+ Strategy is an integral part of Indonesia's sustainable development strategy, which is designed to achieve low carbon economic development through four development strategy pathways: pro-growth, pro-jobs, pro-poor and pro-environment.

## *Forest and Peatland Moratorium Presidential Instruction, initiated by REDD+ Task Force*

REDD+ Task Force aimed to create a time to pause logging in forest and peatlands in Indonesia by initiating the Presidential Instruction (Inpres) No. 10/2011 on the suspension of new permits for primary forests and peatlands ('Inpres Moratorium'). This Moratorium aims to enforce Indonesia's commitment to reduce greenhouse gas emissions by 26% through its own efforts or

41% with international assistance was announced by President SBY at the G20 meeting in September 2009 and reaffirmed at the COP-15 in Copenhagen, Denmark<sup>148</sup>.

Several business and NGOs commented that this moratorium was enforced due to Indonesia's commitment to the LoI between Indonesia and Norway. But, the government stressed that this policy was not made simply to fulfill the LoI between Indonesia-Norway<sup>149</sup>. This policy should be seen as an opportunity to begin taking steps towards good governance. Business people can leave behind under-the-table practices in securing permits and together with the government create good governance in forest and peatland management<sup>150</sup>. That good governance is not only to reduce the costs of bribes and bonuses, but also involves the correct granting of permits to reduce potential conflicts over land control in the future<sup>151</sup>.

Recent development: On May 15, 2013, the President extended the Moratorium Decree to two more years from 2013 to 2015. This means extension of licensing moratorium for peatland and natural forests<sup>152</sup>.

#### **I.1.5. NATIONAL COUNCIL ON CLIMATE CHANGE (DNPI)**

National Council on Climate Change (DNPI) is chaired by the President and vice chaired by the Coordinating Minister for People's Welfare and the Coordinating Minister for Economic

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<sup>148</sup> Purnomo, A., *supra*, 70-77.

<sup>149</sup> Id.

<sup>150</sup> Id.

<sup>151</sup> Id.

<sup>152</sup> <http://www.hukumonline.com/berita/baca/lt5194aeba15bf7/inpres-moratorium-hutan-diperpanjang> (last visited, May 18, 2013, 12:03PM).

Affairs<sup>153</sup>.

In performing its duties DNPI is assisted by two organs; (1) the Working Group as a forum for think tanks to prepare the draft or make improvements in climate change policy. (2) The Secretariat as a place of support for the council and the implement coordination actions<sup>154</sup>.

Working Group on DNPI activities consist of<sup>155</sup>: Adaptation, Mitigation, Technology Transfer, Funding, Post-2012, Forestry and Land Use Change, Basic Sciences and Green Gas Inventory and Marine Working Group.

The DNPI has several strategic roles in planning and implementing climate justice related policies. The one thing that is important in Indonesia's environmental regulation in relation to climate change impacts and climate change is coordination, both on the national and the local levels. The DNPI can include local initiatives into their strategic local policies, and help the local government implement mitigation and adaptation efforts<sup>156</sup>. DNPI can also play a role in expediting government reactions and responses in climate change related activities. As a national council, DNPI should act as a 'short cut' from the long winding red-tape bureaucracy in the environmental regulation sector in Indonesia<sup>157</sup>. For example, in Lombok, Nusa Tenggara Barat (NTB), the Governor of NTB established a local Task Force in Addressing Climate Change in

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<sup>153</sup> <http://adaptasi.dnpi.go.id/index.php/main/contents/54> (last visited, April 14, 2011, 6:42 PM)

<sup>154</sup> Id.

<sup>155</sup> Id.

<sup>156</sup> [http://www.wwf.or.id/berita\\_fakta/berita\\_fakta/newsclimateenergy.cfm?4244/Menunggu-Langkah-Konkrit-Dewan-Nasional-Perubahan-Iklim-DNPI](http://www.wwf.or.id/berita_fakta/berita_fakta/newsclimateenergy.cfm?4244/Menunggu-Langkah-Konkrit-Dewan-Nasional-Perubahan-Iklim-DNPI), (last visited, May 7, 2011, 9:50 PM).

<sup>157</sup> Id.

2007158. This local task force has managed to tackle local climate change impacts such as providing better sails for fishermen, addressing the decrease of mangrove in NTB and all of their activities are public driven, based on the need of the NTB community<sup>159</sup>. DNPI as a national council, can spread this exemplary activities like this throughout Indonesia and inspire other climate prone areas in Indonesia to carry out similar efforts as in NTB.

As part of the climate justice advocacy, DNPI should be able to quickly respond and act as the voice of climate vulnerable communities in Indonesia, such as indigenous people and local communities, who are victims of climate change and/or natural disasters<sup>160</sup>. With its national status, well knitted networking and proximity to the media, DNPI should take their position as the advocate of climate justice victims in Indonesia.

### *DNPI's Roles in REDD+*

DNPI is a council, hence it does not 'produce' regulations. But, it has been active in preparing the moratorium regulation, Inpres No.20/2011 and also has been the focal point of Indonesia's delegation to international conference in regard of REDD+ and Climate Change.

DNPI sees itself as a coordinating council, which oversee most activities in climate change. It is however, glad to know that the government is establishing a National REDD+ agency which will be the focal point as well as implementer of REDD+ in Indonesia. DNPI is ready to work together with the 'new' REDD+ Agency as a peer and also as a resourceful council.

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<sup>158</sup> <http://adeirman.student.umm.ac.id/2010/07/09/perubahan-iklimstudi-kebijakan-di-nusa-tenggara-barat/>, (last visited May 8, 2011, 11:32 AM).

<sup>159</sup> Id.

<sup>160</sup> Id.

## I.2. Institutional Networking in REDD+ Indonesia

Typically, the detailed specification, enforcement, and application of rules are entrusted to specialized **regulatory agencies**<sup>161</sup>, established to concentrate on control of a particular sector. There are many agencies in Indonesia which are related to REDD+ and they all are working and competing with one another. According to Geradin and McCahery<sup>162</sup>, the dynamics of competition and cooperation taking place within governments are called **intra-governmental regulatory co-opetition**. This dynamic strengthens the regulatory process by forcing those initiating the regulatory process to come up with innovative and analytically serious proposals and to justify their approaches against the alternatives proposed by others<sup>163</sup>.

Intra-governmental regulatory co-opetition is not new in Indonesia. Agencies, Ministries and Institutions had been competing between themselves in terms of creating regulations for a certain sectors and not to mention overlapping authorities. Several sectors are more severe than others. In the anti-corruption sector for example, the intra-governmental regulatory co-opetition is extremely high, it is elevated into a public ‘show of force’ (read box-1).

The figures below picturing the 5 agencies interviewed and where do they ideally see themselves in the REDD+ institutional networking.

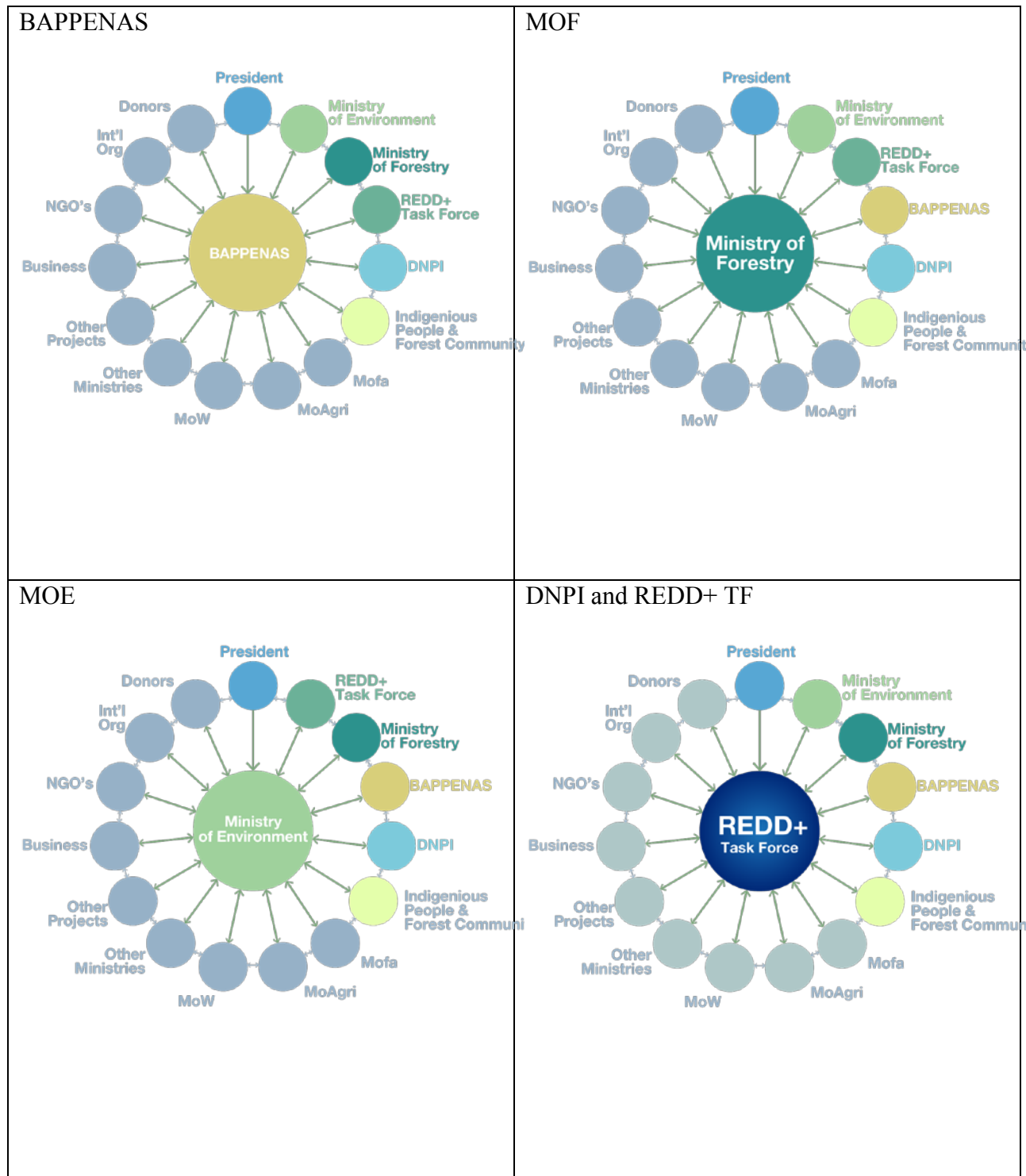
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<sup>161</sup> Robert Kagan, *supra*, at 8.

<sup>162</sup> GERADIN AND MCCAHERY, REGULATORY CO-OPETITION: TRANSCENDING THE REGULATORY COMPETITION DEBATE 91, an article in ‘The Politics of Regulation: Institutions and Regulatory Reforms for the Age of Governance’, edited by Jordana and Levi-Faur, (Edward Elgar, MA, USA, 2004).

<sup>163</sup> Id, pg. 111.

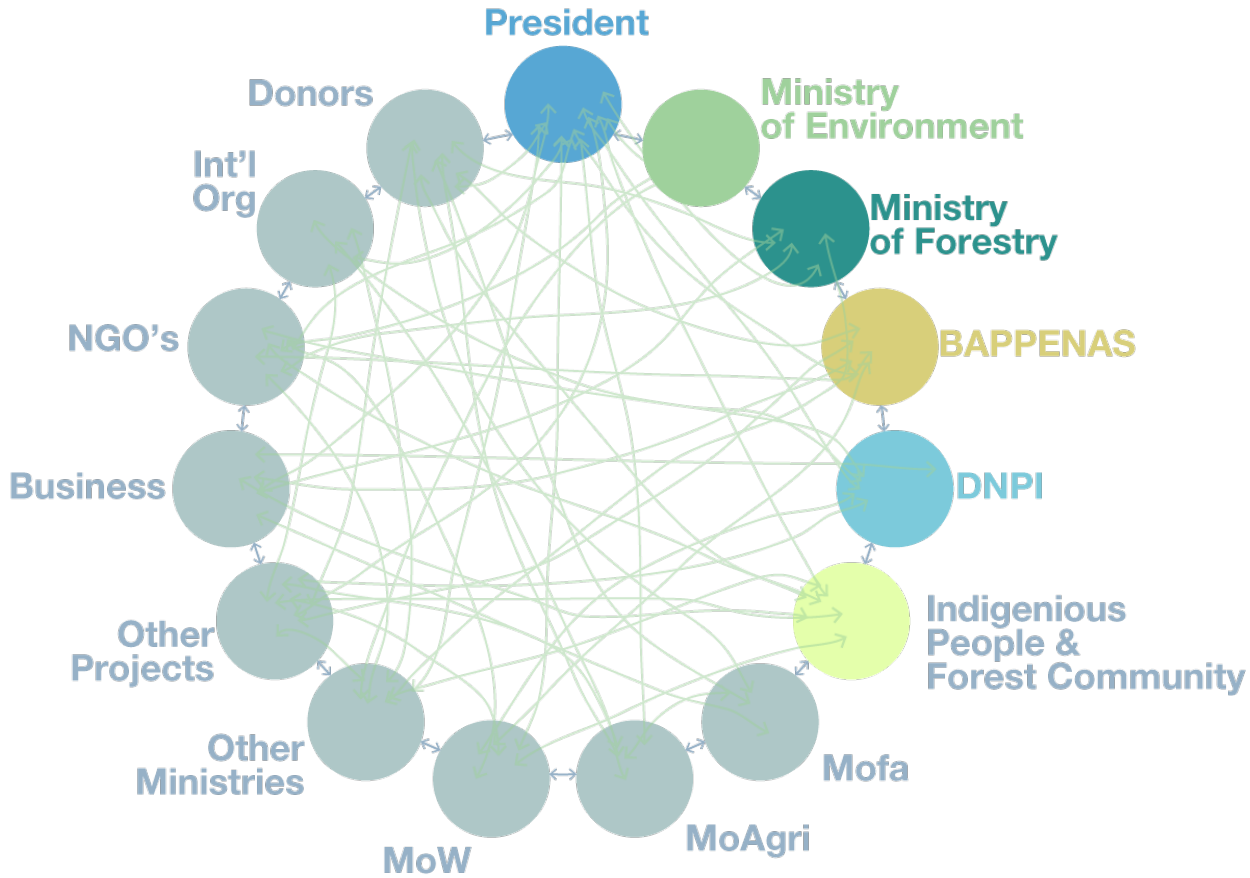
**Figure No.06. Ideal REDD+ Institutional Networking according to Agencies Interviewed**



As can be seen, BAPPENAS, MoF and MoE have a similar tone that the institutional networking is more ideal if each of them will be the center point (or coordinator) of the REDD+. BAPPENAS thinks that since they are the one who coordinate the planning of each activities and projects into the medium term developmental plan, it will be easier if they were the one who coordinated the REDD+ issues. MoF thinks that 80% of REDD+ activities are in their workplan, so it is natural if they were the one who coordinates the REDD+ issues. MoE, on the other hand, argues differently. They said that they do not have any ‘interest’ in profiting from REDD+, so they are the right institution to coordinate REDD+ issues—in addition, they also just passed the PP No.71/2011 on MRV in REDD+, and MoE is the coordinator for MRV activities, hence to expand that role to be the coordinator of all REDD+ issues should not be a problem. DNPI has a slightly different tone. They think of themselves as the think-tank of climate change. They also are already responsible for almost all climate change related activities in Indonesia. They completely agree that a specific agency (in this case REDD+ Task Force or the future REDD+ Agency), should be the coordinator of REDD+ network in Indonesia.

This ‘confusion’ has not escalated in to a conflict, and the interviews show that each agency/institution understands that the President has chosen to create the Task Force as the ‘new’ coordinator of the institutional networking in REDD+ Indonesia. The ‘co-opetition’ in the Agencies and Ministries handling REDD+ is apparent on how they handle the program and work with each other. Each of the discussed agencies thinks that they will be the most ideal authority to coordinate REDD+ activities.

As can be seen in figure no. 07, there is already an existing institutional networking between the related institution and stakeholders in REDD+ prior to REDD+ Task Force formation. BAPPENAS, MoF, MoE, DNPI and other ministries, have already had established relations between themselves and with other stakeholders (such as NGOs, International Organizations, Business Sector and donors). This particular networking is not coordinated between them, more on events based activities. Hence it is partial, sporadic and unorganized.



**Figure No. 07. Previous REDD+ Institutional Networking Prior to REDD+ Task Force**

There is reasoning for this perception. **Firstly**, there is no clear and strong legal background on what is REDD+, so they individually worked with their sectoral mandate.

**Secondly**, each of them has already dealt with similar issues of REDD+, with a different terminology. Some handled greenhouse gasses emission, some handled deforestation reduction, so they tried to ‘fit’ REDD+ with they previously understood. They each are not very familiar with the REDD+ issues, with its new terminology so most of them are confused with what REDD+ is, and what to do with it.

**Thirdly**, REDD+ Task Force is a newly established agency, with irregular mandate because it can trespass the current mandates of line ministries in REDD+. This somehow ‘disturbs’ sectoral egos of the align ministries—who specialize in the respective mandates for years. Inclusion and involvement of respective ministries officials have also been started by the REDD+ Task Force, and this might be a good way to break the ‘barriers’.

**Fourthly**, the ‘elephant’ in the room is high corruption in the forestry sector. Corruption is an important enabler of deforestation in developing countries has been recognized by the international forest policy community for at least a decade. Corruption within the forest sector is considered to undermine the framing, implementation and subsequent monitoring of policies aimed at conserving forest cover. Establishment of REDD+ Task Force, enactment of Moratorium Decree, and new developments are coming fast and strong, scaring the ‘corruption network’ in the forestry sector. Current evildoers in the sector are trying their hardest to stall the developments.

**Fifthly**, there are big issues in REDD+ itself in Indonesia. REDD+ is based on the valuation of carbon sequestered from the ‘preserved’ forest. In Indonesia, forest tenure is still unclear. MoF

supposedly is the designated agency on forestry, but there are also BPN (National Land Agency/Badan Pertanahan Nasional) who also regulates land in the forest and surrounding the forest. Community rights and adat rights on the forest is also unclear. The Basic Law of Agraria No.5/1960 clearly stated that '*hak ulayat*' or adat ownership right is respected, but in reality agencies and ministries often used article 33 of the 1945 Constitution where it is stated that, 'Land, water and natural resources.....are owned by the State will be used for the welfare of the people of Indonesia', in addition to that Adat law has subsidiary position in Indonesia's positive law. Benefit distribution mechanism of REDD+ is also still unclear. Efforts to lay a pathway on the benefit distribution mechanism are also being done by Task Force REDD+ and other projects, but considering that REDD+ activities in demonstration areas have already started, the Task Force REDD+ and GoI need to pick up their phase and make sure that the design and implementation of the REDD+ distribution mechanism involves community's participation and is pro-poor and pro-community.

**Sixthly**, it has to be noted however, although these regulatory agencies are competing and not-very coordinating between themselves in terms of REDD+ issues, this co-opetition (coordination and competition) are bringing a fresh dynamic in the regulatory preparation and its processes. Each one of them are competing to prepare and produce up-to-date regulations and policies on REDD+, and as a result Indonesia as a country has an abundant numbers of REDD+ rules, regulations and policies.

## Box No. 01. Feud of 2012, KPK and POLRI: Intra-Governmental Competition?

Competition between governmental agencies in Indonesia is nothing new. It has been there since this country was founded and it has grown graver ever since. A very clear example would be the recent case of KPK and POLRI feud. KPK is the Anti-Corruption Commission, established by UU KPK (Anti-Corruption Commission) No.30/2002, as an independent agency who works directly under the President which main mandate is corruption eradication in Indonesia. POLRI (short for Kepolisian Negara Republik Indonesia or Indonesia's Police) is also an '*alat negara*' that is responsible to the President and according to UU Kepolisian Negara Republik Indonesia No.2/2002, has a mandate of fostering safety and security of the people, law enforcement, as well as providing protection, guidance and service for the people of Indonesia. So, theoretically, KPK and POLRI should be able to work in harmony, as they are sharing the similar mandate.

In 2012, there was a big case being investigated by KPK involving corruption activities in POLRI's traffic coordination department. Most of the prosecutors and investigators of KPK derived from two law enforcer institutions, namely POLRI and Kejaksaan (Prosecutor's Office), who were selected carefully to make sure that these officers have high integrity. The case began to be very public when on October 4, 2012, some of POLRI officials came to KPK to arrest Kompol Novel, the vice head of the POLRI traffic coordination department case investigation at the KPK, for the crime he was accused (and sentenced) in 2004. The arrest was stopped by the KPK's officials, and then KPK accused POLRI of criminalizing them, due to the fact that Kompol Novel is the key investigator on the POLRI's corruption case and they indicated that the case that was used to put an arrest warrant on Kompol Novel was already solved years ago.

This was of course, became a big political discourse in Indonesia-- partially because the President delayed response. NGO activists, political analysts, media experts even common people are condemning this mishap in Jakarta. But the President came through at last. He came to the podium and held a press conference stating his opinions and orders. He ordered POLRI to provide all evidence of the traffic coordination departments to KPK—to allow KPK handle the case, he also hinted that all crimes need to be brought to justice, but there needed to be a good 'time and place' for everything, he also commented that KPK should stop 'press-conferencing' everything, not all incidents need to be heard by the public...

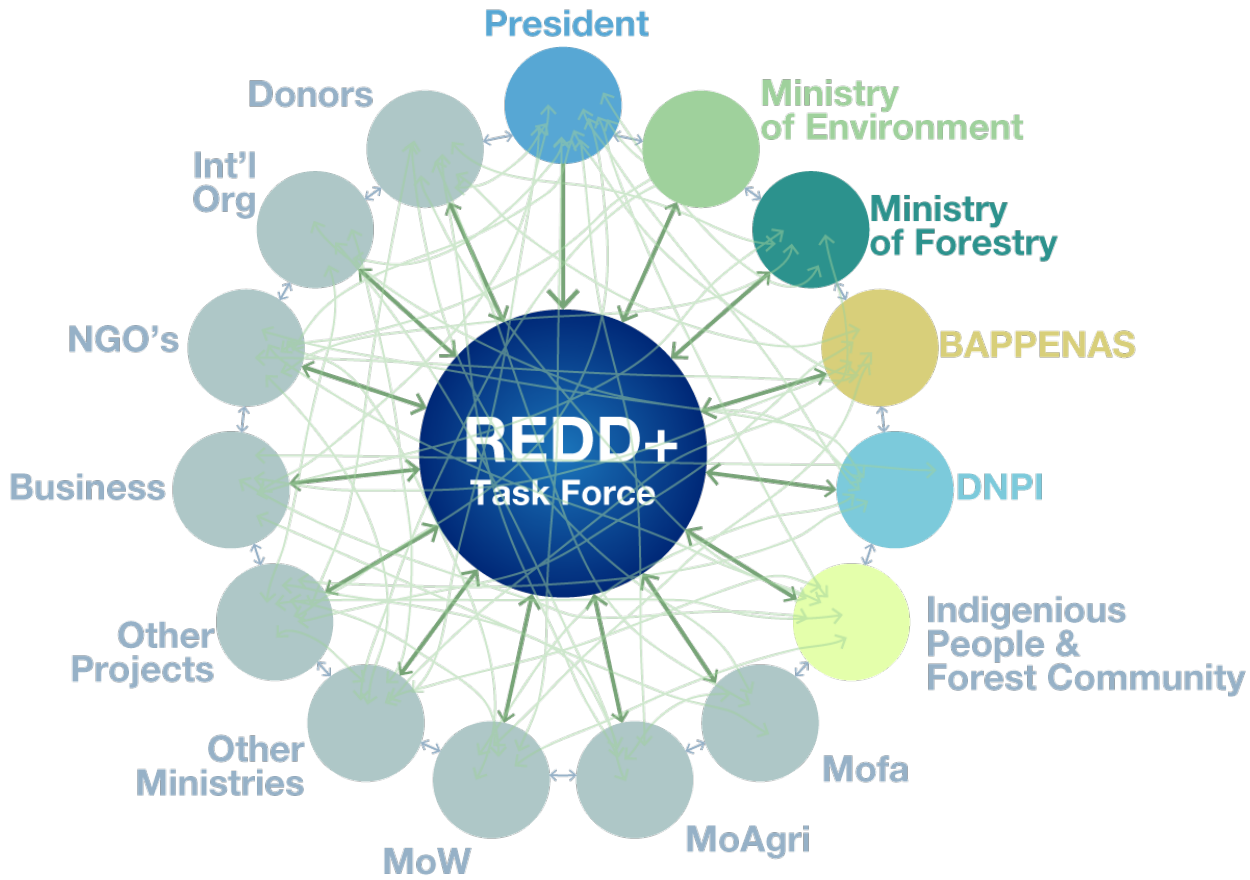
The questions are, if KPK did not bring this out in the open, would the traffic department case have any chance to be resolved? Would Kompol Novel be arrested by the police and re-sentenced? Would the President take any actions if public does not know the facts? Why couldn't this 'rumble' just happen behind closed door? Why does the President need to go on the media talking to the whole Indonesian people when really he just needed to directly order his staff?

Both POLRI and KPK are under his direct command as President, and both are law enforcer agencies. And yet, they compete and exert their 'powers' to each other. This **competition** should be balanced with **cooperation** and **coordination**. Geradin and McCahery (2004) defined the intra-governmental regulatory co-opetition as the dynamics of competition and cooperation taking place within governments. This supposed to strengthen regulatory process by forcing those regulatory initiators to come up with innovative ideas and proposals to counter others' ideas and proposals. This has a lot of positive sides in governing, but when there is lack of coordination and leadership—where does this competition lead us?

KPK's strategy has worked this time. With the help of the media, the people supported them, the President came up to meet the challenge and POLRI somehow became less brassy. But with the mounting numbers of corruption cases in Indonesia, the chance of another feud with other government institution(s) is huge. There has to be a way of bringing at least all the law enforcer agencies together on this fight against corruption. Strong leadership is needed, without hesitation to avoid delays and confusion in the people of Indonesia.

Sources: Kompas.com, MediaIndonesia.com, detik.com, thejakartaglobe.com.

Currently, after the formation of REDD+ Task Force, the institutional networking is starting to take place and has a format. Each of the REDD+ stakeholder has a place in the REDD+ Task Forces' Working Groups; they meet and work under the REDD+ Task Force. Although, outside of the Working Groups, the stakeholders independently work with one another on different REDD+ activities. The main task for REDD+ Task Force is to compile a data base of these networking in REDD+ sector, so the 'new' REDD+ Agency will also able to be a clearing house of REDD+ institutional activities in the future.



**Figure No. 08. Current REDD+ Institutional Networking with REDD+ Task Force**

## II. DONOR IN REDD+ INDONESIA

The aid system offers incentives to individuals and organizations to act in certain ways<sup>164</sup>. Hypothesis of this research is based on this premise, and this research tries to show the influence of external factor, in this case foreign donor in GoI's regulatory process in the REDD+ sector.

Donors eager to assist Indonesia as a target for REDD+ support. Norway in 2010 has signed and committed USD 1 billion dollars for the REDD+ efforts<sup>165</sup>. Australia has made the country the primary beneficiary of its International Forest Carbon Initiative through an Indonesia-Australia Forest Carbon Partnership in 2008<sup>166</sup>. The World Bank is also involved in REDD+ activities with Forest Carbon Partnership Facility (FCPF). Even U.S. investment bank Merrill Lynch has invested<sup>167</sup>. Moreover, Indonesia is one of the 9 pilot countries in UN-REDD Global Program<sup>168</sup>.

There are three funding types for climate change and REDD+ scheme in Indonesia<sup>169</sup>:

1. Direct implementation through Demonstration Activities (DA), usually managed by a bilateral body;
2. Technical support for capacity building, analysis and policy development;
3. Monetary support, in the form of soft loan and grant, directed to the GoI.

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<sup>164</sup> MCCORMICK, SCHMITZ, DONOR PROLIFERATION AND CO-ORDINATION: EXPERIENCES OF KENYA AND INDONESIA 150-151, *Journal of Asian and African Studies* 46(2), (SAGE 2011).

<sup>165</sup> [http://www.norway.or.id/PageFiles/404362/Letter\\_of\\_Intent\\_Norway\\_Indonesia\\_26\\_May\\_2010.pdf](http://www.norway.or.id/PageFiles/404362/Letter_of_Intent_Norway_Indonesia_26_May_2010.pdf), last viewed November 16, 2012, 11:22PM.

<sup>166</sup> [Indonesia-Australia Forest Carbon Partnership](#), last viewed November 16, 2012, 11:21PM.

<sup>167</sup> [http://www.climate-standards.org/news/news\\_zwick\\_feb2008.html](http://www.climate-standards.org/news/news_zwick_feb2008.html), last viewed November 16, 2012, 11:26PM.

<sup>168</sup> <http://www.un-redd.org/>, last viewed November 16, 2012, 11:28PM.

<sup>169</sup> HuMa Studi Pendahuluan atas Kebijakan *Safeguards* Donor-Donor Bilateral terhadap Program REDD di Indonesia 7. (Huma, Jakarta, Indonesia,2010).

This dissertation discusses foreign donors in the form of monetary support which are channeled through GoI under bilateral and multilateral agreements in REDD+ sector.

There is a perception that donors countries ‘need’ REDD+ more than Indonesia does, and as a result the Indonesian Government is in a strong position to reject any conditionality applied to REDD funds. Especially to the fact that the total funding for REDD+ is small compared to forest and land use business income in Indonesia.

But, the fact in the field shows that GoI has been very flexible and understanding with REDD+ donor conditionality<sup>170</sup>. The LoI between Indonesia and Norway, for example, while the 1 billion USD created a big echo, the conditionality of funding was very high<sup>171</sup>. Other bilateral funding agreements are also similarly heavy with conditional ties. This dissertation dissects two donor projects, namely UNREDD and REDD+ Indonesia-Norway to examine the relation between the donors funding as the external pressure to Indonesia’s regulatory process in REDD+, in five related institutions (mentioned above).

**Table 6: Multilateral and bilateral REDD+ Donors (by countries)in REDD+ Program**

Country/Organization	Program	Value	Notes
PBB (UNDP, UNEP, FAO)	UNREDD	USD 5,644 m	Combination of policy and demonstration activity support demonstration Activity
World Bank	Dana Kemitraan Karbon Kehutanan (FCPF) – Dana Siap Siaga	USD 3,6 m	Technical support

<sup>170</sup> Interview results, June 6, 2012.

<sup>171</sup> More on this is discussed in the next chapters of this dissertation.

World Bank	Program Investasi Hutan (FIP)	USD 80 m	Allocated
International Tropical Timber Organisation (ITTO) <sup>2</sup>	Program Pelayanan Lingkungan – REDD (REDDDES)	USD 814.590	Demonstration Activity
Australia	Kemitraan Karbon Kehutanan Indonesia-Australia	USD 61 m	2007-2012, Demonstration Activity and technical support
France	Climate Change Program Loan	USD 800 m	Budget support loan (together with Japan)
Germany	FORCLIME, Merang REDD pilot, Policy development, etc	USD 48,19 m	2009-2016, Demonstration Activity and technical support
Japan	Forest Conservation Program (grants) and Climate change program Loan (loan)	USD 751 m loan, USD 11 m as grants	Forest monitoring and reforestation, loan for climate change mitigation (together with France)
Norway	REDD+ Norwegia- Indonesia	USD 1 b	3 phases on preparation, institution development and implementation for REDD+ readiness.
Great Britain	Multistakeholder Forestry Program (part of REDD) <sup>i</sup>	USD 84 m	5 year technical assistance for central and local government.
South Korea	Korea-Indonesia on Climate change in Forestry: adaptation and mitigation	USD 5 m	2008-2013, aforestasi/ reforestasi and REDD <sup>7</sup>
USA	Indonesia Forestry and Climate Support (IFACS)	USD 30 m	Demonstration Activity and forest management activities

Source: HuMa, Studi Pendahuluan atas Kebijakan *Safeguards* Donor-Donor Bilateral terhadap Program REDD di Indonesia 7-9, (Jakarta, 2010).

### III. Interaction between REDD+ Related Agencies and Donor Projects

In Indonesia, no single source could provide all of the required data on the collaborations of donor projects and governmental agencies. Although in principle the National Planning Agency (BAPPENAS) approves all donor projects and keeps a central registry, in practice donors often bypass by agencies and ministries. As a result its database is incomplete and out of date, forcing

researchers to search for information in the direct agencies and ministries or from the donor agencies.

There are several points to be taken from this discussion; **First**, agencies and institutions mentioned in this chapter, namely BAPPENAS, MoF, MoE, DNPI and Satgas REDD+ are taking the REDD+ issue very seriously. MoF for example, highlighted that they have been ‘dealing with REDD+’ issues, even before IPCC and UNFCCC came up with the term of REDD+<sup>172</sup>. Similar tone was also mentioned by BAPPENAS and MoE. There is also a common awareness between them that this issue is very fragile and sensitive, because Indonesia is a developing country and the money offered by REDD+ is very limited in comparison to the ‘usual income’ derived from forest degradation and deforestation.

**Second**, they understand that there are overlapping authorities in REDD+ and that coordination between them will take time. Although each single one of them thinks that they should be the coordinating body of REDD+, none of them questioned the mandate of REDD+ Task Force --as the designated agency for REDD+. From the field observation, it is clear that all these agencies are trying to improvise and synchronize their activities, although sectoral ego is still apparent.

**Third**, the main concern of the agencies in regard to REDD+ are twofold, an internal concern for REDD+ in the governance of Indonesia and an external concern in regards of how REDD+ being perceived in the world will impact REDD+ in Indonesia. **The internal concern for REDD+** is: the current administration under SBY, who has been extremely supportive to REDD+ will only

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<sup>172</sup> Interview results, October 21, 2011.

last until 2014. If designs of the national REDD+ agency are not formed and stamped (as a Law in the highest legal form in Indonesia), there is no guarantee that the next administration will support REDD+. This means that not only coordination will become the problem, but also national funding. Keep in mind that funding for national activities in all sectors has to be registered in the national budget, which is mostly determined by the current administration. **The external concern for REDD+**, is that REDD+ activities are so high on the world agenda, but this will change in time. The momentum and hype of REDD+ will decrease. When this happens, the hope is that Indonesia can rely on its national support and figure out how to re-encourage market support. But, this cannot happen if the first concern has not been reached.

**Fourth**, the agencies and the donor, understood that REDD+ is relatively new. They agreed that there are still bridges to be built and roads to be travelled. One area that is still relatively ‘untouched’ for example is the benefit distribution of REDD+ and the benefit valuation itself. Some benefit distribution valuation has been done, UN-REDD Indonesia for example, has tried to examine several ways to analyze REDD+ benefit distribution.

#### **IV. Conclusion**

In this chapter five different agencies that deal directly with REDD+ were introduced. Their organizational structures, their roles and their REDD+ related regulation products were mentioned. It is interesting to see that each of them find that REDD+ is a very important issue and most of them (with the exception of DNPI/the National Council for Climate Change) view themselves ideally placed in the center circle of REDD+ institutional networking.

This is then, where the donor projects influence national politics. The President gave the GHG emission reduction speech in G20 meeting, then Government of Norway swiftly reacted with offering collaboration initiative of USD 1 billion for Indonesia's REDD+. With one condition, the funds should be managed in a transparent and accountable manner by an independent agency of REDD+ in Indonesia. The Indonesian President then enacted Presidential Decree of 19/2010 to form the REDD+ Task Force which main mandates is to coordinate all REDD+ related issues in Indonesia. This means, this agency is placed in the center circle of REDD+ institution; and other ministries/agencies previously managing REDD+ coordination, are supposed to work together and under the coordination of this new (donor initiated) agency.

In the coming chapters, discussion on the case studies, UNREDD and REDD+ Task Force detailed how basic agreements and activities of donor projects can influence policy making in the agencies, especially on their ownership and involvement in the regulatory process.

## Chapter III

### Case Studies: UN-REDD Indonesia and REDD+ Indonesia-Norway

*“REDD+ in Indonesia is about forest tenure and governance reform. We need a change of mentality, a change of attitude. Without that we are talking about an empty package.”<sup>173</sup>*

UN-REDD Indonesia and REDD+ Indonesia-Norway are the case studies for this dissertation. They are selected because they are high profile cases funded by donors in Indonesia’s REDD+. In this chapter, the projects are discussed in terms of their origin, organizational structure, conditionality of funding, decision making process, monitoring and evaluation activities, contribution in budget, bureaucratic changes and resources delegated to the project and activities of the projects in REDD+ preparation and readiness. The partner agencies of the projects are also discussed, as they are the main actors in the REDD+ and in the case study projects.

These case studies elaborate how REDD+ issues are influencing Indonesia’s regulatory process. Although they are medium term projects (3-8 years), the expected impacts of these projects are high. The indicators mentioned above, the conditionality of funding, decision making process, monitoring and evaluation activities, contribution in budget, bureaucratic changes and resources delegated to the project and activities of the projects in REDD+ preparation and readiness reflect how these projects interact with REDD+ agencies in Indonesia, and how their activities influence Indonesia’s regulatory process.

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<sup>173</sup> Interview result, May 21, 2012.

## I. Case study I: UN-REDD Indonesia

REDD+ is already re-shaping the Indonesian forestry landscape<sup>174</sup>. Around 20 voluntary REDD+ projects are in various stages of development<sup>175</sup>. Some of these have been launched officially and are linked to high profile financing institutions<sup>176</sup>. In total, over \$3 million is proposed for REDD development<sup>177</sup>.

Out of the REDD+ 20 donor projects in Indonesia, UN-REDD distinguishes itself from other projects for it is focused on assisting the GoI in attaining REDD-Readiness. The key of UN-REDD's involvement in REDD+'s regulatory process is in the preparation of the regulatory process itself. Multi-stakeholder participation in REDD is of critical importance to REDD readiness.

UN-REDD is providing assistance for the GoI (eq. BAPPENAS, REDD+ Task Force, MoF, MoE, etc), which is seen clearly in its activities. UN-REDD Indonesia's organized meetings and conferences of REDD+ multistakeholders are intended to prepare them for REDD+ issues, such as FPIC (Free, Prior and Informed Consent), REDD+ Benefit Distribution System and Communication Strategies of REDD+. In the initial stages of the drafting of REDD+ National Strategy, UN-REDD was also involved in assisting BAPPENAS.

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<sup>174</sup> <http://mptf.undp.org/factsheet/project/00073509>, last viewed November 16, 2012, 4:19PM.

<sup>175</sup> Id.

<sup>176</sup> Interview result, May 21, 2012.

<sup>177</sup> <http://mptf.undp.org/factsheet/project/00073509>, last viewed November 16, 2012, 4:19PM.

UN-REDD has contributed to REDD Readiness by assisting IFCA (Indonesian Forestry Climate Alliance) under the MoF<sup>178</sup>. IFCA organized and streamlined stakeholder input. Amongst others outcomes, this resulted in an initial outline of what was called a REDD supply chain. Furthermore, subject matter related analysis was conducted which fed into a final report outlining the National REDD+ Strategy.

To see the complete picture of UN-REDD Indonesia, below are some elaborations on its origin, organizational structures, activities, budget and claims of achievements.

### **1.1. Overview: UN-REDD Global Program**

The United Nations Collaborative Program on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD Program) was created in September 2008 to assist developing countries in building the capability to reduce emissions and to participate in a future REDD+ mechanism. For the purpose of this strategy, REDD+ refers to reducing emissions from deforestation and forest degradation in developing countries; and the role of conservation, sustainable management of forests and enhancement of forest carbon stocks in developing countries<sup>179</sup>.

Through its initial nine pilot country National Programs in Africa, Asia-Pacific (including Indonesia) and Latin America and the Caribbean, and related global activities, the UN-REDD Program is supporting governments to prepare national REDD+ strategies, build monitoring

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<sup>178</sup> Id.

<sup>179</sup> UNFCCC Decisions 1/CP.13; 2/CP.13 and 4/CP.15

systems, engage stakeholders and assess multiple benefits<sup>180</sup>. Building on the lessons learned and feedback from countries and other partners, the Program has increased its funding base and the number of participating countries. The Program is responsive to the REDD+ decision at the UNFCCC COP16 on policy approaches and positive incentives on issues relating to REDD+ and stands ready to support, upon demand by countries, the implementation of the COP16 agreement on REDD+<sup>181</sup>.

## 1.2 Assistance Strategy

At the global level, the UN-REDD Program has identified seven integrated work areas as priorities to support the national readiness process and the development and implementation of national REDD+ strategies. These work areas represent identified country priorities, while also reflecting core technical, implementation and capacity-building competencies within the three UN-REDD Program agencies and responding to the agreed policy approaches and positive incentives on issues relating to REDD+.

The Program's seven work areas are:

1. Improving guidance on Monitoring, Reporting and Verification (MRV)
2. Monitoring Increasing Engagement of Stakeholders in the REDD+ Agenda
3. Increasing Transparency and Effectiveness in National REDD+ Governance
4. Strengthening National Systems for Managing REDD+ Funding
5. Promoting the Multiple Benefits of Forests and REDD+
6. Catalyzing Shifts to a Green Economy
7. Sharing Knowledge to Support REDD+ Efforts to all levels.

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<sup>180</sup> <http://www.unep.org/forests/Portals/142/docs/UN-REDD%20Programme%20Strategy.pdf>, last viewed September 26, 2012, 9:19PM.

<sup>181</sup> Id.

These seven work areas are hoped to be strategic and in-depth assistance for partner countries. The numbers of countries receiving support from UN-REDD depend on demand and availability of funding, as well as criteria adopted by the Policy Board and standards and guidance developed by UN-REDD Program<sup>182</sup>. Key partners of the UN-REDD Program include the Forest Carbon Partnership Facility (FCPF), the Forest Investment Program (FIP), the Global Environment Facility (GEF), the UNFCCC and the REDD+Partnership<sup>183</sup>.

### **I.3. UNREDD Indonesia**

In 2008, Indonesia took the initiative to join the UN-REDD Program. The Ministry of Forestry (MoF) sent its Letter of Interest as a pilot country to the FAO, UNDP and UNEP as initiators of UNREDD Program at the global level<sup>184</sup>. This letter was sent to the UNREDD Program prior to UN-REDD being launched by the UN's Secretary General in September 2008. In March 2009, Indonesia's proposal to join the UN-REDD was approved in the Policy Board Meeting UN-REDD Global in Panama and Indonesia became one of UN-REDD pilot countries joining the eight other countries in UN-REDD.

The UN-REDD Indonesia was officially launched later on March 30, 2010 through an Inception Workshop in Jakarta. Expected outcomes of the program are as follow:

1. Strengthened multi-stakeholder participation and consensus at national level;

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<sup>182</sup> Review UN-REDD Programme Policy Board Structure: Draft ToR, 2012.

<sup>183</sup> Id.

<sup>184</sup> <http://www.un-redd.org/UNREDDProgramme/CountryActions/Indonesia/tabid/987/language/en-US/Default.aspx>, last visited August 12, 2012, and Dr. Machfudh, UN-REDD Indonesia Team Leader, *comments* July 20, 2012.

2. Successful demonstration of establishing a Reference Emissions Level (REL), a Measuring, Reporting and Verification System (MRV) and fair payment systems based on the national REDD+ architecture;
3. Capacity established to implement REDD+ at decentralized levels.

According to the UN-REDD Annual Report (2011), and interview results (2012), UN-REDD Program Indonesia has achieved some of the following:

For outcome 1 (strengthened multi-stakeholder participation and consensus at the national level), UN-REDD Indonesia provided practical supports in implementing numerous REDD+ related activities to different institutions within the Government. One of them was assisting ‘REDD+ Task Force’ in their preparations for the (at that time) ‘new’ initiative under the Letter of Intent between Indonesia and Norway. In 2010, when the LoI was signed, there was hardly any funding yet available for Indonesia to prepare itself to start the REDD+ Indonesia-Norway Program. The GoI was not ready to disburse any fund, since it is not listed in the National Budget (APBN) and it is hard to allocate cash right-a-way<sup>185</sup>. On the other hand, Norway was waiting to see initiatives from Indonesia’s side, before disbursing the first term of the agreed amount in the LoI. At that time, UN-REDD decided to ‘jump-in’ providing necessary technical/administrative skill, funding and expertise to assist the initiative<sup>186</sup>. Similarly, under outcome 1, UN-REDD Indonesia

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<sup>185</sup> Interview results, May 06, 2012. REDD+ Task Force is a governmental agency which was formed as part of a bilateral agreement with the Government of Norway. Norway agreed to finance USD 1 billion for Indonesia to build REDD+ preparedness, including forming a new institution to manage REDD+ in Indonesia.

<sup>186</sup> Interview results, May 06, 2012.

has further facilitated consultation meetings on Selection Criteria for the REDD+ Pilot Province under the LoI<sup>187</sup>.

Moreover, UN-REDD Indonesia also support and facilitates a multi-stakeholder consultation process for the development of National REDD+ Strategy under BAPPENAS. On November 18, 2010, BAPPENAS officially submitted the final REDD+ Strategy draft to the REDD+ Task Force<sup>188</sup>. In 2011, UN-REDD Programme Indonesia maintains its involvement in the multi-stakeholder process to finalize the strategy<sup>189</sup>. Due to the impact of REDD+ implementation, UN-REDD Indonesia also started a research of ‘Benefit Distribution Analysis of REDD+ in Indonesia’ as efforts to understand the concept of benefits in REDD+ and its possible distribution patterns in Indonesia<sup>190</sup>.

For outcome 2, UN-REDD Indonesia together with the Ministry of Forestry developed information materials on MRV to aid the discussions and increase understanding on MRV<sup>191</sup>. Moreover, together with Tadulako University (Palu, Central Sulawesi), UN-REDD Indonesia prepared to implement Remote Sensing and Forest Inventory training in Central Sulawesi. MRV expert consultations also have been done by UN-REDD, to develop an overview of the initiatives and enhance cooperation and collaboration on MRV, including developing a new National Forest Inventory (NFI) based on the existing NFI as part of an MRV System.

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<sup>187</sup> Interview results, May 06, 2012; at the moment REDD+ Task Force has chosen Central Kalimantan as their pilot province and is currently working in the area. More on REDD+ Indonesia-Norway will be discussed later in this chapter.

<sup>188</sup> Interview results, May 07, 2012.

<sup>189</sup> Interview results-Bappenas; the National Strategy REDD+ was finalized by REDD+ Task Force on May 2012, on the day of Bonn Climate Change Conference.

<sup>190</sup> Interview results, May 08, 2012.

<sup>191</sup> Annual Report UN-REDD, UN-REDD Programme Indonesia’s First Year: Accelerating National REDD+ Readiness, 2011, pg. 13.

Furthermore, UN-REDD Indonesia has developed an initial historical emission level from forestry in Central Sulawesi for the period of 2000-2009, to present an applicable methodology to MRV and Reference Emissions Level (REL) processes. Also, the Program contributed to several public consultation meetings to determine which new institution would be responsible for MRV, REL and a fair payment system in Indonesia.

For outcome 3, UN-REDD Indonesia has chosen Central Sulawesi as the main Pilot Province, based on the facts that the deforestation process in the area was apparent but still under control; carbon density is relatively high; local political support is strong; local capacity is reasonably strong in order to generate rapid results; deforestation drivers can be addressed relatively easily; REDD+ can result in significant co-benefits within the project site; GoI preference and, no other REDD+ initiatives in the location. UN-REDD Indonesia has managed to support local government by supporting a Provincial level REDD+ Working Group which was established with the Governor of Central Sulawesi's Decision Letter no.522/84/Dishutda – G.ST/2011, February 18, 2011<sup>192</sup>. UN-REDD Indonesia has also supported various training and public consultations in the provincial and district levels in Indonesia (Central Sulawesi in particular) in relation to REDD+ activities and issues, including FPIC (Free, Prior, and Informed Consent) trainings and consultations, providing a social safeguard in REDD+. UN-REDD has also worked with the National Forestry Council (DKN) to develop national FPIC Guidelines for REDD+ in Indonesia.

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<sup>192</sup> Annual Report UN-REDD, UN-REDD Programme Indonesia's First Year: Accelerating National REDD+ Readiness, 2011, pg. 11.

### *Organizational Structure of UN-REDD Indonesia*

UN-REDD Indonesia Program is governed under UN-REDD Global Program. As a country program, UN-REDD Indonesia has a Project Board which has the authority to direct and support the activities of UN-REDD Indonesia. The Project Board consist of two Co-Chairs, namely Mr. Bambang Supiyanto the Director General of Forest Planology, from the Ministry of Forestry and Mr. El-Mostafa Benlamlih, the U N Resident Coordinator Indonesia<sup>193</sup>.

Members of the Project Board are representatives from several organizations, among others: Embassy of Norway for Indonesia, FAO Representative (Indonesia), UNDP Country Director Indonesia, UNEP Representative (Thailand), and Director of Forestry and Water Resource Conservation BAPPENAS, Indonesia<sup>194</sup>.

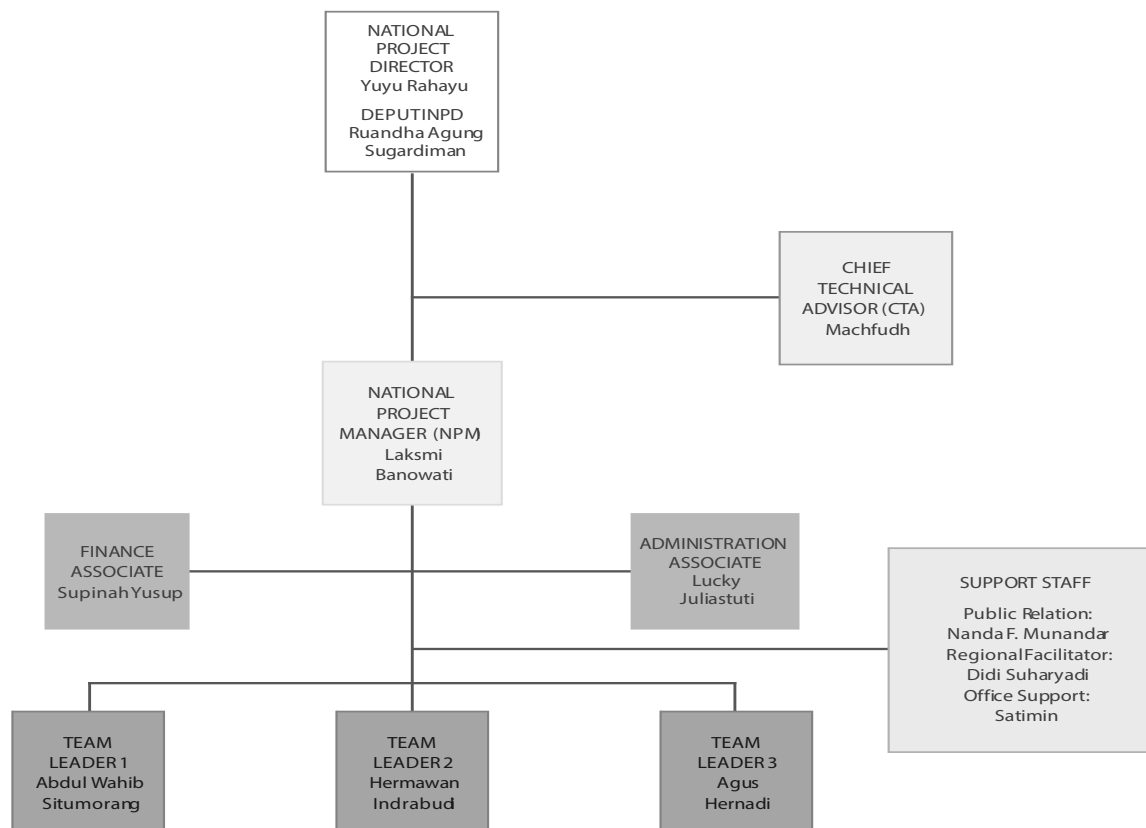
Directly under the Project Board, UN-REDD Indonesia is being managed by a Project Management Unit (PMU). The PMU is headed by a National Project Director (NPD) and Deputy National Project Director (DNPD). Under the NPDs, there is a Chief Technical Advisor who mainly focuses on the substance and technical aspects of the Project, and also a National Project Manager (NPM) who focuses on the management of the Project. The NPM is responsible for the administrative ‘engine’ of UN-REDD Indonesia, which comprised of the Finance and Administrative Associates and the Team Leaders. There are 3 Team Leaders in UN-REDD Indonesia, corresponding to each expected outcome of the UN-REDD Indonesia.

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<sup>193</sup> Interview result, June 8, 2012

<sup>194</sup> Interview result, May 7, 2012, UN-REDD Coordination Meeting.

**Figure No. 09. UN-REDD Organizational Structure**<sup>195</sup>



### *Conditionality of funding*

The Participating UN Agencies (FAO, UNDP and UNEP) and GoI have signed a Memorandum of Understanding (MOU) to implement the UN-REDD Collaborative Program, which came into effect on 20th June 2008 and ends 20th June 2012<sup>196</sup>. The program follows the Country Program Action Plan and arrangements for Non-Standard Basic Assistance Agreement (SBAA) countries by UNDP. Outcomes of each phase are also already set in the Standard Joint Program Document

<sup>195</sup> Annual Report UN-REDD, UN-REDD Programme Indonesia's First Year: Accelerating National REDD+ Readiness, 2011, pg.12.

<sup>196</sup> UNDP, UNEP and FAO, Standard Joint Programme Document, Indonesia, 2008.

between UNDP, UNEP, FAO and MoF. All terms of finance are pending on the performance, achieved outcomes/results, and deliverables.

It is clear in the SBAA that UNDP has the final say of suspension or termination of assistance, as it reads as follows<sup>197</sup>:

*“The UNDP may by written notice to the Government and to the Executing Agency concerned suspend its assistance to any project if in the judgement of the UNDP any circumstance arises which interferes with or threatens to interfere with the successful completion of the project or the accomplishment of its purposes. The UNDP may, in the same or a subsequent written notice, indicate the conditions under which it is prepared to resume its assistance to the project. Any such suspension shall continue until such time as such conditions are accepted by the Government and as the UNDP shall give written notice to the Government and the Executing Agency that it is prepared to resume its assistance.”*

### *Decision making process*

The Lead Implementing Partner of this Program is the Ministry of Forestry. A national implementation management approach of the UN is used to run the program / project. A National Project Director (NPD) is appointed by the GoI. The NPD directs the program and carries overall accountability on behalf of the GoI for the program to the Project Executive Board (PEB). The overall program and each specific activity will be implemented under the leadership of the GoI, represented by the NPD.

The program is managed in accordance with the 2003 UNDG Guidance Note on Joint Programming<sup>198</sup> and executed by several “National Implementing Partners”, including the Ministry of Forestry, Provincial and District agencies, through the participating UN Agencies, i.e. UNEP, FAO, and UNDP. Each of those Implementing Partners is accountable to the Lead Implementing Partner relating to the funds released for the delivery of a specific set of outputs

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<sup>197</sup> UNDP, UNEP and FAO, Standard Joint Programme Document 68, Indonesia, 2008.

<sup>198</sup><http://web.undp.org/docs/2791/3599-Annex%20C%20%20Operational%20details%20for%20pass-through%20fund%20management%20for%20joint%20programmes%20-%20English%20version.pdf>

and for management of inputs. The program runs and is managed following the UN guidance on program structure. There are three main components in the program structure, namely **Program Executive Board (PEB)**, **Project Management Unit (PMU)**, and **Program Assurance**<sup>199</sup>.

**Program Executive Board (PEB).** A Program Executive Board is established by the Ministry of Forestry in consultation with BAPPENAS and other key-stakeholders as deemed necessary, as well as the UN Resident Coordinator (UNRC), to guide and oversee the National Joint Program/UN-REDD<sup>200</sup>. The PEB is chaired by the Ministry of Forestry and co-chaired by a designate of UNRC. Members of the PEB are representatives of BAPPENAS, FAO, UNDP, UNEP, and the Embassy of Norway. If deemed necessary, the PEB can invite observers and / or resource persons to participate in the PEB meetings. The PEB meets at least 3 times per year to ensure effective project implementation. The PEB provides overall guidance and is responsible for the effective implementation of the program, the approval of all detailed work plans, budgets, and monitoring and evaluation. PEB decisions are reached by consensus. Specific responsibilities include<sup>201</sup>:

- a. Provide policy directions to the Program Management Unit (PMU) on substance, operations, and finance
- b. Review and approve Standard Operating Procedures and Mechanisms
- c. Approve Annual Work Plan (AWP) including proposed activities as prepared by the PMU
- d. Approve draft reports to Global UN-REDD Policy Board prepared by the PMU
- e. Coordinate with other REDD related initiatives at policy level

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<sup>199</sup> UN-REDD Project Document, 2008.

<sup>200</sup> Interview results, May 28, 2012.

<sup>201</sup> UN-REDD Project Document, 2008.

f. Approve the National Joint Program (NJP) communication strategy and public information plans prepared by the PMU

**UN Resident Coordinator (UNRC) and UN Program Assurance Team**<sup>202</sup>. As part of the PEB co-chair role, the UN Resident Coordinator provides leadership, coordination and on-going oversight to the UNREDD Program, particularly ensuring that participating UN Agencies are meeting their obligations as agreed by the PEB. He/she also facilitates ongoing monitoring and evaluation of UN-REDD activities in conformity with UN standards. The UNRC is supported by a team of Jakarta based UN Staff for program assurance. The Program Assurance Team with the MoFor is responsible for: i) conducting monthly discussions with their counterparts from the Ministry of Forestry on progress made and issues to be resolved, ii) communicating and coordinating with the regional Centre of FAO, UNDP and UNEP and the respective headquarters, iii) reporting to the UNREDD Policy Board, iv) supporting the National Program Director in working with the UN-agencies. The Program Assurance Team is assisted by technical experts from the regional center of FAO, UNDP and UNEP in Bangkok and the respective headquarters. At the country level, all UN-agencies involved (FAO, UNDP and UNEP) carry equal responsibility. At the project level, the agencies are members of the PEB. Together with the GoI, each agency is responsible for the sound implementation of the outputs and budget allocated to the respective outputs.

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<sup>202</sup> Interview results, May 28, 2012 and UN-REDD Project Document, 2008.

**Technical Committee (TC)**<sup>203</sup>. A Technical Committee consisting of GoI Officials and Jakarta based UN-staff meets on a monthly basis to provide technical guidance to the project as necessary. The TC also coordinates with other initiatives and agencies on technical matters related to REDD. As per identified needs, other agencies and institutions can be invited to discuss technical issues and share lessons learned.

**National Program Director (NPD)**<sup>204</sup>. MoFor assigned the Head of the Executing Agency under the MoFor as the National Program Director. The NPD oversees the program and carries overall responsibility and accountability on behalf of the GoI for the program to the Project Executive Board. She/he establishes and provides overall guidance to the Program Management Unit (PMU), including recruitment of National Project Manager and organizational structure of the PMU. The NPD can appoint Deputy National Program Director(s) to support him/her in his/her functions and delegate certain tasks if deemed necessary. The NPD is responsible for overseeing and approving the work undertaken by the National Project Manager and the team, which includes other tasks the development of the relevant SOPs, mechanisms, AWP, progress reports, M&E framework. The NPD submits relevant documentation to the PEB for endorsement. The NPD is responsible for financial reporting to the Ministry of Finance in accordance with existing regulations. The NPD furthermore participates in UNREDD Policy Board meetings and reports on behalf of the GoI on progress made, issues, and next steps.

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<sup>203</sup> Interview results, May 28, 2012 and UN-REDD Project Document, 2008.

<sup>204</sup> Interview results, May 28, 2012 and UN-REDD Project Document, 2008.

**Program Management Unit (PMU).**<sup>205</sup> At the project management level, MoFor creates a Project Management Unit (PMU) responsible for the overall operational and financial management and reporting of the UNREDD funds in accordance with the rules and regulations for nationally implemented projects. The PMU manages day-to-day operations of the project, and is based at the MoFor. The PMU is responsible for the overall day to day operational and financial activities, developing the relevant SOPs, mechanisms, AWP, progress reports, M&E framework under supervision of the NPD, in close coordination with the implementing partners and key-stakeholders. The PMU is responsible for preparing a quarterly workplan (QWP) using a unified workplan format and covering activities and inputs under all three Participating UN Agencies and MoFor. Quarterly progress reports are prepared on activities and detailed expenditures, disaggregated by the responsible participating UN Agency. The QWP is to be accompanied by a quarterly budget table, disaggregated by the responsible Participating UN Agency. It will also include the identification of specific procurement and recruitment activities to be undertaken by the Participating UN Agencies. The QWP and budget is reviewed and agreed upon by the chair and co-chair of the PEB, in consultation with the members of the PEB. The PMU is responsible for the overall operational and financial management in accordance with financial rules and regulations imposed by UN for nationally Implemented Programs. It prepares quarterly progress reports, which are to be submitted to UNRC Indonesia. It holds quarterly meetings with UNRC Indonesia to discuss a quarterly progress report, a quarterly work plan, a quarterly budget and any other relevant issues. It produces annual progress reports, which must be submitted to the PEB. At the end of the Program, the PMU produces the terminal report,

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<sup>205</sup> Interview results, May 28, 2012 and UN-REDD Project Document, 2008.

which is to be submitted to the PEB. Guided by the NPD, the PMU is comprised of a National Program Manager (NPM) a Chief Technical Advisor, three team leaders, a Procurement Specialist, Finance Associate, Administrative Associate, Secretary, experts, national and international consultants, support staff and (if deemed necessary) subcontractors.

**National Program Manager (NPM)<sup>206</sup>**

A professional National Program Manager is recruited to ensure smooth implementation of the National Joint Program (NJP) on a daily basis. The NPM is accountable for implementation of all activities of the project. This position requires outstanding management skills and experience, and thorough knowledge of both the UN and GoI rules and regulations. Furthermore, the position requires excellent language skills in both English and *Bahasa Indonesia* (verbally and written). Supervised by the NPD/DNPD and the UNRC, she is responsible for the day-to-day implementation of the project, preparation of progress reports, annual and quarterly workplans, budget approval, and coordination of activities, liaising with other government departments in policy development and implementation, liaising with the PMU Management and the MoFor, as the Executive Secretariat for the PEB, and for compliance with rules and regulations of both the GoI and the UN agencies where applicable. She oversees a team consisting of a Chief Technical Advisor , three team leaders, a Procurement Specialist, Finance Associate, Administrative Associate, Secretary, experts, national and international consultants support staff., and if needed, sub-contractors.

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<sup>206</sup> Interview results, May 28, 2012 and UN-REDD Project Document, 2008.

### *Monitoring, Evaluation and Reporting*

PMU of UN-REDD Indonesia compiles a monitoring workplan annually and presents them to the Project board. As part of project assurance functions, Risk Log and Issue Log are reviewed on a quarterly basis. In the case of any changes in risk and issues status, these will be discussed with the PMU of Counter Measures/Management Response. The revised Risk Log and Issue Log are then sent to MoF and all participating UN Agencies for their information and action.

### **Evaluation, Annual/Regular reviews**

The global UNREDD Technical Secretariat (based in Switzerland) established an Evaluation Plan which ensures that all country program supported by the UN-REDD Program will undertake a final evaluation. This will assess the relevance and effectiveness of the intervention, and measure the development impact of the results achieved, based on the initial analysis and indicators described at the time of program formulation. Furthermore, the UNREDD Technical Secretariat will lead thematic reviews of all programs.

### **Reporting at the international level**

Participating UN Agencies provide narrative reports on results achieved, lessons learned and contribution of the program. The information shall be consolidated by the UNRC (United Nations Resident Coordinator) Office into a narrative report every 6 months, and sent to the PEB (Program Executive Board) for review and endorsement. The NPD or the UNRC will forward the report to the Global UN REDD Technical Secretariat who will use it to provide the Policy Board updates on the implementation progress of the National Joint Program. At the global level, the Administrative Agent will provide regular updates on the financial status of the Multi Donor Trust Fund/MDTF to the Policy Board, for review and action as appropriate.

In consultation with the PEB, participating UN Agencies in receipt of UN-REDD resources will provide the MDTF Office (the fund manager) with the following statements and reports<sup>207</sup>:

- Narrative progress reports for each twelve-month period ending 31 December, to be provided no later than two months after the end of the applicable reporting period;
- Annual financial reports as of 31 December each year with respect to the funds disbursed to it from the Joint Program Account, to be provided no later than three months after the end of the applicable reporting period;
- A final narrative report and financial report, after the completion of all Joint Program activities financed from the UN-REDD Multi Donor Trust Fund/MDTF, to be provided no later than 30 April of the year following the financial closing of Joint Program activities;
- A final certified financial statement, to be provided no later than 30 June of the year following the financial closing of Project activities.

The Multi Donor Trust Fund Office shall prepare consolidated narrative progress and financial reports consisting of the reports referred to above submitted by each Participating UN Agency, and shall provide those consolidated reports to the respective Resident Coordinators and subsequently to the UN-REDD Policy Board through the Technical Secretariat.

#### *Contribution of GoI in the budget*

UN-REDD is a global initiative and Indonesia as the host country does not contribute in monetary value to the budget. Indonesia as the host government is presenting the program with one of its best officers in the Ministry of Forestry, Mr. Yuyu Rahayu as the National Project

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<sup>207</sup> UNDP, UNEP and FAO, Standard Joint Programme Document 42-43, Indonesia, 2008.

Director (NPD) from the Director of Forest Resource Inventory and Monitoring, Ministry of Forestry. GoI also donates in kind contributions such as facilities needed by the project to conduct its activities.

Norway continues to be the UN-REDD Program's first and largest donor<sup>208</sup>. Since the Program was launched in September 2008, Norway has committed US\$52.2 million for 2008-2009, US\$31 million for 2010 and at least US\$40 million for 2011-2012<sup>209</sup>. Denmark became the second donor country to join the UN-REDD Program, committing US\$2 million in June 2009 and another US\$6 million in November 2010<sup>210</sup>. At the end of 2009, Spain announced its pledge of US\$20.2 million to the UN-REDD Program over a period of three years, and confirmed US\$1.4 million for 2010 in November 2010<sup>211</sup>. In March of 2011, the UN-REDD Program Policy Board was pleased to welcome Japan's first funding commitment to the Program of US\$3 million for the UN-REDD Global Program, and a first-time funding pledge from the European Commission of approximately US\$14 million (€10 million)<sup>212</sup>. The UN-REDD Program is now actively looking for more donors, to meet the increasing demand from countries seeking support from the Program<sup>213</sup>. The total budget for UN-REDD Indonesia is 5.6 million USD.

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<sup>208</sup> <http://www.un-redd.org/FAQs/tabid/586/Default.aspx>, last viewed November 21, 2012, 2:54PM.

<sup>209</sup> Id.

<sup>210</sup> Id.

<sup>211</sup> Id.

<sup>212</sup> Id.

<sup>213</sup> Id.

### *Bureaucratic change and Human Resources delegated to the Project*

In the respective agencies, such as BAPPENAS, MoF, MoE, and DNPI, most of the agencies do not make specific arrangement to cater to UNREDD. Each of them has their own section designated for REDD+ issues.

In BAPPENAS all REDD+ issues are handled by the Directorate of Forest and Water Resources Conservation, and there are three staff that are designated to work on Climate change issues, including RAN GRK (National Action Plan on Reducing GHG emission), CDM (Clean Development Mechanism) and REDD+.

MoF dedicates the Directorate General of Forest and Natural Conservation to work on climate change issues, including REDD+. Staff dedicated for these issues varies, and it depends on what issues need to be tackled. MoE on the other hand, handles REDD+ issues under the Deputy of Environmental Degradation Control and Climate Change. There are at least 10-12 staff on hand who are ready to handle REDD+ under the climate change issues. DNPI does not directly work with national REDD+ issues but they handle most of climate change and REDD+ negotiations in the international forum.

The most seen bureaucratic change however, is in the attitude as result of the project: transparency and accountability. In all project's activities the agency officials and staff are expected to adhere to this mentality (of being transparent and accountable).

*Activities allocated for preparation of the regulatory process in this case: REDD+*

Most of UN-REDD activities are in relation to REDD+ preparation and readiness. Several major activities and its direct relations to REDD+ regulatory process are:

1. Preparation process for the drafting of REDD+ National Strategy<sup>214</sup>

UN-REDD Indonesia facilitated a multi-stakeholder consultation process, starting in July 2010 through Focus Group Discussion, a series of national consultation and a series of regional consultation meeting. Around 300 experts representing more than 200 organizations from local, national and international organizations participated in the seven Regional and one National Public Consultations. UN-REDD Program Indonesia developed significant partnerships in the process, both with Bappenas and relevant line ministries, the Regional Governments, NGOs, civil society, academics and the private sector. Opening access to the process has increased participation and ownership by stakeholders and improved the quality of the drafts. With UN-REDD Program Indonesia's support and facilitation, the process produced three Public Drafts, a National REDD+ Strategy Executive Summary and a Lessons Learned Report about the multi-stakeholder consultation process. On November 18, 2010, Bappenas officially submitted the final REDD+ Strategy draft to the REDD+ Task Force. In 2011, UN-REDD Program Indonesia maintains its involvement in the multi-stakeholders process to finalize the Strategy.

2. UN-REDD's Pilot Province<sup>215</sup>

A Pilot Province is needed as a demonstration location to achieve national REDD+ implementation readiness. Several results were achieved by UN-REDD Program Indonesia and its partners in Central Sulawesi. After a number of multi-stakeholder consultations which aim to

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<sup>214</sup> UN-REDD UN-REDD Programme Indonesia's First Year: Accelerating National REDD+ Readiness 10-20, (Jakarta, 2011).

<sup>215</sup> Interview, May 25, 2012.

build mutual understanding and promote better coordination among multistakeholders in the Province, a Provincial level REDD+ Working Group has been established with the Governor of Central Sulawesi's Decision Letter no. 522/84/Dishutda – G.ST/2011, dated February 18, 2011. The decision letter was officially disclosed to the public on the 14th of March 2011 with the announcement of the Working Group's members' names. REDD+ Working Group represents all stakeholders in Central Sulawesi, namely Provincial Government, Universities, Local Communities/Indigenous People, Gender Mainstreaming NGOs and other NGOs. To facilitate its tasks, the Working Group has a secretariat residing in the office of Provincial Forestry Service, Palu.

### 3. MRV (Monitoring, Reporting and Verification)<sup>216</sup>

FAO, together with the Ministry of Forestry, has developed information materials on MRV to aid the discussions and increase understanding of MRV. As part of the general capacity building in MRV, the UN-REDD Program Indonesia is preparing to implement a Remote Sensing and Forest Inventory training in Central Sulawesi together with Tadulako University (Palu). Preparation meetings for this were held to agree on the syllabus and course outline.

UN-REDD Program Indonesia has also been meeting with relevant actors working on MRV, to develop an overview of the initiatives and enhance cooperation and collaboration in this matter.

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<sup>216</sup> Interview results, May 28, 2012, and UN-REDD UN-REDD Programme Indonesia's First Year: Accelerating National REDD+ Readiness 10-20, (Jakarta, 2011).

UN-REDD Program focuses on developing a new National Forest Inventory (NFI) based on the existing NFI as a necessary part of an MRV system. For this purpose, a consultant is being hired to make a NFI design in close collaboration with the Ministry of Forestry and other stakeholders.

There is an MRV system on satellite land monitoring. A satellite image interpretation of Lore Lindu National Park in Central Sulawesi was carried out to test the possibilities of identifying land-use categories and has resulted in several maps of the Park.

In the second half of 2010, the Program contributed to several public consultation meetings to determine which new institution would be responsible for MRV, REL and fair payment system in Indonesia. As stated in the Norway-Indonesia LoI, an independent MRV body will be established to manage and coordinate all existing agencies on MRV and REL related issues. In this respect, FAO is assisting the Ministry of Forestry with the development of an MRV Road Map for the REDD+ Task Force/future Agency. This road map includes information on required tasks and possible entities to implement those tasks, a time frame and a budget.

#### 4. Social Safeguards: FPIC (Free, Prior and Informed Consent)

At the national level, UN-REDD Program Indonesia has started collaboration with the National Forestry Council (DKN) to develop National FPIC Guidelines for REDD+ in Indonesia. In early January 2011, UN-REDD Program Indonesia supported DKN in organizing a national consensus on the importance of FPIC. In parallel, implementation of the FPIC process in Central Sulawesi has started. Through the active involvement of multi-stakeholders at sub-national levels, a targeted FPIC process will be implemented in the pilot province/districts. Workshops on FPIC mechanisms at provincial and district levels were held at the end of December 2010, and several

missions are planned to give further support to the multi-stakeholder development of the FPIC processes.

As a result of the FPIC process, both on the national level for national policy development of FPIC and piloting of the process on sub-national levels, an FPIC Policy Recommendation on National FPIC Guidelines will be shared with the National REDD+ Task Force.

### *Degrees of Projects' Involvement in Regulatory Process*

When asked about the degree of the case study projects' involvement in the regulatory process of REDD+ in Indonesia, most agencies said that UNREDD was not directly involved in the REDD+ regulatory process. They do acknowledge that UNREDD assisted in a lot of the preparatory process before the regulatory process begun. The preparation meetings, journalist workshop, religious leaders meetings, the public discussions and stakeholder consultation meetings of REDD+ all over the country were assisted by UNREDD. After these preparation meetings, and discussion of perceptions has been done, there is a common agreement between stakeholders in REDD+. It is safe to conclude that even though UNREDD is outside the regulatory process of REDD+, they contributed greatly in setting the 'stage' for the REDD+ regulatory process.

### *Partner Agencies of UN-REDD Indonesia*

As can be seen in the membership as well as activities of UN-REDD Indonesia, there is significant involvement of the GoI in the project. **Ministry of Forestry**, for example, not only is

the ‘designated department’ for the UN-REDD Indonesia, but it has also supporting in-kind contribution for UN-REDD, such as appointing NPD and DNPD of the Project (Mr. Yuyu Rahayu and Dr. Ruandha Agung Sugardiman), lending office space for UN-REDD Indonesia activities within the building of the Ministry of Forestry (Manggala Wanabhakti) and countless other supports for each activity of UN-REDD Indonesia<sup>217</sup>.

Basah Hernowo, Director of Forestry and Water Resources Conservation, BAPPENAS, the National Planning Agency stated that<sup>218</sup>:

*“UN-REDD Program Indonesia has helped us a lot, because since the very beginning we have collaborated with UN-REDD. They have provided experts and financial resources to the process [of REDD+]. Their role is quite significant because not only did they give financial support, they also gave us access to have discussions with experts and civil societies”.*

It is interesting to see a big part of UN-REDD Indonesia’s activities are to assist the preparation of regulatory process in REDD+. For instance, during the early days when Satgas REDD+ was formed, UN-REDD was committed to providing necessary technical/administrative skill, funding and expertise to assist the initiative<sup>219</sup>. UN-REDD also helped BAPPENAS in preparing the REDD+ National Strategy in organizing the multi-stakeholder consultation for the document. With MoF, its involvement is even more apparent.

Activities organized by UN-REDD were supported fully by MoF, partly because most of REDD+ issues are under the workplan of MoF, but also because of strong coordination between

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<sup>217</sup> Interview result, May 7, 2012.

<sup>218</sup> Annual Report UN-REDD, UN-REDD Programme Indonesia’s First Year: Accelerating National REDD+ Readiness 8, (Jakarta, 2011).

<sup>219</sup> Interview results, May 06, 2012.

PMU of UN-REDD with MoF officials. UN-REDD Indonesia is also located in the MoF's building, which reflects the closeness of the Program with MoF.

Quoting the UN-REDD Indonesia's semi annual report of 2012, the Program claimed that it has provided relevant policy frameworks and relevant government institutions have taken into account these frameworks<sup>220</sup>. The Program strengthened the development and establishment of several decrees at the national level, including:

(a) Presidential Decrees:

- a. The President Instruction on REDD+ Task Force (President Decree No. 19/2010 and No. 25/2011 released in May 2010 and Sep 2011),
- b. Moratorium of new license issuance for timber extraction from natural forest (President Instruction No. 10/2011, May 2011),
- c. President Decree on Trust Fund (President Decree 80/2011 on Trust Fund, Nov 2011).

(b) Ministerial Decrees:

- a. The Decree of the Ministry of Forestry on REDD+ issues (P30/2009 on Procedures to Reduce Emission from REDD, and P36/2009 on Procedures to license carbon sink utilization from production and protected forest in May 2009),
- b. The Decree of Ministry of Finance Decree on Regional Incentive Transfer.

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<sup>220</sup> UN-REDD Indonesia, Semi Annual Progress Report 16, 2012. Available at: [http://www.un-redd.org/AsiaPacific\\_NationalProgrammeDocument/tabid/106607/Default.aspx](http://www.un-redd.org/AsiaPacific_NationalProgrammeDocument/tabid/106607/Default.aspx), last viewed November 17, 2012, 11:32AM.

At the provincial level, the UN-REDD Program supported the Governor of Central Sulawesi to issue Governor Decrees on (a) the establishment of the REDD+ Working Group, (b) the Provincial Action Plan Working Group for GHG-Action Plan, and (c) prioritized five district governments for REDD+ Demonstration Activities located in Central Sulawesi<sup>221</sup>. The progress made in Central Sulawesi triggered interests from other provinces to conduct field studies in this pilot province (Central Sulawesi). In May 2012, Central Sulawesi was approved to be one of the pilot Provinces of the LoI Indonesia-Norway. The provincial government, represented by the Central Sulawesi Governor, the Head of Forestry Office and the Head of Planning Board participated in a COP 17 side event (Indonesia Pavilion) to promote Central Sulawesi readiness for implementation of REDD+<sup>222</sup>.

The Program's multi-stakeholder consensus-based approach has been well implemented and recognized by REDD+ stakeholders in Indonesia, including national and sub-national governments, CSOs, NGOs, the private sector, universities and individual experts.

UN-REDD also works closely with local and provincial governments. Provincial governments are developing policies and have shown interest in developing REDD as an alternative for forest development. These efforts are hampered by misunderstanding and insufficient alignment with national level processes. While these initiatives need support, UN-REDD is trying to improve communication between province governments and the Ministry of Forestry. The key risk is that if agreements are made at at the local level that is in conflict with national level policies, early

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<sup>221</sup> Id.

<sup>222</sup> Id.

investments based on this commitment will be disappointing for investors which will impact future market development.

**Table 7: UN-REDD Budget and Delivery**

Project ID	Project descr.	Fund	Approved budget	Net Funded Amount	Transfers	Refunds	Expenditure	Delivery rate
00073509	UN-REDD Indonesia	UN-REDD Program Fund	5,644,250.00	5,644,250.00	5,644,250.00	0.00	3,720,205.37	65.9%

Source: <http://mptf.undp.org/factsheet/country/IDN> , last viewed November 26, 2012, 2:28PM.

UN-REDD is ending its activities in 2012, and currently the PMU staff is organizing follow-ups and final activities with its stakeholders. With so many challenges in REDD+'s issues both internationally and nationally, UN-REDD Indonesia has tried its hardest to achieve their objectives. Based on the opinions of related ministries who have worked with UN-REDD, the program has given a lot of support (technical and financial) for REDD+ efforts in Indonesia. There are high hopes from the grass-roots in Central Sulawesi for the follow up activities after UN-REDD. Local government is hoped to be the one who carries on the REDD+'s torch after the closing of UN-REDD.

## II. Case Study II: REDD+ Indonesia-Norway

### II.1. Letter of Intent (LOI) on “Cooperation on reducing greenhouse gas emissions from deforestation and forest degradation”

Indonesia has set a bold target to reduce CO<sub>2</sub> emissions and Norway wanted to support the Indonesian government's efforts to realize its commitment<sup>223</sup>. This is how REDD+ Indonesia-Norway started.

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<sup>223</sup> Id.

Norway and Indonesia have entered into a partnership to support Indonesia's efforts to reduce greenhouse gas emissions from deforestation and degradation of forests and peat lands. The Letter of Intent (LOI) on “Cooperation on reducing greenhouse gas emissions from deforestation and forest degradation” between Indonesia and Norway, aims to support Indonesia's national strategy to reduce emissions from the land use sector, and to contribute to the international forest and climate dialogue. The effective implementation of this phased strategy can help protect Indonesia's carbon- and biodiversity-rich tropical rainforests while promoting local prosperity<sup>224</sup>.

One of the principles in the LoI is that both participants (Norway and Indonesia) are in agreement to base everything in the LoI on UNFCCC and the Global REDD+ Partnership, and that nothing in the agreement should be in conflict with them<sup>225</sup>. The Participants are also agreed on another principle, which says they will give all relevant stakeholders, including indigenous peoples, local communities and civil society, subject to national legislation, and, where applicable, international instruments and the opportunity of full and effective participation in REDD+ planning and implementation<sup>226</sup>.

As a response to the Norwegian support, the Government of Indonesia (GoI) enacted ‘Presidential Decision’ (*Keputusan Presiden*) to form a Special Task Force for REDD+ institution in Indonesia (also known as ‘REDD+ Task Force Part 1’), whose mandates ended on June 30, 2011. Results from REDD+ Task Force Part 1, among others, are the *draft* of REDD+ National Strategy which has been discussed

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<sup>224</sup> Letter of Intent between the Government of the Kingdom of Norway and the Government of the Republic of Indonesia on “Cooperation on reducing greenhouse gas emissions from deforestation and forest degradation”, 16 May 2010, Oslo. Available at <http://www.forestsclimatechange.org/fileadmin/photos/Norway-Indonesia-LoI.pdf>, last viewed November 20, 2012, 11:17AM.

<sup>225</sup> LoI Norway-Indonesia, Article III point a.

<sup>226</sup> LoI Norway-Indonesia, Article III point b.

with stakeholders and shareholders of REDD+ Indonesia, Presidential Instruction (*Inpres*) 10/2011 on Moratorium of New Licenses and Enhancement of Primary Natural Forest Management and Peat Land, as well as selection of Central Kalimantan as the pilot province of REDD+ Indonesia<sup>227</sup>.

In September 2011, the mandates of the REDD+ Task Force were renewed (known as the ‘REDD+ Task Force Part 2’) under the Presidential Regulation (*Perpres*) 25/2011. As part of their mandates, the REDD+ Task Force Part 2 has finalized the REDD+ National Strategy (STRANAS), and is preparing to form a National ‘Body’ or Agency of REDD+, coordination with align ministries, as well as directly assisting bottle necks in REDD+ related activities.

### *Conditionality of funding*

Indonesia’s Task Force of REDD+ is unique because it is mainly operating with donor funding. The main donor for the REDD+ Task Force is the Kingdom of Norway. Norway will support these efforts with up to 1 billion US dollars based on Indonesia’s performance, over the course of the next 7-8 years<sup>228</sup>.

The initiative proposed in the Letter of Intent will be funded by Norway with US \$1 billion, with \$100 million paid up front and the rest as contributions-for-delivery. Norway also asks Indonesia to be fully transparent regarding finance, actions and results. This is clear in the LoI Norway-Indonesia, Article III point (c) and (d).

The LoI is very detailed, both in terms of time and funding conditionalities. Article V detailed the Phases of Partnership. It explains that the Partnership will be organized in three phases, and the aim is to move through the first two phases in the scope of 3-4 years. Then the Article also

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<sup>227</sup> <http://www.satgasreddplus.org/>, last viewed October 30, 2012, 10:35PM.

<sup>228</sup> Id.

emphasizes that annual independent review is needed to be considered before moving into the third phase.

Article IV is comprised of three phases; **Phase 1. A preparatory steps phase** to be achieved by January 2011, including:

- Development of a national strategy to reduce emissions from deforestation and forest degradation (known as REDD+);
- Establishment of a special coordination agency;
- Formation of an independent institution for [monitoring, reporting and verification](#) (MRV);
- Establishment of a funding instrument based on payment for emissions reductions; and
- Selection of a province-wide pilot project.

**Phase 2. A readiness phase** starting in 2011 and lasting 3-4 years, including:

- Capacity building, policy development and implementation in 1-2 pilot provinces;
- Legal reform to address land tenure conflicts, compensation claims and law enforcement;
- A two-year suspension of new forest conversion concessions;
- Creation of a degraded land database; and
- Development of an independent international verification mechanism.

**Phase 3. A contributions-for-verified-emission-reductions phase** beginning in 2014 which will allow Norway and potentially others to pay for emission reductions through a fund mechanism.

The phased approach and payments based on deliverables is a promising strategy for Norway to insure deliverables and for Indonesia to keep track of their activities<sup>229</sup>. Additionally, emphases on alignment with international processes, coordination with other REDD+ initiatives (both multi- and bi-lateral), participation of all stakeholders, and full transparency are important. However, it is clear that the conditionality for each phase is extremely heavy. For phase 1 and 2, not only Indonesia has to form a new independent body of REDD+, there is a national strategy to be developed, MRV institution to be built, two year suspension of forest concessions to be enforced, degraded lands database to be established, legal measures against illegal logging and timber trade to be enforced, measures to address land tenure conflicts and compensation claims to be taken, and the first province-wide pilot province to be selected by 2011 (the second province-wide pilot should be selected by late 2011 and implemented by early 2012).

In the end of Article VII, there is a clear explanatory phase of how the first two phases will be financed:

*“Funding allocated for the first two phases will be provided by Norway on the basis of deliverables channeled through an agreed financial mechanism. Contribution for 2010 deliverables will focus solely on results in terms of enabling policies and measures. The proportion of contributions channeled through the contributions-for-verified emission reductions mechanism (in the relevant pilot province(s) in phase 2, nationally in phase 3) will increase significantly for the 2012”.*

Currently, the day to day technical and operational assistance of REDD+ Task force is handled by the UNDP Indonesia, under the Project called the Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’. According to the Project Document of ‘Support to the

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<sup>229</sup> Project Document of ‘Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, highlighted that ‘*Payments will be made to the GoI based on deliverables as outlined in the Lol*’.

Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010, the project is intended to provide technical and operational assistance to the Task Force<sup>230</sup>. The support aims to help oil the Task Force machine and support its forward motion, bridge gaps between the central and local governments and seek to ensure technical integrity in all of the REDD+ Task Force.

## II.2. Uniqueness of REDD+ Task Force

Indonesia stated her commitment to REDD+ and the international community responded to this commitment. The most enthusiastic one was Norway’s response, which led both parties to sign the LoI between Indonesia and Norway. Through this LoI, Indonesia is supported by Norway to prepare REDD+ institution and guidance for a REDD+ scheme.

There are several unique characteristics of Task Force REDD+. **First**, it is an ad-hoc task force with extra-ordinary power under the President which is preparing and will be the ‘seed’ of the REDD+ Agency<sup>231</sup>. As mentioned earlier, this ‘super-body’ is mandated by the President, through Presidential Decision (2010) and Presidential Decree (2011), but it is tasked to coordinate all activities in REDD+. As can be seen in its organizational structure, the Task Force REDD +’s members are important officials from line ministries in REDD+. Yet, it is designed so that the Task Force REDD + (and REDD+ Agency) has coordination authority among align ministries. In Indonesia’s administration of agencies and ministries, the coordination function of an agency/ministry is the function of *Kementrian Koordinator* or Coordinating Ministry. Hence,

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<sup>230</sup> Project Document of ‘Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

<sup>231</sup> Interview results, May 23, 2012.

the uniqueness of Task Force REDD + is, not only does it have extensive power to organize REDD+ activities (which sometimes overlaps with line ministries), it also has coordinating power for line ministries.

**Second**, the Task Force REDD + is mainly operating with donor funding, predominantly under the LoI of Indonesia-Norway, and in its early period Task Force REDD + worked closely with UNREDD in conducting its activities<sup>232</sup>. Although this is unique, it is not the first time a support project for ‘Satgas’/Task force has been developed under donor support. The preparation stages of *Komisi Pemberantasan Korupsi (KPK)* or Corruption Eradication Commission, formed in 2003, for (deletean) instance, was also developed under donor support<sup>233</sup>. In the future, when the REDD+ Agency is set up, the REDD+ Agency will be funded by the National budget. Ultimately, the REDD+ task Force will evolve to become the REDD+ Special Agency, the leading entity in handling the national REDD+ program<sup>234</sup>. The role of the REDD+ Agency will grow after it is established, and eventually a law will be needed to give it an appropriate mandate<sup>235</sup>. This will require careful management of awareness raising and support-building in the House of Representatives (Parliament), which is currently proceeding through dialogue with individual MPs, and lobbying of MPs by CSOs, donors and academics inclined to support the Task Force’s objectives. It is important to get this right, since only the Parliament is in position to deliver the legal framework, budgetary support, and social control and oversights that will be needed.

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<sup>232</sup> Interview results, May 23, 2012.

<sup>233</sup> PGR, Partnership for Governance Reform, Indonesia, 2007.

<sup>234</sup> Project Document of ‘Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

<sup>235</sup> Gaia Consulting, Final Report: Indonesia-Norway REDD+ Partnership: first evaluation of deliverables 15, (Jakarta, May 2011).

**Third**, as a governmental body, Task Force REDD + is unique because it also invites experts from ‘outside’ who are working as NGO activists and/or academia<sup>236</sup>. The government officials who are appointed to be members of the Task Force REDD+ come from very different backgrounds. This is unique, because Satgas REDD+ has become a rich and multi-talented experts’ circle on REDD+ and forestry organization, which strives to change the ‘feudal’ system in the forestry sector, through REDD+<sup>237</sup>.

**Fourthly**, the fact that the design of Task Force REDD + as an ad-hoc body which will be dissolved as soon as the REDD+ Agency is formed made the high level mandate and intricate duties extremely demanding and also time dependent. The Indonesian public openly believe that this SBY administration will carry the hope of eradicating corruption in Indonesia<sup>238</sup>. Specifically in the forestry sector, this Task Force REDD + was supposed to be the ‘spearhead’ of eradicating corruption practices and unlawful activities. The activities of Task Force REDD + are publicized transparently by the media, which made them widely known by Indonesians but this has also increased the public expectation<sup>239</sup>.

#### *Organizational Structure of REDD+ Task Force*

The Second Task Force REDD + (2011-2012) is mandated with developing a REDD+ Agency and implementation of strategic program (mainly) in Central Kalimantan. The Second Task Force REDD + is made up of 10 working groups (WG). Each WG is chaired by selected

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<sup>236</sup> Interview results, May 23, 2012, June 20, 2012.

<sup>237</sup> Interview results May 23, 2012, June 20, 2012.

<sup>238</sup> Interview results May 23, 2012, June 20, 2012.

<sup>239</sup> Interview results May 23, 2012, June 20, 2012.

personnel, both from government offices or non-governmental offices. These WG will prepare necessary actions and preparations for the REDD+ Agency. Their approach will include the combination of the working results of policy design agencies at the national level and the accommodation of local knowledge and wisdom<sup>240</sup>.

### *Working Group on Institutional Preparation / Kelompok Kerja Kelembagaan*

REDD+ Agency is formed as an effort to reduce emission from deforestation and forest degradation. As part of Perpres No. 19/2010, REDD+ Agency has to work multi sectorally to ensure the implementation of a comprehensive strategy of REDD+.

The success of REDD+ in Indonesia is highly dependent on institutional transformation<sup>241</sup>. Currently, activities of REDD+ are spread throughout ministries and regions. Hence, there is need of multi-sectoral coordination between Central and Regional agencies/ministries to be able to implement REDD+ synergically, and result in an integrated system. The REDD+ Agency will be the central coordinating body, directly under the President who will lead and coordinate national activities under REDD+. To be able to carry out these duties effectively, the REDD+ Agency needs consent and authority from a strong legal framework.

With the complexity of REDD+ tasks and duties, the REDD+ Agency needs a strong cross and multi-sectoral mandate to be able to implement comprehensively and coherently the REDD+ strategy. The strongest legal framework in Indonesia, in this case, is the Law (*Undang-Undang*),

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<sup>240</sup> Kuntoro Mangkusubroto, Chair of Satgas REDD+, excerpted from Booklet of REDD+ Indonesia 15, (Jakarta, 2012).

<sup>241</sup> Satgas Kelembagaan REDD+ Indonesia, Booklet of REDD+ Indonesia 15, (Jakarta, 2012).

and the Agency will be led directly by a Minister who will report to the President<sup>242</sup>. The functionality structure of REDD+ Agency is flat, flexible with the focus on implementation<sup>243</sup>. This is to reflect that the Agency will have the sharpness of the ever-changing environment, and stay focused on the mission. The REDD+ Agency will lead, coordinate or take part in important processes, such as developing REDD+ strategy, REDD+ program approval, and monitoring and evaluation of the program.

REDD+ Agency is a part of a bigger REDD+ implementation in Indonesia, hence close coordination is needed, together with a funding instrument and MRV agency. More important, this Agency needs to guarantee harmonization and synchronization with various ministries and stakeholders in conducting coordination functions and activities.

The main output of the Institutional Preparation REDD+ Agency is the design of authority, guidance and operational approaches of REDD+ Agency. Principles of the REDD+ Agency designs are:

- Independent (free from sectoral dependency)
- Report directly to the President
- Head of the Agency will be at the level of a Minister
- REDD+ Agency is being built gradually, mandated with initial coordinative, facilitative and approval functions as well as REDD+ project monitoring and strategic activity implementer.

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<sup>242</sup> Satgas Kelembagaan REDD+ Indonesia, Booklet of REDD+ Indonesia 15, (Jakarta, 2012).

<sup>243</sup> Satgas Kelembagaan REDD+ Indonesia, Booklet of REDD+ Indonesia 15, (Jakarta, 2012).

### *Working Group on National Strategy/ Kelompok Kerja Strategi Nasional*

REDD+ National Strategy needs a strategic step to reach REDD+ vision in Indonesia. This vision is sustainable forest and peatland management to be used to the full extent possible for the welfare of Indonesian people. REDD+ National Strategy is formulated to build the foundation for and give guidance to integrated forest and peatland management through a systematic approach and inclusive process comprised of various parties.

WG on National Strategy's five pillars<sup>244</sup>:

1. Institution and process building. The WG will facilitate the formation of funding instrument's and MRV's agencies as well as capacity building and strengthening in the Ministries, Agencies, Local Government and related agencies.
2. Legal framework and regulation. The WG will coordinate and provide guidance for policy reformation in the environmental sector which will endorse activities in REDD+ work effectively.
3. Strategic Program. The WG formulates, compiles and ensures implementation of strategic activities to aid the development and realization of REDD+ programs.
4. Changes of work culture paradigm. The WG encourages and ensures changes of perspectives in relation to sustainable development by giving information to the community, organizations and other entities. This includes campaigns to save Indonesia's forests.
5. Stakeholders involvement. The WG ensures and guides interactions with key groups of stakeholders (including government, local and international NGOs, local and international media, local and adat

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<sup>244</sup> Satgas Kelembagaan REDD+ Indonesia, Booklet of REDD+ Indonesia 15, (Jakarta, 2012).

communities, academia, mass organizations, business people and companies) through donor management, stakeholder approach, benefit distribution mechanism, safeguard regimes and communications.

These pillars are meant to assist Indonesia in reaching REDD+ objectives, which are to increase emission reduction, increase forest carbon stock, biodiversity and environmental services and to increase economic growth.

### *Working Group on Funding Instrument / Kelompok Kerja Instrumen Pendanaan*

Funding Instrument WG is responsible for designing a financial mechanism which is effective and accountable in relation to REDD+ program in Indonesia. There are three main things implemented by the WG, they are: mobilize, manage and distribute sources of funding for REDD+ program implementation in Indonesia.

The WG thinks that there are 3 modalities in the funding instrument of REDD+. The first one is grant mechanism. There are two types of grants, small grants and main grants. Small grants are used for developing preparation steps, infrastructures and capacity.

The second modality is investing, which will be developed as soon as the Funding Concept Note is done. This modality will be implemented as soon as the MRV system is implemented.

The WG is also working on a 'safeguards protocol' to ensure the benefit distribution mechanism. This WG's work is entwined with the MRV WG to anticipate unwanted risks and reduce the possibility of manipulation of emissions.

*Working Group on Monitoring, Reporting and Verification (MRV) / Kelompok Kerja Monitoring, Reporting, and Verification*

Monitoring, Reporting and Verification is the core of all initiatives of REDD+ in Indonesia. Through MRV the efficiency and effectivity efforts of the cost of emission reduction will be measured and the distribution of benefit will be fair. The MRV agency will have to be independent but be overseen by the REDD+ Agency.

MRV agency will function as a clearing house which collects data and information of GHG emissions from forest degradation and deforestation, categorizes the data and info, and distributes them to relevant parties. WG MRV is designing an agency which will have a registry of GHG emission verified by an independent agency, and will be transparent and accessible to the public.

The MRV system is designed according to the basic principles of the Intergovernmental Panel on Climate Change/IPCC, which are: transparency, complete information on carbon storage in all ecosystem's components, and accuracy.

The mandates of MRV WG are:

- formulating national standards according to international protocol and best practice in measuring forest carbon sequestration.
- developing coordination mechanism, harmonization and validation of forest carbon valuation, transparently.
- managing spatial and non spatial data and related information for all stakeholders' accessibility.
- developing a reporting mechanism to national and international agencies and related market.

- developing non-carbon MRV to measure the success of the social and environmental safeguards, including biodiversity and other environmental services.
- providing information to Donor in relation to MRV results and its payment.
- developing capacity of M+R in organizers of REDD+
- coordinating professional communities in relation to accreditation status, operational standard and independent verification procedure, and communicating it to funding instrument.
- developing coordination capacity in implementation of MRV in local REDD+ agencies.

National MRV Agency will coordinate with local REDD+ to build MRV system called reference level (RL) interim at the sub-national level.

#### *Working Group on Pilot Area / Kelompok Kerja Provinsi Percontohan*

This WG underlines the importance of ‘one’ basic map of Central Kalimantan (as the Pilot Area of REDD+ Task Force in Indonesia), as the guideline in REDD+ implementation. Regulations (local and national) as well as licenses which overlap and authorities which also overlap will be discussed and hopefully resolved in this WG.

This WG will also monitor mining and logging activities, forest conversion and will elaborate on problems related to reducing carbon emission, licensing and law making, as well as problems in land swaps. Currently the WG is organizing consultations in 14 regencies involving government and NGOs to ensure ownership of this map. Efforts are also being undertaken to include this ‘one’ map in Regional Government Decision. These mapping activities will be developed continuously in sync with regional planning.

### *Working Group on Moratorium Monitoring / Kelompok Kerja Monitoring Moratorium*

Presidential Instruction (Inpres) No. 10/2011 on Moratorium of new license issuance for timber extraction from natural forests is the main mandate for this WG. There are three important action plans which need to be completed: socializing moratorium on new licenses, developing policy on license management of forest rent and increasing effectiveness of critical land management. These actions will support the target emission reduction of 26% to be business as usual in 2020.

### *Working Group on Communciation and Stakeholders Involvement / Kelompok Kerja Komunikasi dan Pelibatan Para Pihak*

This WG is responsible for the awareness and understanding of the community on REDD+ in Indonesia. This will then provide support to the works of other WGs in implementing action plans and REDD+ activities. Three important steps of the WG are: (1) Mapping of important issues in REDD+ stakeholders; (2) Developing plans of detailed stakeholders' involvement in each issue of other WGs'; (3) Implementing coordinated stakeholders' involvement by each WG.

### *Working Group on Legal Review and Enforcement / Kelompok Kerja Kajian Hukum dan Penegakan Hukum*

This WG is responsible for reviewing and pushing regulation amendment and/or regulation annulment when needed, especially in relation to deforestation and forest degradation. There three important mandates for this WG: (1) review all related regulation and legal products on deforestation and forest degradation for a harmonious legal framework in the forestry sector. (2) Implement legal enforcement, in relation with REDD+ moratorium, licensing, conflict resolution and tenurial problems. This is done to effectively coordinate efforts between law

enforcers, including the police, prosecutor, KPK, MoF, Tax Office, and MoE—as well as public control. (3) Provide support to other WGs with a legal ‘umbrella’ in the form of qualified legal advisers, legal reviewers and development of a grievance mechanism for the public.

### **Box No. 02. REDD+ Task Force prioritize 12 forest-related crime cases**

**REDD+ Task Force : PRESS RELEASE<sup>245</sup>**

**Jakarta, 22 October 2012** – In line with their commitment to reduce deforestation and forest degradation, the REDD+ Task Force maintains close coordination with the Police force, Ministry of Forestry, Ministry of Environment and the Attorney-General's Office to ensure that legal violations related to these activities are dealt with effectively. Currently there are 12 forest related crime cases with a range of *modi operandi* that are being pursued as a priority by the task force.

“We received quite a few reports from the public on legal violations in plantation and mining sectors ranging from administrative violations to serious crimes. We are continuously following up these reports in coordination with the law enforcement agencies,” said the Head of the REDD+ Task Force, Kuntoro Mangkusubroto. “Some of these twelve cases are in the inquiry and investigation process while investigations in some cases are complete and submitted to the Attorney's Office,” he added.

From the nine cases in the plantation sector, three main methods (*modus operandi*) of the crimes, i.e., the first is related to carrying out plantation activity in forest areas without a forest area conversion permit and without a Plantation Permit. The second instance is about planting without a plantation permit within the forest moratorium area, and the third deals with land preparation through burning. In the case of land burning, in addition to applying the criminal law, perpetrators will also be charged in a civil court to pay back the damage to the ecosystem that they had caused.

While for the three cases in the mining sector, all going through an inquiry process, the violations relate to forest area utilisation without permits, mining outside their concession and buying illegal mining products. Apart from coordinating with various agencies and law enforcers, the REDD+ Task Force also encourages the application of various legal regime approaches to maximise the deterrence effect.

“In handling these cases, in addition to the laws related to natural resources, environmental, and forestry, we also encourage the use of the Corruption Criminal Law, the Tax Law, and the Money Laundering Law,” Mangkusubroto explained further. This method is known as the “multi-door approach”.

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### ***Working Group on REDD+ Mainstreaming in National Planning / Kelompok Kerja Pengarusutamaan REDD+ pada Perencanaan Nasional***

This WG is designed to ensure that the REDD+ National Strategy is integrated in Indonesia’s National Planning. The objective is to integrate REDD+ programs as part of sustainable management of forestry development. This WG is working with align ministries to develop new activities with precisely correct financial resources. REDD+ issues are part of the National

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<sup>245</sup> [www.satgasreddplus.org](http://www.satgasreddplus.org)

Action Plan on GHG Emission Reduction (RAN GRK) especially in the forestry and peatland sectors.

The main programs are to:

- Integrate REDD+ policies and strategies to Program Activity Plan 2013
- Integrate REDD+ policies and strategies to Program Activity Plan /RKP and Medium Term Program Planning/ RPJMN 2015 – 2019
- Integrate REDD+ policies and strategies to MP3EI 2013
- Increase ministerial and agency capacity and local government capacity building in order to mainstream REDD+ into national and regional planning.

#### *Working Group on Knowledge Management and Support / Kelompok Kerja Knowledge Management dan Support*

This WG's function is to retain and provide complete information on REDD+ and its movement towards a Green economy in Indonesia. This information is important for all national and regional stakeholders, including the donors. Members of this WG are experts in their field, including researchers and librarians. They identify knowledge on REDD+, review activities and outputs given by agencies and ministries which support REDD+ readiness and collect information produced by REDD+ task Force in relation to the formation of REDD+ Agency.

#### *Decision Making Process*

As mentioned above, REDD+ Task Force is structured into 10 Working Groups. Each WG has its own sets of objectives and goals which interlocked with other's objectives. In essence they are working inter-dependently with one-another. Each WG is led by a Chair, who is responsible for the results and outcomes of his/her WG. The structure of the WG in the REDD+ Task Force is as follows:

The Chair of the WG reports his/her WG's results and findings to the Head of REDD+ Task Force, Mr. Kuntoro Mangkusubroto. Mr. Mangkusubroto then discusses the results and facilitates agreements with related partners. UNDP Indonesia is organizing technical and operational support for the REDD+ Task Force, as it supervises the budget and spending of the project and reports to the donor of REDD+ Task Force. Since Norway is the main donor of the project, REDD+ Task Force also reports to Norway. From the Norway side, they completely trust GoI, in this case REDD+ Task Force and Mr. Mangkusubroto, for every decision made by the project<sup>246</sup>. They underline that they are putting their trust on the LoI and are optimistic that the REDD+ Task Force will be able to fulfill all necessary requirements for the project and for the LoI<sup>247</sup>.

The management of substances of the project is being handled directly by REDD+ Task Force, the technical and operational support of the Task Force is organized and managed by PMU under the REDD+ Task Force, and supervised by UNDP Indonesia under the project of Support of Indonesia REDD+ Task Force Project<sup>248</sup>. The members of the REDD+ task Force will provide overall guidance of the projects, which in essence are supporting the Task Force to achieve its objectives as stipulated in the Presidential Decree and LoI.

Day to day management coordination is done by a Project Management Unit (PMU) under REDD+ Task Force. PMU works under REDD+ Task Force through the Project Board, as most of UNDP projects. Management of activities (finance, procurement, audit and reporting) is

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<sup>246</sup> Interview result, June 6, 2012.

<sup>247</sup> Id.

<sup>248</sup> Project Document of 'Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity' by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

organized by UNDP according to UNDP's Project Management Implementation Guideline (UNDP-PMIG)<sup>249</sup>.

### **Project Board (PB)**

The Project Board will set the strategic direction of the project, provide an oversight of the project's execution and its activities, including recommendations for approval of project plans and revisions. PB decisions are made in accordance to the standard that ensures management for development results, best value for money, fairness, integrity, transparency and effective international competition. PB is comprised of: Head of REDD+ Task Force, GoN and UNDP as the Senior Suppliers providing guidance regarding the technical feasibility of the project, and Senior Beneficiary, representing the interests of those who will ultimately benefit from the project. The Project Team reports regularly to PB. The NPM and NPD refer to PB when issues arise that exceed the authority of the NPM/NPD.

### **National Project Director (NPD)**

NPD carries overall accountability on the behalf of GoI and reports to the PB on progress made and issues to be resolved. NPD is responsible for signing the Combined Delivery Report (CDR), Annual Workplan (AWP) and other FACE (financial reporting) form.

### **Project Assurance**

UNDP plays a role as the 'Project Assurance' in the REDD+ Task Force, on behalf of PB. UNDP established a separate Task Force within its Indonesia Country Office, and measures UN-

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<sup>249</sup> [www.undp.or.id/pubs/docs/PMIG%20english%202009.pdf](http://www.undp.or.id/pubs/docs/PMIG%20english%202009.pdf), last viewed November 21, 2012, 12:30PM.

REDD standards, guidelines and experiences. UN-REDD will be the technical assurance reference in terms of technical and operational support.

**Project Management Unit (PMU)**

The PMU is established under the overall direction of the NPD, and oversees the day-to-day management of the NPM (National Project Manager). PMU is responsible for daily operational and financial activities and reporting according to the rules and regulations of the GoI and UNDP. PMU houses all operational staff including WG Coordinators who oversee their respective WG. Each WG is managed by members of the TF and is responsible for their corresponding outputs. PMU consists of the following: NPM (National Project Manager) who is responsible for supervising the day-to-day management of the project; Operation Manager, who is responsible for ensuring provision of project inputs for the Task Force ; WG Coordinator who liaises between WG and PMU, and manages all WG operational requests including procurement, recruitment, travel and outsourcing; Finance Associate who advises the WGs on budgets; Monitoring and Reporting Officer, who is responsible for developing detailed result resource frameworks with quantifiable indicators, baselines and targets.

Each Activity is managed by a corresponding WG, coordinating relevant Government staff and experts, and also by a consultant hired to conduct specific research, draft documentation, etc. The WGs are supported by PMU in the organizing of operational and project administration of related issues. NPD and NPM report directly to the Head of the REDD+ Task Force.

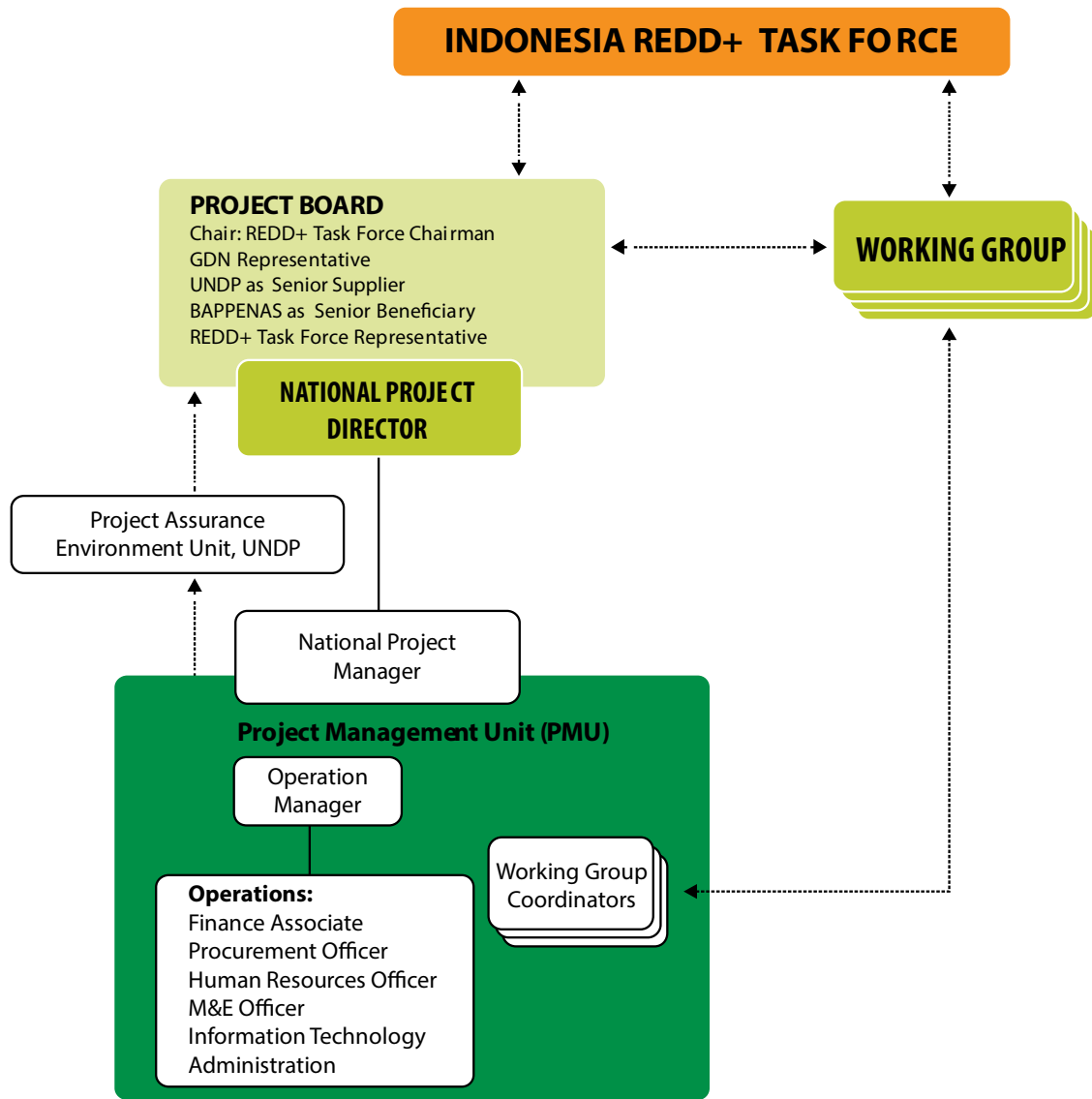


Figure No. 10. REDD+ Indonesia-Norway Management Structure<sup>250</sup>.

### *Monitoring, Evaluation and Reporting*

According to the LoI, Article V on Phases of Partnership stated clearly that the project will be organized in three phases, and the annual independent reviews will need to be considered before

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<sup>250</sup> Project Document of ‘Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

moving into the third phase. Up to now, the review organized by the GoN was done in 2011 for Phase 1.

Phase 1 LoI describes the expected outputs and key performance indicators agreed by the Governments of Indonesia and Norway for the first phase, which started in 26 May 2010 and was due to end on 31 December 2010. Gaia Consulting Ltd was chosen by GoN as the independent reviewer and assigned the task of preparing a report which assesses Indonesia's delivery on agreed indicators of Phase 1 LoI as well as explains reasons for decisions on the level of disbursement for 2011<sup>251</sup>.

The independent review shows that the Letter of Intent between Indonesia and Norway on climate and forest issues has had a very beneficial impact on REDD+ developments in Indonesia. Three of Indonesia's six agreed deliverables under the forest partnership with Norway have been achieved or are close to completion.

REDD+ Task Force follows the direction of the LoI in terms of managing finances and reporting to the donor. UNDP Indonesia was chosen by both parties to manage the technical and operational support of the grant. In relation to good financial management of the grant from the Government of Norway (GoN), UNDP Indonesia (United Nations Development Program) has received an endorsement by the BAPPENAS and has been registered to the Directorate of Evaluation, Accounting and Settlement, Director General of Debt Management (Direktorat

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<sup>251</sup> Project Document of 'Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity' by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

Jendral Pengelolaan Utang/DJPU), Ministry of Finance<sup>252</sup>. The Ministry of Finance then produced a letter No: S-75/PU/2011 on January 21, 2011 and the grant is registered as No. 71373301.

Program Monitoring is charged with overall monitoring of activities supported by the project, through on-site monitoring, regular reporting and financial expenditure tracking<sup>253</sup>. The program monitoring reports are comprised of (1) Progress report in the form of Quarterly Monitoring Report (QMR); and (2) Project Assurance Report, which is made after receipt of QMR as an internal project assurance report for the PB<sup>254</sup>.

Financial monitoring is managed through a series of controls at various levels. All financial transaction are monitored, recorded, analyzed and reported in compliance with UNDP Project Management Implementation Guideline/PMIG. Payments to the responsible parties are made by implementing partner (Task Force REDD+) or by UNDP<sup>255</sup>. The project is audited following relevant UNPD rules and regulations<sup>256</sup>.

### *Contribution of GoI in the budget*

Currently the project is running under the LoI Indonesia-Norway grant. As of June 30, 2012, realization of grant management from GoN managed by UNDP is at the amount of

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<sup>252</sup> Norway Grant Financial Management Report 2012, Laporan Pengelolaan Keuangan Dana Hibah Norwegia 2012, available at <http://www.satgasreddplus.org/download/laporan/laporan.keuangan.satgas.reddplus.30-06-2012.pdf>.

<sup>253</sup> Project Document of 'Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity' by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

<sup>254</sup> Id.

<sup>255</sup> Interview results, June 08, 2012.

<sup>256</sup> Id.

US\$7.467.003,54 or 24,31% from the total grant of US\$30.711.483<sup>257</sup>. As soon as the REDD+ Agency is established, GoI will have to include the REDD+ Agency in the Medium-Term National Plan (RPJM) which will give the agency a spot in the annual budget<sup>258</sup>. This is also needed, since in Phase 3 of this project, the LoI is asking for verified activities, which means that the activities will have to take place first before there will be reimbursement the GoN<sup>259</sup>.

**Table 8: Support for the Establishment of Indonesia REDD+ Infrastructure and Capacity –Budget Report June 30, 2012**<sup>260</sup>

No	Output	Allotted	Realization	(%)
1	REDD+ Institution	2,284,541.53	1,499,230.36	65,62%
2	REDD+ National Strategy	1,062,408.94	623,216.56	58,66%
3	Communication and Multi-stakeholder involvement	4,547,545.41	1,527,906.71	33,60%
4	Funding Instrument	1,858,322.83	555,616.93	29,90%
5	System and Institutionalisation of MRV	7,225,346.77	349,394.40	4,84%
6	Pilot Province	9,960,798.53	1,535,524.87	15,42%
7	Moratorium Monitoring	1,178,419.81	393,858.38	33,42%
8	REDD+ Mainstreaming to National Planning	529,650.00	20,260.28	3,83%
9	Legal Review and Enforcement	661,600.00	145,066.63	21,93%
10	Knowledge Management and Management Support	1,402,849.59	816,928.42	58,23%
	TOTAL	30,711,483.41	7,467,003.54	24,31%

### *Bureaucratic change and Human Resources delegated to the Project*

REDD+ Task Force is a newly established body and its members are assigned to the Task Force from related ministries, as can be seen in Presidential Regulation (*Perpres*) 25/2011. In the respective agencies, such as BAPPENAS, MoF, MoE, and DNPI, most of the agencies do not make specific

<sup>257</sup> Norway Grant Financial Management Report 2012, Laporan Pengelolaan Keuangan Dana Hibah Norwegia 2012, available at <http://www.satgasreddplus.org/download/laporan/laporan.keuangan.satgas.reddplus.30-06-2012.pdf>.

<sup>258</sup> Interview result, May 30, 2012.

<sup>259</sup> Id.

<sup>260</sup> [www.satgasreddplus.org/laporan\\_keuangan2012.pdf](http://www.satgasreddplus.org/laporan_keuangan2012.pdf), last viewed November 26, 2012, 2:45PM.

arrangements to cater to REDD+ Task Force. Each of them has their own section designated for REDD+ issues.

In BAPPENAS all REDD+ issues are handled by the Directorate of Forest and Water Resources Conservation, and there are three staff that are designated to work on Climate change issues, including RAN GRK (National Action Plan on Reducing GHG emission), CDM (Clean Development Mechanism) and REDD+.

MoF dedicates the Directorate General of Forest and Natural Conservation to work on Climate change issues, including REDD+. Staff dedicated for these issues varies, and it depends on what issues are needed to be tackled. MoE on the other hand, handles REDD+ issues under the Deputy of Environmental Degradation Control and Climate Change. There are at least 10-12 staff on hand who are ready to handle REDD+ under the climate change issues. DNPI does not directly work with national REDD+ issues but they handle most of climate change and REDD+ negotiations in the international forum.

Each of the agencies mentioned are also participating in the Working Groups (WG) of REDD+ Task Force.

### *Degrees of Projects' Involvement in Regulatory Process*

REDD+ Task Force has the power to produce regulation and is working in the center of the REDD+ regulatory process. As seen in Presidential Regulation No.25/2011, Article 4:

*To implement its duties, the REDD+ Task Force is authorized to<sup>261</sup>:*

*a. Coordinating follow up actions done by related Ministries/Agencies or Regional Government;*

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<sup>261</sup> Presidential Regulation No.25/2011, Article 4, free translation.

- b. Enacting strategies, developing policies and choosing priorities, and monitoring decision implementation in relation to LoI Indonesia-Norway;*
- c. Accepting, managing, using and coordinating international support, in the form of funding or other assistance, in relation to REDD+, according to the laws and regulations;*
- d. Collaborating with third parties to implement LoI Indonesia-Norway, including consultant and financial institution appointments.*

This Presidential Regulation gives the mandate to REDD+ Task Force to enact strategies, develop policies, choose priorities and monitor the implementations of the LoI Indonesia-Norway; Meaning that not only does it have a regulatory power, the Task Force also has a mandate to coordinate with other ministries, agencies and regional government to work together.

*Activities allocated for preparation of the regulatory process in this case: REDD+ readiness.*

All activities under REDD+ Task Force are in relation to REDD+ readiness and preparation of implementation of REDD+ programs in Indonesia. This can be seen in each activity under each output of the REDD+ Task Force.

Output 1. Special REDD+ Agency, including operation of the preparatory Task Force

The project mobilized short term technical advisers and services to support the Task Force to fulfill its mandate. The preparatory process included multiple stakeholder consultations at national and local levels, clarification of legal frameworks, and agreement on key REDD+ issues including MRV, safeguarding rights, REL, payment distribution mechanism and eligible REDD+ strategies. REDD+ Task Force consolidated steps with line Ministries, donors, NGOs and CSOs and ensured coordination of all related REDD+ activities, including UN-REDD, FCPF (Forest

Carbon Partnership Facility), Forest Investment Program and other bi-lateral and multilateral initiatives.

#### Output 2. Effective Implementation and M&E Frameworks for National REDD+ Strategy

The draft of REDD+ National Strategy was developed together with BAPPENAS and UN-REDD Indonesia and finalized by REDD+ Task Force. It includes key principles, issues and strategies of implementation of REDD+ program in Indonesia, including how to put in place enabling conditions such as improving land use, law enforcement, governance and forest management. M&E guideline and framework for the REDD+ National implementation was also developed to monitor the progress and to ensure continuous improvement of the strategy implementation.

#### Output 3. National communication and awareness raising program

The national communication and awareness raising program is done by dissemination (workshops and seminars) and publications. In phase 1 and 2, activities have been done in Aceh, Jambi, Riau, South Sumatra, Central Kalimantan, West Kalimantan, East Kalimantan and Papua in order to introduce REDD+'s draft of the national strategy and awareness raising of the program. Detailed on the meetings are uploaded in [www.satgasreddplus.org](http://www.satgasreddplus.org) for information, transparency and accountability<sup>262</sup>. Task Force REDD+ has also published several publications for awareness raising, such as Introduction to REDD+, REDD+ in Indonesia, Central Kalimantan's Regional REDD+ Strategy, and Moving towards Sustainability. All of the publications are also downloadable on the Task Force's website. In terms of media exposure, REDD+ Task Force has also been using the 'momentum' of REDD+ Indonesia-Norway's LoI,

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<sup>262</sup> Interview results, May 08, 2012.

and articles published and aired in the national magazines, newspaper, and TV have been quite frequent. On the internet, REDD+ Task Force is maintaining their presence on the [www.satgasreddplus.org](http://www.satgasreddplus.org).

#### Output 4 on funding instrument and safeguard mechanism

There are three models in the funding instrument<sup>263</sup>: (1) grants (small grants and main grants)—which aim to build and develop infrastructure, readiness and capacity; (2) investment, which will be developed as soon as the Task Force finishes the Funding Concept Note; (3) performance-based payment. Modality 2 and 3 are dependent on the MRV instrument for the valuation of ‘return’ in monetary values and working unit measurements. Currently REDD+ Task Force is finishing the funding instrument Concept Note. The Concept Note includes funding structure (FREDDI), funding distribution based on Principles, Criteria, Indicator and Indonesia’s Safeguard (PRISAI), incentive mechanism and distribution of benefit, and mobilization of funding including modality 1,2 and 3.

Development of REDD+ Partnership Fund (FREDDI) is scheduled from February to June 2012. Distribution of small grants took place from February to June 2012, while main grants took place from February to August 2012. Funding Mobilization started in May, June, August, October through December 2012, the same time as Cop 18 in Doha, Qatar.

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<sup>263</sup> Excerpted from [www.satgasredplus.org](http://www.satgasredplus.org) / .

### *Partner Agencies of REDD+ Indonesia*

As mentioned several times above, REDD+ Task Force is working together with line ministries in REDD+. Some of their officials are appointed by the Presidential Decree as members of the Task Force. They are: Kuntoro Mangkusubroto (Head of Task Force / *Ketua Unit kerja Presiden Bidang Pengawasan dan Pengendalian Pembangunan/UKP4*) and Agus Purnomo (Secretary of Task Force and DNPI member). The members are Anny Ratnawati (Ministry of Finance), Lukita Dinarsyah Tuwo (National Planning Agency/BAPPENAS), Bayu Krisnamurti (Ministry of Agriculture), Joyo Winoto (National Land Agency), Hadi Daryanto (Ministry of Forestry), Arief Yuwono (Ministry of Environment), Agus Sumartono (State Secretary Cabinet), Evita Legowo (Ministry of Energy and Mineral Resources), and Heru Prasetyo (UKP4). They are in the 10 working groups of the REDD+ Task Force and are also working closely with their respective ministries. This is a new model in a government unit which may induce collaboration and ease coordination.

In its activities, REDD+ Task Force also collaborates with line ministries, such as BAPPENAS, MoF, MoE, MoFin, etc, and also with regional and local government. Their visits to places in Sumatra in 2012 (Aceh, Riau, Jambi, South Sumatra), Kalimantan (Central, West and East) and Papua also invited not only other governmental entities but also NGOs and academics resource persons.

### III. Conclusion

UN-REDD Indonesia is financed by multiple donors and is a global initiative. The organizational structure of the project is a unique program under UNDP-FAO-UNEP (UN agencies), with its own PMU (Project Management Unit), but operating under the leadership of an NPD (National Program Director) who is a national ministry official, in this case the Ministry of Forestry. The Project Executive Board (PEB) monitors all activities in the project, and the NPD is responsible for all of them. Conditionality of funding of this project is pretty firm. As a UNDP-FAO-UNEP project, it has to satisfy Country Program Action Plan and arrangements for Non-Standard Basic Assistance Agreement (SBAA) countries by UNDP. In terms of bureaucratic changes and resources delegated to the project, in the 5 agencies discussed in this dissertation, UN-REDD is delegated to sections in the agency/ministries which are dealing with climate change issues. So far, none of them had any bureaucratic change due to this project. All of UN-REDD's activities are in relation to REDD+ preparation and readiness, in fact, the objective of UN-REDD is to assist the GoI in REDD+ preparedness in Indonesia. UN-REDD is also partnering with all of the 18 line ministries in relation to REDD+, of which 5 are discussed in this chapter.

REDD+ Indonesia-Norway is a bilateral project under the Letter of Intent Indonesia-Norway (LoI), but it is open to other donors. The main donor of this project is the Kingdom of Norway. It has a unique organizational structure, since substantively it is headed by a minister-level official in UKP4 (the Presidential Working Unit for Development Supervision and Control) and under it there are 10 working group on specific REDD+ issues. At the administrative level, since it is organized by UNDP, it also has a UNDP project structure, with PMU (Project Management Unit), NPD (National Program Director) and PEB (Project Executive Board). Norway claims

that they trust GoI 100% in this program's implementation and will not interfere with the decision making process<sup>264</sup>. As this program runs under a bilateral agreement of LoI (Letter of Intent) between Kingdom of Norway and the Republic of Indonesia, the conditionality of funding is very strict. The LoI clearly states indicators and activities needed to be achieved in a certain period of time, plus what needed to be done by GoI. In terms of bureaucratic changes and human resources delegated to the project, in the 5 agencies discussed in this dissertation, all of them are involved with the working groups in the REDD+ Task Force and are dedicating human resources to work on the project. All activities of REDD+ Task Force are in terms of REDD+ preparedness and implementation in Indonesia.

Both UN-REDD and REDD+ Task Force are working very hard with their own conditionalities, budget and allotted time frame. There are several distinct differences between the two, first, UN-REDD is a project under UNDP and it is a 'pure' project whose aim is to assist the government, while REDD+ Task Force aims to dissolve into the REDD+ Agency which will be the main coordinator for REDD+ network in Indonesia. Both are working with the government, UN-REDD is working to assist it, while REDD+ Task Force is working 'in' the government. In terms of intra- governmental co-opetition, REDD+ Task Force is working right in the middle of the line ministries, while UN-REDD is working outside to assist the networking circle.

Secondly, it is interesting to see that these two projects work in overlapping time period and the fact that they work together means that they enrich the intra-governmental co-opetition in REDD+ regulatory process in Indonesia. UN-REDD is preparing the 'stage' for line ministries

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<sup>264</sup> Interview, June 08, 2012.

in REDD+ regulatory process, and REDD+ Task Force is orchestrating the ‘stage’. More on this will be elaborated in the later chapters, but it can be seen how the preparatory stage of these two projects gave an encouragement to the regulatory process of REDD+ in governmental institutions. UN-REDD for example organized workshops and meetings on the multi-stakeholder levels both in Jakarta and in provinces (Sumatra, Java and Sulawesi). REDD+ Task Force has also adopted the same strategy. They conducted a road-show throughout Indonesia mainly in Sumatra, Kalimantan and Papua. Their activities are giving a good base for the policy makers to begin their regulatory making process.

Third, UN-REDD expired on 2012 and MoF will carry on the ‘torch’ of REDD+ readiness. On the other hand, REDD+ Task Force will grow into an independent and high level agency of REDD+. One does not need to have a big telescope to see the influence of these projects on the GoI. UN-REDD, although it does not have a direct involvement in the regulatory process, it paved the way for regulatory making in the REDD+ in Indonesia. REDD+ Task Force is in the middle of the regulatory process and is part of the regulatory makers in REDD+. Although donors for both projects explicitly stated that they trust GoI’s handle on the project matter, according to both project documents and LoI, the donors still have the final say in regards to the project’s funding. This is also true in the Monitoring and Evaluation of each project.

Fourth, as one of the respondents stated clearly, REDD+ in Indonesia is about a change of attitude in forest tenure and governance reform. The ‘elephant in the room’ is corruption in the forestry sector. Be it working from the outside or inside of the regulatory process, or even if they

are funded by foreign donors, a force of anti-corruption effort pushing through the forest of forestry sector corruption is a major step-forward by the GoI.

## Chapter IV

### MEASUREMENT & ANALYSIS

This chapter underlines the main theories, ideas of this dissertation, and the research results that then links them to answer the research questions and hypothesis. In the previous chapters we have discussed the background Indonesia's legal framework, drivers of deforestation and forest degradation, governmental actors in REDD+ and their REDD+ networking in Indonesia. We have also discussed the case studies, which illustrate how REDD+ issues are working in Indonesia, at least in the donor projects. In this chapter I explain the measurements' results of the field research, and then this chapter answers the research questions mentioned in Chapter 1, based on the research results laid out in Chapters 2 and 3.

The first section of this chapter explains the measurement used and its results for this research. As briefly explained in Chapter I, this research uses interviewing methods and document reviews as the main methods for the research, and measurements are based on the results. There are two variables researched, first, the 'Independent Variable' (IV), which is the external pressures. In this case the research is focused on the 'donor project involvement' as an element in external pressures. The 'Dependent Variable' (DV) is the involvement and ownership in the regulatory process. Both variables have their own specific indicators, in order to have a correct measurement of the variables. Each of the indicators has a set of verifiers; and each verifier has a set of questions which were asked of the interview subjects in an open ended interview. The

results from the measurements are then used, in the in the second section of this chapter, to answer the research questions.

The second section of this chapter analyzes how western theories of regulatory process and Indonesia's practice in regulatory practice interact. Gaps and meeting points are found, and some theories, such as 'external pressures in regulatory process' by Young and 'regulatory co-opetition' by Geradin & McCahery are proved to exist and even accelerate the regulatory process. But one finds that which takes place in practice is not always consistent with what is in the books. This finding is also discussed in this chapter.

The third section of this chapter is where the research questions are answered. Using field research, and measurement results, this research analyzes how and why external pressures such as REDD+ donor projects influence Indonesia's REDD+ regulatory process. The 'how' part is probing how external pressures such as REDD+ donor project can influence Indonesia's regulatory process through conditionality of funding, decision making in the projects, M&E activities and activities allocated for the preparation of the regulatory process in REDD+, and how Indonesian agencies at the receiving end react to these pressures in terms of involvement and ownership of the regulatory process. And the 'why' part is probing the existence of the drivers of the REDD+ regulatory process, as well as the drivers of 'why' Indonesians welcome external pressures into their regulatory process.

The last section (fourth) of this chapter discusses the hypothesis of the research. The first leg of the hypothesis was to identify the existence of external pressures in Indonesia's REDD+ regulatory process. To do this the discussions have to include the basic agreements of each case

study, even discussing the mental state of both parties when conducting the negotiations. The second leg of the hypothesis links how external pressures in the form of donor projects has influenced Indonesia's REDD+ regulatory process, explained by the two case studies of UN-REDD and REDD+ Task Force.

## I. MEASUREMENT RESULTS

As mentioned in Chapter I, this dissertation is looking at the existence of influence through the indicators between the variables. The independent variable is the 'REDD+ Issues' as external pressures, are measured by its indicators, which are<sup>265</sup>: conditionality of funding, decision making in the projects and monitoring and evaluations activities in the project, authority received by project, and activities allocated for preparation of the regulatory process through REDD+ by each project.

The assumptions are, if these indicators are considered 'high' in the measurement, they will reflect 'high' influence in the regulatory process in the agencies, which can be seen in the indicators of the dependent variable. The dependent variable of this research is the 'involvement and ownership in the regulatory process' and its indicators are: contribution to budget by relevant agencies, bureaucratic change in relevant agencies, time allocated by relevant agencies, and human resources/staff delegated to project by relevant agencies.

Results of this measurement vary in the terms of low, medium, and high, and they are not comparable to other measurements with different scales. These values of 'low, medium, and

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<sup>265</sup> According to Young they are named under the 'endogenous factors'.

high’ are representations of the result for this case study research, which means that they are only comparable to circumstances which meet exactly all criteria of the case study projects.

Each of these indicators are linked to see whether my hypothesis of ‘the regulatory processes in the agencies are influenced deeply by external pressures’ is proven or not. External pressures, in this case is the donor projects and donor funding. In Chapter I, I argued that a ‘high level of external pressures would cause the regulatory process to be more inclusive among government institutions which can be seen in the ownership and involvement in the projects and in the REDD+ regulatory process’.

**Table 9: Research Variables and Indicators**

<b>Variables:</b>	<b>Independent Variable:</b>	<b>Dependent Variable:</b>
	REDD+ Issues measured as ‘external pressure’	Regulatory Process, measured in terms of ‘involvement and ownership’
<b>Indicators:</b>	Conditionality of funding	Contribution in budget by relevant agencies
	Decision making in project	Bureaucratic change in relevant agencies
	Monitoring and evaluation activities	Time allocated by relevant agencies
	Activities allocated for preparation of the regulatory process in this case: REDD+ by each project.	Human resources/staff delegated in project by relevant agencies.

### **I.1. Conditionality of Funding**

UN-REDD follow the Country Program Action Plan and arrangements for Non-Standard Basic Assistance Agreement (SBAA) countries by UNDP. UNDP, in this case, has the final say of suspension, termination and indicates condition for lifting the suspension of the project. In the UNDP’s SBAA, there is no mentioned of the authority of the host government, but only the fact that UNDP has to give (or ‘may by written notice’) notice to the Government or Executing Agency if any of those situations come up.

Moreover, outcomes of each phase are also already set in the Standard Joint Program Document between UNDP, UNEP, FAO and MoF. All terms of finance are dependent on the performance, achieved outcomes/results, and deliverables. As these conditionalities are very heavy on the donor's side; this dissertation measures that the UN-REDD project scores very **'high'** in conditionality of funding.

On the other hand, REDD+ Task Force's conditionality is clearly written in the LoI between Indonesia and Norway. It is clear that the conditionality for each phase is extremely heavy. For phase 1 and 2 of LoI, not only does Indonesia have to form a new independent body of REDD+, but a national strategy has to be developed, a MRV institution to be built, two year suspension of forest concessions has to be enforced, degraded lands database has to be established, legal measures against illegal logging and timber trade have to be enforced, measures to address land tenure conflicts and compensation claims need to be taken, and the first province-wide pilot province has to be selected by 2011 (the second province-wide pilot should be selected by late 2011 and implemented by early 2012).

It appears that there is an understanding between GoI and GoN, which seems to say that if all the targets and commitment are written down and published/available to the world at large, somehow this would create a momentum between REDD+ stakeholders and put some 'pressures' on Indonesia to have to live up to the expectation of the LoI. In terms of international agreement, it is clear that what is already agreed in the LoI has to be fulfilled by both countries. So yes, there is an external pressure directly involved in the regulatory process of REDD+ Task Force, but based on the LoI and interview results, it is clear that the particular external pressure is invited

and welcome by GoI and the Indonesian people. Hence, although it is welcomed and well understood by the GoI, this dissertation still rates the REDD+ Task Force project's LoI as '**very high**' in the conditionality of funding.

## **I.2. Decision Making in the Projects**

UN-REDD's decision making is determined by the Project Executive Board (PEB). It is chaired by the MoF and co-chaired by the UN Resident Coordinator. The day-to-day management of the project is done by the National Project Director (NPD, an official from MoF) and the NPD reports to the PEB for approval. The PEB decision is reached by consensus, and most of the Project's important activities have to be approved by the PEB. They are among others: the policy directions for PMU (Project Management Unit), Standard Operating Procedure and mechanism for the Project, annual work plan, reports to the UN-REDD Global policy board and coordination with other REDD related initiatives at the policy level as well as communicative strategy and public information plans.

From this description, it is safe to say that there is some donor involvement in the decision making process. Although most of the management is trusted to the NPD and PMU, most of the main activities have to go through PEB's approval, which means that the donor (in this case UN Resident Coordinator) as the co-chair of the PEB has to also approve the activities. Based on this analysis, this dissertation measured UN-REDD's decision making as '**high**' in the involvement of donor in the process.

REDD+ Task Force is a different story since this project has two 'cores' under one main roof. The first 'core' is the substantive work of the project, which is the REDD+ Task Force which

will resolve into a governmental agency, the REDD+ Agency. This substantive core is organized by the head of REDD+ Task Force (Mr. Mangkusubroto, who is also the head of UKP4--Presidential Working Unit for Supervision and Management of Development) through 10 Working Groups under REDD+. Each member of the REDD+ Task Force is embedded if not chaired by the Working Groups. These WGs are responsible to the head of the Task Force. The Head of the Task Force then reports the activities to the President of Indonesia and GoN as the main donor.

The second core is the technical and operational support of the Task Force, which is organized and managed by the PMU under the REDD+ Task Force, supervised by the UNDP Indonesia under the project of Support of Indonesia REDD+ Task Force Project<sup>266</sup>. The members of the REDD+ task Force will provide overall guidance of the projects, which in essence is supporting the Task Force to achieve its objectives as stipulated in the Presidential Decree and LoI. Day to day management coordination is done by a Project Mangement Unit (PMU) under REDD+ Task Force. The PMU works under the REDD+ Task Force through the Project Board, as most of UNDP projects. The Project Board is comprised of the Head of REDD+ Task Force, GoN and UNDP as the Senior Suppliers providing guidance regarding the technical feasibility of the project, and Senior Beneficiary, representing the interests of those who will ultimately benefit from the project. Hence, this dissertation measured that the existence of external (donor) pressure in the decision making of REDD+ Task Force is **'high'**, because of the fact that GoN is involved in the highest level of decision making for the project. Despite of GoN has clearly and

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<sup>266</sup> Project Document of 'Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity' by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

repetitiously stated that it has 100% trust in the GoI and REDD+ Task Force, their involvement in the decision making process is very clear.

### **I.3. Monitoring and Evaluation**

The PMU of UN-REDD Indonesia compiles a monitoring workplan annually and presents it to the Project Executive Board (PEB). As part of project assurance functions, Risk Log and Issue Log are reviewed on a quarterly basis. In the case of any changes in risk and issues status, these will be discussed with the PMU for Counter Measures/Management Response. The revised Risk Log and Issue Log are then sent to the MoF and all participating UN Agencies for their information and action. The Project Executive Board then decides whether the M&E report is acceptable and hence the project can continue its activities. Based on this, the existence of donor/external pressure is measured as ‘**high**’, due to the fact that PEB in UN-REDD is co-chaired by the UNRC, as a representative of the donor agency.

In regards to the REDD+ Task Force, according to the LoI, Article V on Phases of Partnership stated clearly that the project will be organized in three phases, and the annual independent reviews will need to be considered before moving into the third phase. Up to today, the review organized by the GoN was done by an independent reviewer in 2011 for Phase 1. Additionally, in management financing and reporting to the donor, the UNDP Indonesia was chosen by both parties to manage the technical and operational support of the grant. Program Monitoring is comprised of overall monitoring of activities supported through the project, through on-site

monitoring, regular reporting and financial expenditure tracking<sup>267</sup>. The program monitoring reports are comprised of (1) Progress report in the form of a Quarterly Monitoring Report (QMR); and (2) Project Assurance Report, which is made after receipt of QMR as an internal project assurance report for the PB<sup>268</sup>.

Financial monitoring is managed through a series of controls at various levels. All financial transactions are monitored, recorded, analyzed and reported in compliance with UNDP PMIG. Payments to the responsible parties are made by the implementing partner (Task Force REDD+) or by UNDP<sup>269</sup>. The project is audited following relevant UNPD rules and regulations<sup>270</sup>. Based on the deliberation, the external pressure in this project is measured as ‘**high**’ as the donors are very involved in the M&E activities of the project.

#### **I.4. Activities allocated for preparation of the regulatory process in this case: REDD+ by each project**

Most of UN-REDD activities are in relation to REDD+ preparation and readiness. Several major activities and direct relations to REDD+ regulatory process are: Preparation process for the drafting of REDD+ National Strategy, UN-REDD’s Pilot Province, MRV (Monitoring, Reporting and Verification), and introduction to Social Safeguards: FPIC (Free, Prior and Informed Consent). In each of these activities UN-REDD is preparing the ‘stage’ for GoI in relation to regulatory process. UN-REDD for example organized workshops and meetings on the multi-stakeholder levels both in Jakarta and in provinces (Sumatra, Java and Sulawesi). So, the

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<sup>267</sup> Project Document of ‘Support to the Establishment of Indonesia REDD+ Infrastructure and Capacity’ by Implementing Partner: REDD+ Task Force and Responsible Partners: UNDP, 2010.

<sup>268</sup> Id.

<sup>269</sup> Interview results, June 08, 2012.

<sup>270</sup> Id.

donor project's scores on the activities allocated for preparation of the regulatory process in REDD+ in this case is **'high'**, due to the fact that UN-REDD's activities gave strong support to the regulatory process of REDD+ in governmental institutions.

All activities under the REDD+ Task Force, in relation to REDD+ readiness and preparation of implementation of REDD+ programs in Indonesia, are, among others: establishment of a Special REDD+ Agency, including operation of the preparatory Task Force, Effective Implementation and M&E Frameworks for National REDD+ Strategy, National communication and awareness raising program, and preparation and establishment of funding instruments and safeguard mechanisms. The REDD+ Task Force is orchestrating the 'stage' of regulatory process, since it is designated to be phased into the REDD+ Agency in Indonesia. REDD+ task Force is working 'in' the government, as the coordinator of line ministries in REDD+ issues. In terms of intra-governmental co-operation, the REDD+ Task Force is working right in the middle of line ministries, while UN-REDD is working outside to assist the networking circle. In addition, since the REDD+ Task Force is currently also a project under UNDP, it is also a donor project. This uniqueness of the REDD+ Task Force makes it score **'high'** due to the existence of donor participation/oversight in the activities allocated for the regulatory process of REDD+.

### **I.5. Contribution in the Project's Budget**

UN-REDD is a global initiative and Indonesia as the host country does not contribute in monetary value to the budget. The GoI donates in kind contributions such as facilities needed by the project to conduct its activities and has assigned Mr. Yuyu Rahayu as the NPD of the Project. Mr. Rahayu is an officer in the MoF.

Moreover, the REDD+ Task Force also fully runs on donor funding, although as soon as the REDD+ Agency is established, the GoI will have to include the REDD+ Agency in the Medium-Term National Plan (RPJM) which will give the agency a spot in the annual budget<sup>271</sup>. This is needed since in Phase 3 of this project, the LoI is asking for verified activities, which means that the activities will have to take place first before there will be reimbursement from the GoN<sup>272</sup>. Based on the research, both projects are independent from the GoI's contribution, hence the score for involvement and ownership of the GoI's agencies in the projects' budgets is 'low'. This, however, does not mean that the GoI's agencies do not have involvement and ownership of the projects, because the contribution in the project budget is only one indicator of the whole set of indicators in the involvement and ownership of the regulatory process. The fact that although GoI does not contribute per se to the budget, GoI does contribute in terms of 'in-kind' contribution, such as man hours of its employees, facilities for the projects and, most importantly, commitment and willingness to manage and organize the projects.

#### **I.6. Bureaucratic Change in Relevant Agencies**

In the respective agencies, such as BAPPENAS, MoF, MoE, and DNPI, most of the agencies do not make specific arrangements to cater to UNREDD. Each of them has their own section designated for REDD+ issues. In BAPPENAS all REDD+ issues are handled by the Directorate of Forest and Water Resources Conservation, and there are three staff that are designated to work on Climate change issues, including RAN GRK (National Action Plan on Reducing GHG emission), CDM (Clean Development Mechanism) and REDD+. The MoF dedicates the

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<sup>271</sup> Interview result, May 30, 2012.

<sup>272</sup> Id.

Directorate General of Forest and Natural Conservation to work on climate change issues, including REDD+. Staff dedicated for these issues varies, and it depends on what issues are needed to be tackled. MoE on the other hand, handles REDD+ issues under the Deputy of Environmental Degradation Control and Climate Change. There are at least 10-12 staff on hand who are ready to handle REDD+ under the climate change issues. DNPI does not directly work with national REDD+ issues but they handle most of climate change and REDD+ negotiations in the international forum.

There are however, several changes of mentality in the agencies. REDD+ in Indonesia has brought about a change of attitude in forest tenure and governance reform. **First**, the ‘elephant in the room’ is corruption in the forestry sector; the fact that these agencies are working with these projects is already a big change in mentality. Be it working from the outside or inside of the regulatory process, or even if they are funded by foreign donors, enforced transparency and accountability pushing through the forest of forestry sector corruption is a major step-forward. This means that they are opening themselves to the outside world, showing them the inner works of their agencies. **Second**, it is clear that they are now trying to know (if not understand) what other agencies are doing in REDD+. During meetings organized by UN-REDD, there are always up-dates given by line ministries, which are not only beneficial for the project, but also for each of those line ministries officials who are present in the meeting. The same phenomena can also be seen in REDD+ Task Force Working Group. As the WG members are from different line ministries, NGO personnel and academia, the spirit of anti-corruption and information exchanges is apparent and encouraging. This spirit is needed to decrease the ego-sectoralism in the line ministries, as well as changing the mind-set in the ever ending corruption circle in Indonesia.

Based on this deliberation, the bureaucratic change in relevant agencies in the case of UN-REDD is considered ‘**medium to high**’ since the changes are happening, and that there is a major awareness of how important REDD+ is in the agencies, and how they need to prioritize the issue and abandon ‘old’ practices, but yet, some of the agencies still cling to the old way of doing things, and sectoral ego still remains. On the other hand, the REDD+ Task Force itself is a force of bureaucratic change. It is a governmental agency which works directly under the President and coordinates all REDD+ issues to surpass all red tape bureaucracy that was there before its existence. Hence, as a force of bureaucratic change in the networking of REDD+ governmental agencies, this dissertation rates REDD+ Task Force’s bureaucratic change as ‘**high**’.

#### **I.7. Time and Human Resources Allocated by Relevant Agencies**

In UNREDD, the agencies feel like they are dedicating their time and resources for UNREDD activities through REDD+ activities. In terms of REDD+ Task Force, each of the 5 agencies has their officials sitting in on one or more Working Groups in the Task Force. They dedicate their time, several hours per week and at least 2 days a month to attend the meetings and discussion at the Task Force. Considering both case studies, it is sufficient to say that most of the agencies have ‘**high**’ contribution of the time and human resource allocated to REDD+. They understand that REDD+ issues need to be prioritized and hence each of them dedicates adequate time and human resources for both case study projects.

## II.8. Degrees of Projects' Involvement in Regulatory Process

UNREDD does not work within the government, so it does not work directly in the regulatory process. The agencies acknowledge that UNREDD has been tremendously supportive of the preparatory stage of the regulatory process in REDD+. All interviewed agencies (BAPPENAS, MoF, MoE, and DNPI) agreed that UNREDD contributed a lot in the preparation of the REDD+ regulatory process. From this, UNREDD has scored 'high' in the degree of project involvement in the regulatory process.

On the other hand, according to Presidential Regulation No.25/2011, Article 4; the REDD+ Task Force has the power to produce regulation and is working in the center of the REDD+ regulatory process. The Task Force has the power to coordinate line ministries, agencies and regional governments to work together.

These two tables below summarize the scores of Independent Variables and Dependent Variables of the research.

**Table 10: Case Study 1: UN-REDD**

<b>Variables:</b>	<b>Independent Variable: REDD+ Issue/Donor Project as 'external pressure'</b>	<b>Measurement's value</b>	<b>Dependent Variable: Regulatory Process: Involvement and Ownership in Relevant Agencies</b>	<b>Measurement's value</b>
<b>Indicators:</b>	Conditionality of funding	High	Contribution in budget by relevant agencies	low
	Decision making in project	High	Bureaucratic change in relevant agencies	Medium high
	Monitoring and evaluation activities	High	Time and Human resources/staff delegated in project by relevant agencies.	high
	Activities allocated for preparation of the regulatory process in this case: REDD+ by each project.	High	Project's involvement in regulatory process	high

**Table 11: Case Study 2: REDD+ Task Force**

<b>Variables:</b>	<b>Independent Variable: REDD+ Issue/Donor Project</b>	<b>Measurement's value</b>	<b>Dependent Variable: Involvement and Ownership in Relevant Agencies</b>	<b>Measurement's value</b>
<b>Indicators:</b>	Conditionality of funding	Very High	Contribution in budget by relevant agencies	low
	Decision making in project	High	Bureaucratic change in relevant agencies	high
	Monitoring and evaluation activities	Very High	Time and Human resources/staff delegated in project by relevant agencies.	high
	Activities allocated for preparation of the regulatory process in this case: REDD+ by each project.	High	Project's involvement in regulatory process	high

## **II. The Practice of Regulatory Process of REDD+ Indonesia**

In the previous chapter, the drivers of deforestation and forest degradation, the background of Indonesia's legal framework, the actors of REDD+ in Indonesia, including the 5 main agencies/ministries in REDD+ in Indonesia, were thoroughly discussed. There are several findings which needed to be noted from the western regulatory process' theories, and the 'real world' practice in Indonesia.

According to Gunningham et.al<sup>273</sup>, regulatory design processes are the preliminary steps which policy makers must go through in identifying their objectives, the characteristics of the environmental problem they confront, the available policy options and issues of consultation and participation. While largely optimistic on mixed instruments approach, Gunningham did not touch upon the possibility of 'pressures' (albeit external or internal) to the regulatory design processes. Young explains clearly that institutions are dynamic, because they are influenced by changes. He calls the determinants of change as the endogenous-exogenous factors. In the case

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<sup>273</sup>Gunningham, et.al, *supra*, pg. 376.

study, endogenous factors are the focus of the research, which means factors having to do with attributes of the regimes, such as the locus of the regime on a hard law-soft law continuum; the nature of the relevant decision rule(s); provisions for monitoring, reporting and verification; funding mechanism; procedures for amending a regime's assemblage of rights, rules and decision making procedures; and preparation activities of the regulatory process<sup>274</sup>. Based on the research, it can be seen that there are certain activities which are heavily influencing and pressuring the regulatory process in REDD+ Indonesia.

UN-REDD activities for example, from the very beginning has stated that its objective is to 'assist the GoI in REDD+ readiness'. Looking at their activities, one can say that most of what UN-REDD is doing is laying out a pathway for GoI –especially the immediate agencies and institutions in relation to REDD+ to start doing (or reviewing) their regulatory process in REDD+. Multi-stakeholder meetings, consultation meetings and even public consultation meetings are being held by UN-REDD with 'partner agencies' such as BAPPENAS, MoF, MoE, DNPI and DKN (*Dewan Kehutanan Nasional/National Council of Forestry*). In those meetings, problems are discussed, steps are negotiated, and sometimes, even agreements are reached. Although those meetings are not on regulatory design or regulatory process per-se, they do 'prepare' necessary actions for regulatory process.

The multi stakeholder meetings of REDD+ National Strategy Draft, for example, were done with BAPPENAS with the support of UN-REDD. In that meeting, all national REDD+ stakeholders were invited, and problems of the draft were discussed. After the meeting BAPPENAS then

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<sup>274</sup> Young, *supra*, pg.14.

finalized the draft into a final draft of REDD+ National Strategy and sent the document to the REDD+ Task Force. The Task Force then went ahead and reviewed the draft, as well as taking the final draft on a 'road show of REDD+ National Strategy' to all stakeholders in Indonesia. As of June 2012, the REDD+ National Strategy was distributed to the public at large. Thus can be seen how influential the role of UN-REDD as the 'assistance to the government in REDD+ readiness' is, and how REDD+ Task Force as a new government body is taking the coordinative task of REDD+ Issues in Indonesia.

UN-REDD's management is also unique, in the sense that it does not particularly resemble other UN projects. The PEB (Program Executive Board) of UN-REDD consists of very high level executive officers of the donor organizations (in this case UNDP, FAO and UNEP), as well as Director General levels of governmental agencies (in this case MoF, and BAPPENAS), and AMAN (Aliansi Masyarakat Adat Nusantara/Indigenous Peoples Alliance of Archipelago). The importance of the PEB the project's decision-making is reflected by the highest positions of the members of the PEB in UN-REDD. In each meeting of the PEB, plans for activities and expected outcomes and budget are discussed in detail. Through these meetings the donor organizations can insert their concerns, agendas and suggestions directly to the government agencies attending the meetings who are also members of the PEB UN-REDD), which adds the scope of transparency and mutualism between donors and the host government.

Although this process can be participatory, I would argue that pressures from outside the regulatory agency should be among the important factors accounted for in the regulatory design processes. In this research, it is clear that REDD+ related regulations and institutions (or

agencies) are deeply influenced by external pressures (outside the regulatory institutions). In the UN-REDD case, for example, although the project does not directly influence on the regulatory process, but still creating the ‘ambiance of preparedness’ and a pathway towards regulatory process.

REDD+ Task Force’s case is different than UN-REDD. The REDD+ Task Force is a governmental agency, enacted by the President and it does regulatory and policy design and processes. To prove my argument of external pressures<sup>275</sup> in regulatory process in REDD+ Indonesia, one has to come back and review the basic agreement for the establishment of the REDD+ Task Force, and the LoI of Indonesia-Norway. Mr. Agus Purnomo, the Secretary of the REDD+ Task Force, who is also Presidential Special Aide for Climate Change Issues, wrote a book about the meticulous process of the Presidential Decree of the Moratorium on Forest and Peatlands<sup>276</sup>. Much of the book also talks about the process of agreement between Norway and Indonesia in arranging the LoI. He clearly described that word for word in the LoI, especially the targets of each phase are agreed on and, in fact, pushed by the GoI to be in the LoI. The GoI in the time of LoI negotiations was sure that if everything was written down in a clear and concise language, everyone would understand what is expected by the LoI and the articles in the LoI can become targets of accomplishments, more than just mere articles<sup>277</sup>.

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<sup>275</sup> More elaboration on explanation and measured indicators are in latter sections of this chapter.

<sup>276</sup> Purnomo Agus, *supra*.

<sup>277</sup> GoN only concern was putting the ‘numerical’ commitment in the LoI (the ‘one billion dollars’), but in the end they agreed that this numerical commitment is also mentioned. Purnomo Agus, *supra*.

As already mentioned in previous chapters, the REDD+ Task Force has already produced (and/or assisted in the production of) a handful regulations re REDD+, working together with other agencies of REDD+. REDD+ National Strategy with BAPPENAS, has issued a Moratorium of New Licenses for Primary Forest and Peatland with MoF and DNPI, and law enforcement on forestry cases, and launched an Indicative Map of Moratorium of New Licenses, which are all part of legal apparel in implementing REDD+. From the field research, it is indicated that these regulations have gone through a ‘bottom-up’ process and the road for the regulatory design has been winding for years. The Moratorium Decree for example, started as a discussion 20 years ago when illegal logging was starting to grow due to the issuance of a ‘concession permit’ to people and companies who had given ‘service’ to the GoI under President Suharto. Various environmental NGOs had asked the GoI to enact a moratorium on forest and peatland to protect the forest, but it took them years to be heard. President SBY is the first president of Indonesia who declared a moratorium of licensing on forest and peatland since the independence of Indonesia in 1945. The decree itself has received support and caused optimism, even hope, that this decree would be a ‘silver bullet’ to end all forestry problems. During SBY’s time in the GoI, there are many policies related to forestry that have been enacted, such as the moratorium on forest and peatland licenses, law enforcement on forestry cases, launching of Indicative Map of Moratorium of New Licenses, which are all part of legal apparel in implementing REDD+. This action clearly supports Gunningham’s thesis in Smart Regulations which prefers combinations of regulations and instruments which are carefully selected for effectiveness.

However, there are no theories which precisely resemble what is happening in REDD+ Indonesia. Within the scope the research, there are 5 agencies and institutions (4 of them with regulatory power, only DNPI is excluded) who lay horizontally in Indonesia’s governmental

structure and compete with each other. But, as this research is not about the relationship between central and provincial (or local) government but within agencies themselves in the central government, the ‘regulatory competition’ theories are not suitable for this research.

Geradin’s<sup>278</sup> theory on regulatory co-opetition is somewhat closer to Indonesia’s practice. Regulatory co-opetition, on the other hand, can play out at different levels and involves several types of actors. Three forms of regulatory co-opetition can be distinguished: (1) inter-governmental; (2) intra-governmental; and (3) extra-governmental. This dissertation mainly discusses the intra-governmental and extra-governmental regulatory co-opetition.

In most regulation theories, (Young, Fischel, Harris) it is accepted that regulatory institutions would already know what they are supposed to do (in terms of regulatory process and regulation making). In Indonesia’s REDD+ issue, because it is a new issue and everybody is still trying to get a grasp of what REDD+ is, each of the agencies is confused about their own role. This then is reflected in their regulatory products which overlap and conflict with one another.

In reality, there is confusion in the agencies. Each thinks that REDD+ will be better, if they were the one who is coordinating the REDD+ networking in Indonesia. MoF thinks that they organize all REDD+ activities since long ago, BAPPENAS thinks that they are the one who organizes the plot of activities and budgeting, MoE thinks that they are ‘in charge’ of MRV (monitoring,

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<sup>278</sup> Geradin & McCahery, *Regulatory co-opetition: transcending the regulatory competition debate* 93, in *THE POLITICS OF REGULATION: INSTITUTIONS AND REGULATORY REFORMS FOR THE AGE OF GOVERNANCE*, (Jordana & Levi-Faur, eds., 2004).

reporting and verification) –and hence they will be a very good coordinator, and REDD+ Task Force they have the strongest mandate to coordinate everyone. This is why they are competing.

Regulatory co-opetition also shows in how these REDD+ agencies increased in activities, and in the numbers of regulations produced. Even though there are many overlaps and conflicts of regulations, but on the positive side, the agencies are competing to be the first one who gives solutions to REDD+ problems. However, this theory asks for two things: competition and coordination. In the Indonesia's case the 'coordination' part is still very weak. REDD+ Task Force and the President are trying very hard to be the coordinators of the stakeholders, a synchronization and coordination between institutions are yet to be achieved.

The regulatory co-opetition nightmare, is when the competition is not enforced by the presence of cooperative mechanism—information sharing, assignment of primary darting responsibilities, and coordinated implementation—to prevent the rivalry between such bodies from degenerating and resulting in duplication of work, regulatory diseconomies of scale, or even decision making stalemates. The worst of the worst is not yet happening in Indonesia, there are still coordination and cooperative efforts done between the agencies, but if the coordination body with a strong legal background (such as the coming 'REDD+ Agency') is yet to be formed, this nightmare might become a reality.

### **III. Answering the Research Question**

To be able to answer the main question of:

'How and Why REDD+ issue influences Indonesia's REDD+ Regulation?'

There are sub-research questions needed to be answered first. They help to form a more complete picture in order to answer the main research question. Answers to these research questions are already elaborated and discussed in the different chapters and sections of this dissertation, but this section will highlight and link them to one another in an analysis which will point to the how and why the REDD+ issue influences Indonesia's environmental regulation.

### **III. 1. Sub-question one: 'What are the driving forces in the REDD+ regulatory process?'**

In chapter II the external and internal drivers of forest degradation and deforestation were discussed. External drivers, brought by international actors and activities, such as development and economic interests, market demand for timber and timber products, gap in timber's supply and demand, strong demand and high prices for estate crop and mining commodities has caused as many problems as internal drivers. Internal drivers, on the other hand, are drivers that are internally developed by actors and activities in Indonesia. They are: community reliance on natural resources, population growth and its ramifications, unclear tenure, political interests, discrepancies of legal frameworks on forestry and poor governance and forest resource management. Each one of them caused more disturbing activities which led to more massive forest degradation and deforestation. Hence, it is sufficient to say, that external and internal drivers of forest degradation and deforestation are also the driving forces in the REDD+ regulatory process.

But are there more specific driving forces in the REDD+ regulatory process? Based on the elaboration in chapter II and chapter III, there are some specific drivers worth looking into. They are:

## 1. Competition between Agencies

In Chapter III the roles and the institutional networking in REDD+ were discussed. Each of the agencies thinks that they have the most important role in REDD+ issues in Indonesia and 4 out of 5 agencies would like to be the one who ‘coordinates’ line ministries and stakeholders in REDD+. Make no mistake this is not a conflict per-se; they do not argue in public as gruesomely as KPK and law enforcement agencies. But it is clear that the agencies are competing with one another.

The MoF thinks that REDD+ should be under their coordination since 85% of the MoF workplan is covering REDD+<sup>279</sup>, BAPPENAS thinks that they are the ones who will have to translate all the REDD+ plans into activities in order for each activity to get into their budget, so BAPPENAS should be the leading agency in REDD+<sup>280</sup>. The MoE is equipped with RAN-GRK (National Action Plan of Green House Gasses Emission Reduction) and MRV’s authority, so they think they will be the one who will be able to verify results of REDD+. Unlike any other party, MoE is ‘independent’ of interests, so they should be the one who coordinates REDD+ issues and networking<sup>281</sup>. REDD+ Task Force has the authority from the President (with Presidential Decree No.25/2011) to coordinate REDD+ issues and networking in Indonesia. It is their job to talk and work with line ministries as well as stakeholders. The only governmental body who seems to be out of the competition is the DNPI (National Council of Climate Change). They seem to know full well their authority, and as a conciliatory body, they do not want to

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<sup>279</sup> Interview results, May 20, 2012.

<sup>280</sup> Interview results, May 30, 2012.

<sup>281</sup> Interview results, June 6, 2012.

compete with regulatory bodies<sup>282</sup>. They also think it is good if the REDD+ Task Force can manage to coordinate with line ministries, since REDD+ issues are very high profile and sensitive<sup>283</sup>.

Geradin & McCahery's co-opetition's theory seems to match this situation. The competing agencies are in a horizontal line, which means that they are in the same 'level' of governance, and they are competing with each other on a specific issue. The coordination part of the networking is also there, although still in a very early form. The REDD+ Task Force is comprised of 10 working groups in which line ministries officials are included in the WGs. Coordination and consultation meetings are also regularly organized by the Task Force. The positive side of Indonesia's REDD+ agencies co-opetition is that all agencies perceive that REDD+ is an important issue which has to be prioritized. Their involvement and ownership of REDD+ regulatory process is evident, and this provides a good momentum for Indonesia.

On the other hand, with all the competition and somehow lack of coordination, the REDD+ issues management is a bit chaotic. Each agency is trying their best to come up with their own regulations and/or actions, and in the end it is the public who feel the confusion. In all, the co-opetition between governmental agencies can be beneficial for the public if all elements in the government are willing to work together, be coordinated and under the same standard of ethic. The old practice of sectoral-ego, individualism and corruption should not get in the way of REDD+ implementation.

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<sup>282</sup> Interview results, June 9, 2012.

<sup>283</sup> Interview results, June 9, 2012.

## **2. Incentives and Prestige**

Agencies are also competing for incentives. These incentives come from local, national and international sources. REDD+ is a very high profile activity, both inside Indonesia, and internationally. The UN Secretary General, US Secretary of State, the Prince and Princess of Norway visited the pilot province of REDD+ in Central Kalimantan in 2011-2012 and that is very high profile for Indonesia. The incentives from the REDD+ regulatory process is not just in terms of monetary value, but also in terms of ‘prestige’ for the achiever.

Nationally, the President of Indonesia is also very eager in ‘keeping track’ of his agencies. This is why UKP4 was established. To have measurable targets, the President set up on Dec. 8, 2010, the Presidential Working Unit for Supervision and Management of Development (UKP4), headed by *Kuntoro Mangkusubroto*, who is currently also the head of REDD+ Task Force. The UKP4 is keeping the ‘scores’ of agencies and ministries and reporting them to the President. The report is then annually publicized to the public, so that they will know which ministries are performing well, and which ones are under-performing. The performance evaluation has created quite a stir in the ministries, and they all are trying the best they can to measure up to the targets.

Internationally, the foreign donors are also keeping track of the ministries’ achievements. They are using not only national reports (including Indonesia’s performance evaluation for agencies), but using test cases of projects in relevant agencies. If their projects are well looked after and everything is according to the workplan, the donor will be eager to spend more commitments with the relevant agency. But if there are signs of failures, donors will think twice about collaborating further with the respective agencies.

## **3. Transparency and Accountability**

With media transparency, all of the agencies' behaviors are publicized. The public are reading and watching intensely the performances of the agencies in Jakarta. This 'prestige' of being a well performing agency means a lot to agencies' officials, including line ministries in REDD+, which paved the way for regulatory process in terms of multi-stakeholder consultation readiness, facilities and media exposure (and publications). The more documented their achievements are, the more recognized they are in the public eye. This then leads to accountability of the agencies to the public and to the president, donor organizations and other stakeholders.

Understanding the importance of transparency and accountability, all of the 5 institutions researched have already upgraded their publications in terms of journals and websites. Since some of the data are not frequently updated, this makes it hard for researchers to acquire data from their websites.

It is important to note that there are some agency practices which slow the REDD+ regulatory process. Based on the field observation, they are:

1. Some agencies recognize REDD+ as a BAU (Business As Usual), not something new that they have to work extra hard for. REDD+ is considered just another issue with new 'clothing' so everything around REDD+ has to be prepared accordingly. Some of them think that REDD+ needs to fit in with existing policies, red tape bureaucracy, which are complicated and slow. For example, budget development is based on long term planning, and all strategies and activities have to have a 'slot' in this long term planning, in order to get a budgetary slot. Changes in this process by some of the agencies is viewed as 'impossible' or 'a very hard thing to do'. There are a portion of the agencies who are

more resilient and accept REDD+ as a challenge and not a problem, but in some agencies, the old way is still considered the best way. This is alarming, in the sense that the mental change sought by the REDD+ Task Force will be hard to achieve if this attitude does not change.

2. Sectoral ego and the old habit of corruption are still dominating the agencies. Although changes are happening, the two main problems of coordination between agencies in REDD+ still exist. Some of the agencies feel that they are better than others, more entitled to be coordinating REDD+, or simply know more of REDD+ than other agencies.
3. Limited understanding of REDD+. Some officials in the agencies have limited understanding of REDD+. They treat it as another projector activity, without giving more thought to and understanding of the substance of REDD+. This is dangerous because these agencies are the regulatory and policy makers, hence they need to completely understand what REDD+ is, its course, its implementation and its impacts.

### **III.2. Sub-question two: ‘How do the case studies projects influence the regulatory process in the agencies?’**

The answer is based on the measurement results from the case study projects. They are: (1) **High and Very High conditionality of funding from the donors.** This was measured by their based agreements (multilateral agreement for UN-REDD, and LoI for REDD+ Task Force). These agreements have very strict requirements, in terms of outcomes to be achieved, time line

and most important, the projects' performance. The projects are setting standards of performance which were agreed on by the GoI, and hence had also been agreed on by relevant agencies. This means that the demands of the 'expected projects' achievements are not only on the projects per se, but also tightly tied to the performance and contributions of relevant agencies. If the relevant agencies declined to work together or to contribute to the donor projects, it will be impossible for the donor projects to be able to reach their expected outcomes and achievements.

**(2) Donors' involvement in the decision making of the project.** In both projects, the donors' involvement in decision making is considered high. The UN Resident Coordinator is the co-chair of UN-REDD's Project Executive Board (PEB), the Board which makes the final decision on important activities, budget, workplan and M&E reporting of the UN-REDD Indonesia. On the other hand, Norway, as the main donor in REDD+ Task Force, although giving 100% trust to the GoI in managing the program, explicitly in the LoI, retains the rights to contract an independent reviewer to monitor the development of the program. The continuation of the support will be based on the performance (evaluation) of the program. The projects are setting high standards for relevant agencies because each of the decisions made has to be agreed upon their own management in the agencies as well as the projects.

**(3) Monitoring and Evaluation activities (M&E).** Both projects are administratively tied to UNDP's rules and regulations for M&E. The Project Management Unit has an obligation to organize M&E in the periods of time agreed on by the project's PEB. Additionally in the REDD+ Task Force, Norway organizes a program's review conducted by an independent reviewer for each phase of the program. This clearly shows how careful and meticulous the

donors are in checking on their projects and controlling the performance of the projects. Since both UN-REDD and the REDD+ Task Force are working with the government, the M&E of each project also shows the work of relevant agencies that are working together. The projects are bringing more transparency and accountability to the activities of the agencies, at least the ones that are involved in the projects' activities.

**(4) Activities allocated for preparation of REDD+ regulatory process in Indonesia.** This is an important indicator because preparation activities are vital in the regulatory process. Paving the way for the regulatory process has as much importance as the regulatory process itself<sup>284</sup>. UN-REDD is assisting the GoI in reaching REDD+ preparedness, so all of its activities are allocated for the preparation of the REDD+ regulatory process. The REDD+ Task force is within the GoI and preparing the infrastructure for the REDD+ Agency. Hence, what is supported by the donors are vital stages of the regulatory process in REDD+. These projects are gearing the work of REDD+ institutions to REDD+'s regulatory process readiness.

All of these are then explained and completed with the Dependent Variable, which is the **involvement and ownership in the relevant agencies to the REDD+ issues**. For each indicator in the Independent Variable will mean nothing unless it is evident in the Dependent Variable's indicators as the receiving point in the spectrum. In this research, it is proven that relevant agencies involvement and ownership of REDD+ issues resulted in measurements of overall indicators to be 'high'. The first indicator, 'contribution of agencies to project's budget' was shown to be 'low', because both of the case study projects are fully donor funded projects which needed no monetary contribution from the host government. But other indicators, such as the

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<sup>284</sup> Interview results, June 7, 2012.

‘bureaucratic change in relevant agencies’, as well as the ‘time and human resources allocated by the agencies’ for both projects measured either ‘high’, ‘very high’ or ‘medium high’. This just shows that even though the agencies are not giving monetary input on the budget, they are willing to accept bureaucratic changes in REDD+ networking and contribute time and human resources to the projects and to REDD+ activities.

This is an important point for Indonesia’s awareness of REDD+. The agencies have shown that they are aware that there is a change of mentality needed to conduct REDD+. As said previously, the elephant in the room is corruption in the forestry sector. The formation of the REDD+ Task Force (which will dissolve to be the REDD+ Agency) is an alternative step to bypass the existing administration in the forestry sector in order to protect the REDD+ funds from corruption activities. The fact that the agencies accepting the existence of the REDD+ Task Force is a major step forward for a mentality change in the forestry sector. The next step then is to eliminate all corrupt behaviors in REDD+ related governmental agencies. Some of the steps have been taken by the GoI: among others, the enactment of the Moratorium Decree, and the legal enforcement working group’s efforts in the REDD+ Task Force.

### III.3. Main Research Question

The discussions above leads us to the main question of this research: ‘How and Why REDD+ Issues in donor projects influence Indonesia’s REDD+ Agencies’ Regulatory Process?’

Part of the answer to ‘**HOW**’ REDD+ Issues in donor projects influences Indonesia’s REDD+ regulation is discussed in the answer of sub-question two. The donor projects’ influence on REDD+ regulatory process is **firstly**, through conditionality of funding of the donor projects.

The donors can put tight framework agreements with the host government to make sure that host

government will follow the framework of the project. In the case study project, it is clear that the project documents contain clear and firm clauses on the activities, workplan, timeline, expected outcome and expected achievements of the projects. Performances of the projects are highly measured. Since these performance evaluations are closely tied through work and contribution with relevant agencies, it is inevitable that the performance of the relevant agencies is also exposed and measured. Although, in both of the case studies it has to be underlined that the GoI is thoroughly on-board with each articles of the agreement. In ‘Protecting Our Forest: Moratorium on Forest and Peatland, a Radical Policy’, Agus Purnomo states clearly that every single article in the LoI Indonesia-Norway is a product of agreement between the two countries<sup>285</sup>. The detailed targets were even volunteered by GoI, and GoN gave trust that GoI will be able to meet those detailed targets.

**Second**, through the decision making in the projects. Donors, like it or not, have the final ‘say’ in the decision of the donor projects, including the lifetime and termination of the projects. How does this influence REDD+ regulatory process? When the project is an aspirant of what will become an important agency in Indonesia, the decision making in the project becomes extremely important. Although in the case of the REDD+ Task Force it is clear that the donor gives its 100% trust to the GoI, it does not preclude the chance that the lifetime and termination of the project is still in the donor’s hand.

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<sup>285</sup> Purnomo Agus, *supra*.

**Third**, through M&E activities of the donor projects. The involvement of donors in the donor project's M&E activities is important because the donor can measure the performance of the projects. Their measurement would have an impact on the decision of whether or not the current project is worth continuing. This influences the agencies because of the fact that activities conducted by the case study projects are direct activities done together with the agencies, or within the agencies. M&E in the donor projects would surely also look at how the agencies are working.

**Fourth**, through activities allocated for preparation of REDD+ in the donor project. This is important because, as reiterated previously, the preparation of REDD+ activities is paving the way for the regulatory process in the agencies. Consultation meetings, stakeholder meetings, disseminations, REDD+ FPIC guideline compilations, are some of the examples of the activities. Donor projects are very instrumental in the preparation activities, and somehow they are able to set the agenda for the regulatory process. On the positive side, this is expediting the works of REDD+ related governmental agencies. The ground work has already been done by the donor projects. What is now needed from the agencies is to boil down the regulations. On the negative side, if the agencies are not totally involved in these preparatory activities, there is a chance that the donor projects, as external pressures, will be able to steer the outcome of the regulatory process. According to this research however, the case study projects always involved the governmental agencies in each of their preparation activities.

**Fifth**, the inclusion of NGOs in the regulatory process. The environmental NGOs in Indonesia are a strong group comprised of academia and experts in REDD+. Most of them are funded by

international donors (countries or organizations). The inclusion is both from the GoI side and from the donor project side. The GoI is increasingly involving civil society in the international agreements process and development, providing technical assistance to agencies in public consultation process<sup>286</sup> as well. The civil society also understands that working with governmental agencies can have its own benefit to achieve their personal agendas, as well as for the Indonesian public at large. In the donor's eyes, involvement of civil society is very important. In some cases, the donor will ask for a proof of civil society involvement before agreeing to support any commitment with the host government. In both cases in the study, the involvement of civil society is evident not only in the high level areas, where members of NGOs are working hand in hand with GoI officials in the REDD+ Task Force working groups, sending a statement to the President to be included in the LoI<sup>287</sup>, but more importantly in the grass root areas, where NGOs become the focal points with GoI local and regional officials in coordinating community meetings and consultations.

### **Box No. 03. Points in AMAN's Letter to President SBY\***

The Secretary General of NGO called AMAN (Indigenous People Alliance of Archipelago), Abdon Nababan wrote a letter to the President of Indonesia, SBY. The letter explained that, AMAN considers the Indonesian government as already actively participating in building international standards, both in issues of human rights and in the issue of sustainable development, which among others encompasses the issues of indigenous people. And, most important is the ratification of the UN Convention

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<sup>286</sup> Interview results, June 3, 2012. Excerpt: "Involving NGOs' personnel in GoI's activities is used to be a 'taboo' prior to the reformation era. It was taboo because NGOs were considered outsiders, radical and finger pointers to GoI's mistakes. But after reformation era, around the year of 2000, GoI is more open and willing to include NGOs. The NGOs themselves are also improving; they are more collaborative, open minded and willing to work together with the government, not just finger pointing".

<sup>287</sup> AMAN, the Indigenous People's Alliance (Aliansi Masyarakat Adat Nusantara), wrote a letter to the President of Indonesia, to highlight the existence of rights and strengthening indigenous people's effective participation in the context of achieving a reduction in carbon emissions through the REDD scheme and developing a low carbon economy in Indonesia, in relation to plans for that cooperation.

on the Elimination of All Forms of Racial Discrimination (UN CERD) and the UN Convention on Biodiversity (UN CBD), and also important is the support of the Indonesian government in endorsing the UN Declaration on the Rights of Indigenous People (UNDRIP), although with an important note on its implementation in Indonesia, taking into account that nationally there is not yet a means of identification or fixed definition regarding who is called an indigenous people in Indonesia.

\*This letter is attached in the LoI Indonesia-Norway, and had a major impact in the wording of the LoI.

Source: Purnomo Agus, PROTECTING OUR FOREST: MORATORIUM ON FOREST AND PEATLANDS, A RADICAL POLICY, (Jakarta, 2012).

Part of the answer to **‘WHY’** REDD+ Issues in donor projects influence Indonesia’s REDD+ regulation was also partially discussed previously. The answers to this question are similar to the driving forces of REDD+ regulatory process.

It is clear that there are external and internal reasons why REDD+ issues in donor projects influence Indonesia’s REDD+ regulations. Just like the driving forces for REDD+ regulatory process, the driving forces of donor projects influence on the REDD+ regulatory process revolves around the forestry sector and its governmental agencies in Indonesia. It is clear that the agencies are competing between themselves. They are trying to prove to the President, the donor, the public and all relevant stakeholders that they are the most competent agency to run REDD+ issues. This is good, because this horizontal competition is increasing the working standard of the agencies. On the other hand, this can also be damaging if the sectoral ego also increases and the competition heightens to a conflict. So far the agencies' competition is still a healthy one, and what is missing in the competition is strong coordination. The REDD+ Task Force has been trying to take the reins and control the REDD+ Issues coordination and networking, with time and more prominent legal background in the future (as a REDD+ Agency). So far, ‘regular’ donor projects, such as UN-REDD, can only work with the

government to pave the way to regulatory process. They help create a conducive environment for the REDD+ regulatory process to take place. But, a specific project, such as REDD+ Task Force, although operating with donor funding, it is working in the heart of the REDD+ regulatory process. This is where the donor has full influence in their project. It has to be noted, however, that in the REDD+ Task Force case, the GoI has full control of all substances and the regulatory making. The main donor, Norway, given its 100% trust to the GoI to run the project. Hence, although there is no denial of the existence of external pressure as a donor is there, still the control of the regulatory process in REDD+ is held by Indonesians.

**Second**, this agency competition is aimed to get incentives and prestige. The incentives and prestige can come from different sources, including the public (directly or through media), the government/President and external actors like donors. The more they impress these parties with their achievements in REDD+ issues, the more likely they will be getting incentives (such as monetary reward or projects as an activity reward) and prestige (in the forms of awards, recognition, promises for future collaborations, etc). Donors understand this, and they also understand that Indonesia is still considered a corrupt country. So through their project, donors are trying to infuse values such as ‘transparency’ and ‘accountability’. They are hoping that these values start from the funded projects, then spread to others who are working on the project. It is also clear that the President is encouraging transparency and accountability. So it seems like between the GoI (the President) and donors there is a common understanding on how to eradicate corruption in Indonesia.

**Third**, as mentioned in Chapter I, Indonesia is a vast country, with the second largest tropical forest in the world. It is holding the lungs of the world. And, it is a developing country that is hungry for development activities. The fact that Indonesia's GHG emission is mostly derived from land use and land use change (LULUCF) reflects that most GHG emissions come from forest degradation and deforestation. This is also why donors are so enthusiastic to work with REDD+ issues in Indonesia and to conserve forests in Indonesia.

Moreover, there are external drivers and internal drivers of forest degradation and deforestation which are also part of the reason why REDD+ issues influence Indonesia's REDD+ regulatory process. The external drivers are brought by international actors and activities, such as development and economic interests, market demand for timber and timber products, gaps in timber supply and demand, strong demand and high prices for estate crop and mining commodities have caused as many problems as internal drivers. Internal drivers on the other hand, are drivers that are internally developed by actors and activities in Indonesia. They are: community reliance on natural resources, population growth and its ramifications, unclear tenure, political interests, discrepancies of legal frameworks on forestry and poor governance and forest resource management. Each one of them caused more disturbing activities which led to more massive forest degradation and deforestation. Hence, it is sufficient to say, that external and internal drivers of forest degradation and deforestation, are also the driving forces in the REDD+ regulatory process.

#### **IV. Conclusion and Discussion on the Hypothesis**

The hypothesis for this research is: “The regulatory processes in the agencies are influenced deeply by external pressures. High level of external pressures influence the regulatory process in government institutions; and in REDD+ situation, this creates a higher degree of ‘buy-in’ by governmental agencies”. This buy-in can be seen in the ownership and involvement in the projects and in the REDD+ regulatory process. External pressures in this dissertation are mainly focused on donor projects.

The first leg of the research’s hypothesis is to determine the existence of external pressures in the form of donor involvement in the case study projects. All the measurement values in the Independent Variable or REDD+ Issue as an external pressure have measured as either ‘high’ or ‘very high’. This means that in the case study projects, it is clear that there are high and very high external pressures in all four indicators: (1) conditionality of funding; (2) decision making of the projects; (3) M&E activities; and (4) Activities allocated for preparation of REDD+ in Indonesia. In all those indicators, the research has found that a form of external pressure, in this case donor project involvement is high and/or very high.

The second leg of the hypothesis is to see whether the regulatory process in the agencies (in this case the involvement and ownership) is influenced by the donor projects as external pressures. As seen in the previous discussion and tables, each indicator in each case study differs in their measurements. For UN-REDD, with all ‘high’ external pressures, the contribution in the budget by relevant agencies is measured as ‘low’ and bureaucratic changes in agencies are measured as ‘medium high’. In this case it is not immediately seen in the measurements that the external pressures really influence the involvement and ownership of the regulatory process by relevant

agencies. But aside from the contributions of budget, and bureaucratic change in the agencies, other types of contribution such as time and human resources allocated for the project are measured as 'high'. In the interview it is clear that all agencies feel that they are involved and they also own the REDD+ issues. This can be seen on the list of legal products that they have enacted. It is significant that they might not have available budgets to contribute to the projects and that bureaucratic change is happening slowly, but it is apparent that they are committed to REDD+ issues through the time allocated and human resources delegated for the REDD+ issues.

The REDD+ Task Force case is a little different. All indicators of regulatory process' involvement and ownership scored 'high' in the research, except for the budget contribution. It is sufficient to say that the momentum of REDD+ Task Force establishment since 2009 is still high and continuously growing in Indonesia. Most of the line ministries are eager to work with the Task Force and, in fact, they dedicate a 'high' value of time by allocating human resources as part of the REDD+ Task Force. The agencies also understand that the REDD+ Task Force is a part of bureaucratic change in REDD+ in Indonesia. The fact that this task force will dissolve into the permanent REDD+ Agency in the future, with high authority to coordinate ministries, compile and construct legal instruments, even expedite law enforcement, is highly understood and accepted by the agencies.

Based on these observations, the study shows that the involvement and ownership in the REDD+ regulatory process of the agencies is influenced by the donor project as external pressures. **The right measure of external pressure gives just the right encouragement for the regulatory process to escalate.** The agencies are willing to provide time and human resources to work on

the donor projects. The agencies also are accepting the fact that the REDD+ Task Force will be replaced by the REDD+ Agency—and they support this idea by willingly assigning an/some officers to work in the REDD+ Task Force’s working groups. Moreover, the agencies are sharing more information and workload between each other, either through the working groups in the REDD+ Task Force or directly to each other.

It is interesting to see that these two projects work an overlapping time period and the fact that they work together means that they enrich the intra-governmental co-operation in the REDD+ regulatory process in Indonesia. UN-REDD is preparing the ‘stage’ for line ministries in the REDD+ regulatory process, and the REDD+ Task Force is orchestrating the ‘stage’. UN-REDD is providing technical assistance, regulatory process preparatory meetings, such as consultation meetings, multi-stakeholders meetings, paving the way for the agencies to start the regulatory process. It is always supporting REDD+ activities of governmental agencies, such as MoF, BAPPENAS, MoE, even the REDD+ Task Force. On the other hand, the REDD+ Task Force is one of the players in the REDD+ regulatory process. As it will become the REDD+ Agency, it will be capable of making regulations, enforcing legal norms and coordination of all the REDD+ stakeholders. Although it seems like the external pressures in terms of donor projects seems to be accomplishing a lot in the REDD+ sector, the truth is, the final say in the regulatory process in the agencies still lies with the agencies’ personnel. The project, such as UN-REDD, does not have any leverage to be included in any regulatory process, which is why UN-REDD’s strategy is to assist the government. The REDD+ Task Force, as a unique entity, has almost 100% independency with the donors, in terms of the regulatory process. It has the full trust of the GoN, the main donor, and also from the President. The reporting from the Head of REDD+ Task Force

is more a formality than anything else. So, in terms of independency in making its own regulations and decision, the GoI is still on the right track.

Aside from that debate, does external pressure influence the regulatory process in Indonesian REDD+ agencies, in terms of involvement and ownership? Yes. This can be seen in the willingness of the agencies to work together, the under REDD+ Task Force. They appoint their best men/women to sit and work within the REDD+ Task Force, and moreover, in their own agencies they also contribute time and effort to work on REDD+. According to the observation so far, there is no objections in using donor's support for agencies' development, as long as everything is written down clearly on the agreement, and that each word written in the agreement is consented to by both government and there is no force involved.

These relevant agencies, namely BAPPENAS, MoF, MoE, DNPI and Satgas REDD+ are taking the REDD+ issue very seriously. The MoF for example, emphasized that they have been 'dealing with REDD+' issues, even before IPCC and UNFCCC came up with the term of REDD+<sup>288</sup>. A similar sentiment was also expressed by BAPPENAS and the MoE. Their regulatory process is also deeply influenced by external pressures in REDD+ Issues. Their regulatory process is also deeply influenced by external pressures in REDD+ Issues. This can be seen in the activities taken prior to the regulatory making process, such as preparation meetings, consultation meetings and multi-stakeholders meetings of which most are funded by donors.

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<sup>288</sup> Interview results, October 21, 2011.

It is important to note, that the regulatory process itself has grown from an ‘isolated’ process with top-down system, into a more ‘public’ process, paying more attention to what the public needs, and for some specific REDD+ policies, being made possible because of external pressures. The Moratorium decree<sup>289</sup>, for example, had been advocated and discussed by NGOs, academia and the public 20 years ago. Discussion, public debates and articles (in newspapers) have been written on this issue. Recently, this moratorium policy was inserted into the LoI of Indonesia-Norway, and not long after that, the Moratorium Decree was enacted. The GoI has continued to emphasize that the moratorium policy is aimed at creating a time to pause to improve forest and peatland management as a manifestation of a low carbon emission development strategy and that the moratorium policy was not made simply to fulfill the LoI<sup>290</sup>.

There are more questions and discussions recorded in this research, even more far-reaching than the research questions. More of this will be covered in the later chapter of this dissertation.

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<sup>289</sup> The Moratorium Decree is a ‘nick name’ for the Presidential Instruction (Inpres) No. 10/2011 on the suspension of new permits for primary forests and peatlands.

<sup>290</sup> Purnomo Agus, *supra*.

## **Chapter V**

### **CONCLUSION AND DISCUSSION**

#### **I. Conclusion**

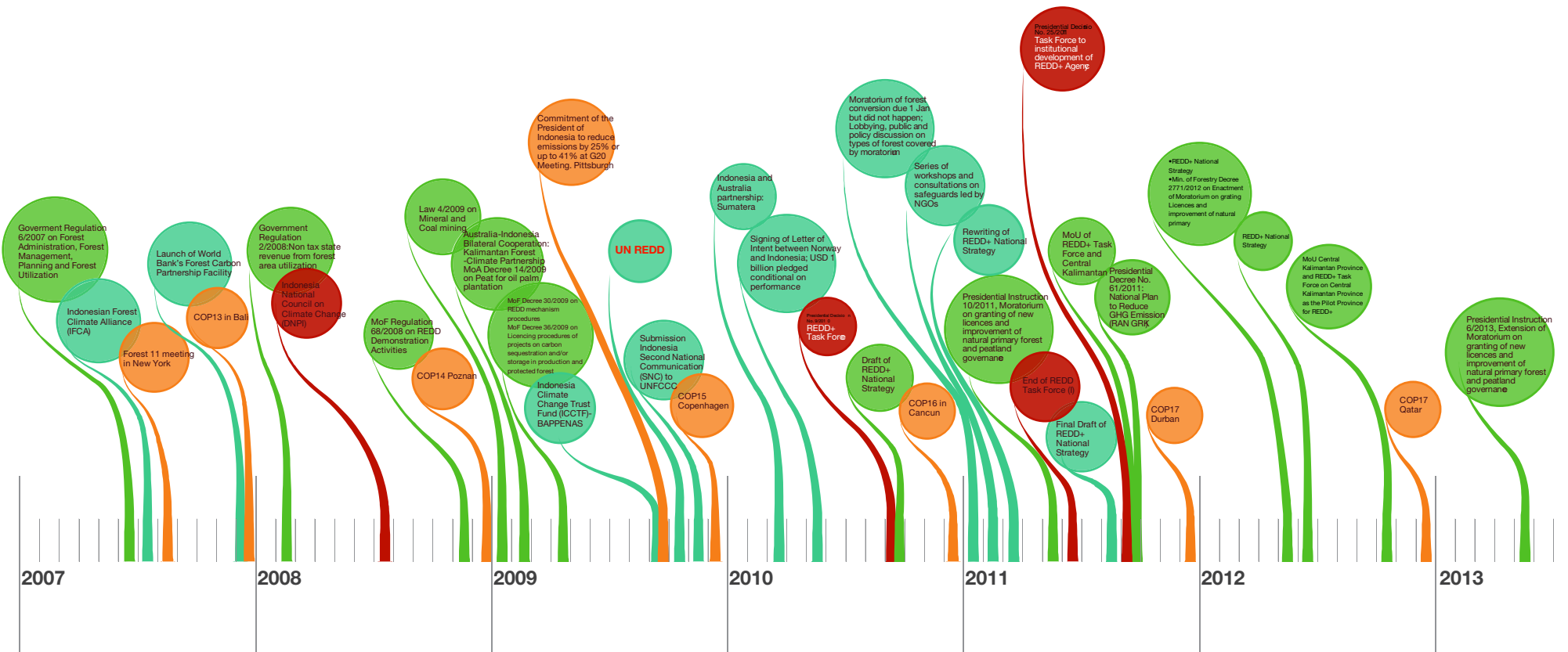
In Indonesia, the regulatory process of REDD+ has increased dramatically during the last six years, in concurrence with many bilateral and multilateral agreements made in REDD+. Not only external pressures are giving a boost to Indonesia's regulatory process, but Indonesia is also influencing the international world with its perception, acceptance, performance and achievements in REDD+. This indicates that what is happening in the REDD+ world is certainly a dialog, not a monolog. As can be seen in the figure no.11 'Timeline of REDD+ regulatory process in Indonesia', the intensity of the regulatory process and enactment is as rigorous as the collaborations of the donors, and establishment of national institutions. International activities, international agreements are in sync with donor collaboration projects and GoI efforts in regulatory making.

This research reveals that external pressure - in the forms of donor projects - do exist in Indonesia's REDD+ regulatory process. This is seen clearly written in the basic agreements of case studies. The terms of agreements show clearly that the donors have the final say on the projects, including the conditionality of funding, monitoring and evaluation activities as well as organizing activities for REDD+ preparations. It is, however, interesting to see how this external pressure plays out in the case studies. Many think that since Indonesia is one of the world's main players in REDD+, the donors will have to 'follow' Indonesia's terms on REDD+ projects. Instead, the GoI is very flexible in understanding the donor's perspectives in the donor projects. The multilateral agreement of UN-REDD and LoI Indonesia-Norway are clear examples of how

the GoI shows its flexibility and leniency in carrying out REDD+ projects. However, the donors in the case studies do give full trust to the GoI in running the projects. In terms of the REDD+ Task Force, the GoN emphasizes this many times: as long as the project goes according to the LoI and the President agrees with the REDD+ Task Force, the GoN will always support the project.

As can be seen from the figure (no.11), there are many REDD+ regulations and policies enacted in the past five years. Most of them were made directly after international agreements, UNFCCC Conference of Parties, or within donor projects' activities. The research shows that there is definitely an influence of donor projects as external pressure on Indonesia's regulatory process in terms of involvement and ownership in Indonesia's REDD+ agencies. The donors are involved in the decision making of the projects, as they are sitting as Project Executive Board members or as a member in the project's working group; and they contribute to the projects in the form of time and human resources. In return, the projects' activities are setting the stage for the regulatory process for these agencies. The UN-REDD case, for example, engaged in REDD+ preparation meetings, such as collaboration meetings, coordination meetings, REDD+ dissemination activities, pilot projects preparations and FPIC guideline compilations.

Figure No. 11. Timeline of REDD+ Regulation



This case study was working outside of the regulatory process to set up the ‘stage’ for governmental agencies. The hopes are, after UN-REDD winds down and all of the preparatory process is done, REDD+ agencies will then be ready to start the REDD+ regulatory process and implementation.

In REDD+ Task Force’s case, the project itself is a governmental agency that is involved in the regulatory making. Currently there is a working group in the REDD+ Task Force whose sole focus is on legal review and enforcement. This working group is reviewing and pushing regulation amendment and/or regulation annulment in relation to deforestation and forest degradation, moratorium, licensing, conflict resolution and tenurial problems. The REDD+ Task Force is designed as the core of REDD+ networking as well as the ‘engine’ for REDD+ legal enforcement in Indonesia. It is working with the police (POLRI), prosecutors’ office (*Kejaksaan*), Anti-corruption Commission (KPK), MoF, Tax Office and MoE. This Task Force, which will become REDD+ Agency in Indonesia, is considered as a very strong body under the president. Not only will it have the power of regulatory making and coordination among line ministries, it will also have the power of law enforcement for REDD+ related cases. The involvement of donors in the REDD+ Task Force is considered temporary, until the task force is became a REDD+ Agency<sup>291</sup>. Once the Agency is established, it will be supported by Indonesia’s country budget, just like the rest of the other agencies in Indonesia.

Imagining a donor’s involvement in the regulatory process can be a confusing picture for other countries. In Indonesia, however, there is a story behind it. Why does Indonesia need donor

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<sup>291</sup> Interview results, June 12, 2012.

involvement in making a new (powerful) agency? Will this Agency be successful and sustainable? Is it worth replicating this model in other sectors?

## II. Discussion

There are many questions which arose during the research, some of which will be discussed in this section. The answers to these questions are anecdotal, mainly because these questions are not included as research questions, and they were not designed to be measured in this research. However, I think it is important to discuss them, because they have far-reaching impacts on Indonesia's REDD+ in specific and Indonesia's bureaucracy in general.

Excerpt from an interview stated this dilemma very clearly<sup>292</sup>:

*“This is very Indonesian. [They are] Trying to be nice. I do not know why we do this, but we keep on doing this. Remember PPATK? Remember KPK?<sup>293</sup> They are also super bodies under the President who are supposed to be independent, reduce corruption from existing agencies, so Indonesians can go on with their lives. And now we have REDD+ Task Force. How long are we going to keep reducing head-on struggle with our own agencies? Why not deal with them directly? Are we that afraid in losing our own powers?”*

There is a perception that donor countries ‘need’ REDD+ more than Indonesia does, and as a result, the Indonesian Government is in a strong position to reject any conditionality applied to REDD funds. Especially in view of the fact that the total funding for REDD+ is small compared to forest and land use business income in Indonesia. In practice, however, this does not happen. The GoI is very lenient with donor's requests and is always trying its best to accommodate

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<sup>292</sup> Interview results, June 12, 2012.

<sup>293</sup> PPATK is the Indonesian Financial Transaction Reports and Analysis Center/INTRAC, and KPK is the Corruption Eradication Commission. Both are super bodies operating directly under the President's order. They were formed in 2002, both were formed with donor funding to bypass red-tape and corrupt behavior bureaucracy. Both PPATK and KPK still exist in Indonesia, and there are no signs of them winding off, since they are still highly needed in the country.

them. For example, in the formation of LoI Indonesia-Norway, the GoI even volunteered to put down all the details of the targeted activities. There is a common understanding between the donor and the GoI that if everything is written down on a piece of paper, formally agreed by the President of Indonesia and witnessed by another country/ies, the activities will gain more momentum, both nationally and internationally. **Why does the President need momentum to manage his own government?** This was not part of the research questions; however, often the answers to the question came up during the research.

The anecdotal answers reflected several reasons. First, the ministers heading the agencies are appointed by the President, but based on the nomination of political parties<sup>294</sup>. These political parties were his allies and supported him during the presidential election<sup>295</sup>. Each of the ministers has very strong backups, politically<sup>296</sup>. This in turn, creates difficulty for the President to manage his ministers. Second, apart from the ministers and heads of agencies, those existing institutions are highly corrupt. They are so used to the old way of doing business, with grease money for licensing, grease money for illegal logging, for everything<sup>297</sup>. And those practices have become very systematic hence it is hard to directly eradicate them from within the agencies<sup>298</sup>. Therefore, external momentum becomes very important for the President to show the rest of his government that he has ‘back up’ in the international forum. If we look closer, this is exactly what happened with the REDD+ Task Force and LoI Indonesia-Norway.

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<sup>294</sup> Interview results, May 22, 2012.

<sup>295</sup> Interview results, May 29, June 12, 2012.

<sup>296</sup> Interview results, May 22, June 12, 2012.

<sup>297</sup> Interview results, May 22, June 12, 2012.

<sup>298</sup> Interview results, May 29, June 12, 2012.

Understanding the hardships and high level of resistance if the President was going to eradicate corruption directly in the Agencies, the President and his aides decided to create a loophole by making an international agreement with a willing donor<sup>299</sup>, in this case GoN. It is inevitable that the GoN knows of the corrupt activities in Indonesia and that they asked for an ‘international or multi-lateral organization’ to manage the donated funds<sup>300</sup>. After thorough collaboration between the GoI and the GoI, both agreed on using an ‘internationally reputable organization’ to manage the fund. Then the LoI also made it clear that Indonesia has to form an REDD+ institution. Logically, the President does not need a LoI to make a new agency in Indonesia; it is in his prerogative to decide, form and enact a necessary agency under his presidency. But the difference in this REDD+ Task Force is that the President wants the Task Force to be totally independent from other agencies (at least in the beginning of its existence)<sup>301</sup>. Hence the REDD+ Task Force operates under the donor’s funding for the first years of its existence, totally independent of other agencies, and has the ability to recruit its staff from outside governmental agencies.

Norway, as the donor in this case, was insisting that the LoI include details of the structure of the REDD+ institution which was going to be established in Indonesia<sup>302</sup>. But during the negotiation, the GoI explained that the Institution will be formed in accordance with Indonesian

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<sup>299</sup> Interview results, May 22, 2012.

<sup>300</sup> Purnomo Agus, *supra*.

<sup>301</sup> Interview results, June 12, 2012.

<sup>302</sup> Purnomo Agus, *supra*.

regulations and it cannot be included in the LoI<sup>303</sup>. However, the GoI delegates stressed that the institution would be independent, outside of the structure of existing government institutions and would report directly to the President<sup>304</sup>.

Third, it is clear that with a push such as LoI Indonesia-Norway, the authority is in the President's hand and no one else's. This power is exclusively for the President and he is in total control of this agency. This is a slippery slope for Indonesia, since the Task Force is formed by the President, is only answerable to the President, and holds such important power in the sector. If the President is a trust worthy person, then this agency will also be dependable and accountable. But if the President is not trust worthy, then this agency will be hard to control by anyone else.

The next question would be: will the new agency be able to achieve success for REDD+ implementation, and be sustainable in Indonesia? There are several issues to be discussed in this regard.

The success and sustainability of REDD+ Agency will depend, among others, on<sup>305</sup> :

- (i) A strong and clear legal framework for a REDD+ Agency. Currently the REDD+ Task Force is working with a Presidential Decree as its legal background. As good and sound as a Presidential Decree is, when the president is changed, there is a good chance that the task force can also be changed or demolished. A strong legal

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<sup>303</sup> Interview results, June 12, 2012.

<sup>304</sup> Purnomo, *supra* pg 19.

<sup>305</sup> Interview results, May 29, 2012, June 1, 2012, June 12, 2012.

framework, such as an Act or Law (Undang-undang), will guarantee the existence of a REDD+ Agency in the future. This is where the GoI needs to start involving the Parliament (MPR/DPR) in REDD+ issues. The more the parliament is involved, the more they can understand and assist in furthering REDD+ issues;

- (ii) its performance and professionalism in the regulatory process, and coordinating REDD+ related agencies, without being ‘dragged’ into the old ways of corruption. The design of the REDD+ Agency is grand and noble, but one has to also understand that this particular agency needs to work together with existing agencies in REDD+ Indonesia. Although a REDD+ Agency will be able to independently recruit its own employees, draft its own budget and set its own targets, the surrounding governmental agencies will still hold an important grip on its management. The moment the REDD+ Agency is infiltrated with the ‘old’ bureaucracy of other agencies, its existence will have less meaning in the REDD+ sector, and the ‘moral’ change in Indonesian bureaucracy will be harder to achieve ;
- (iii) the acceptance of REDD+ related agencies, meaning their willingness to work together in REDD+ under the coordination of a REDD+ Agency. As soon as the REDD+ Task Force dissolves to REDD+ Agency, donor support will be limited and the new agency will have to live within Indonesia’s National Budget. Administratively a REDD+ Agency will have to submit its budget to BAPPENAS, Ministry of Finance, Ministry of State Administration (SekNeg) and Ministry of Civil Servant and Bureaucracy Administration to be able to finance its function as a governmental agency. Moreover, substantively, a REDD+ Agency will have to work

together and coordinate with MoF, BAPPENAS, MoE, DNPI, DKN (Dewan Kehutanan Nasional/National Forestry Commission) and law enforcer agencies such as the Police (POLRI), Prosecutor Office (Kejaksaan), Anti-corruption Commission (KPK) and other line ministries.

- (iv) The acceptance and willingness of other governmental agencies to work together under the coordination of a REDD+ Agency is crucial to its success. From the REDD+ National Strategy document, it seems that coordination efforts and supporting implementation of REDD+ will be done by the upcoming REDD+ Agency. But, in the meantime, there are two hurdles: first, the REDD+ National Strategy did not clearly state the date of the establishment of the REDD+ Agency. This is important because work on the ground (such as the pilot province's activities, mainstreaming of REDD+ to RPJM, other REDD+ related projects, etc) are ongoing, and they cannot wait too long in order to be coordinated and organized under one roof. Second, the division of labor between the new REDD+ Agency with the agencies and line ministries who currently hold the mandate of REDD+ activities needs to be clear and well communicated, due to the high traffic of information which might confuse parties. Coordination and communication are the key factors to have a well-managed REDD+ activities.
- (v) the willingness of all REDD+ stakeholders to work with a REDD+ Agency. Before all the stakeholders of REDD+ are willing to work with a REDD+ Agency, they need to understand what a REDD+ Agency is. This includes clarification of unclear terms in the forestry sectors, such as land and forest tenure, introduction of FPIC,

and dissemination of benefit distribution from REDD+. A clear and publicly disseminated message needs to be sent out to all media (local, national and international). Consultation meetings and public outreach activities need to be organized routinely to engage all stakeholders in REDD+.

- (vi) Continuous support from the international community and public support. The support can be in the form of exposure to maintain the REDD+ momentum and funding for future projects of REDD+ in the REDD+ Agency. Both are crucial because without national and international exposure, the public pressure will lessen and the REDD+ momentum will deflated.
- (vii) Other national factors, such as security, good economic environment and good political environment.

Some of the resource persons interviewed think that the new REDD+ Agency will have extraordinary powers, even more so than the US' EPA (Environmental Protection Agency). The following discussions in Box No. 04 highlight the EPA's duties transferred from other agencies, which can be a best practice for the upcoming REDD+ Agency.

## **Box No. 04. Best Practice from Environmental Protection Agency (EPA)**

The Environmental Protection Agency (EPA) is one of the most important agencies in the United States. It was founded in 1970, and Nixon, the President of the US at that time decided to establish an autonomous regulatory body to oversee the enforcement of environmental policy. In a message to the House and Senate, he declared his intention to establish the U.S. Environmental Protection Agency (EPA) and left no doubts about its far-reaching powers. Nixon declared that its mission would center on<sup>306</sup>:

- The establishment and enforcement of environmental protection standards consistent with national environmental goals.
- The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it; the gathering of information on pollution; and the use of this information in strengthening environmental protection programs and recommending policy changes.
- Assisting others, through grants, technical assistance and other means, in arresting pollution of the environment.
- Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

As time goes, the mission of EPA also evolved. The current mission of EPA is to “protect human health and the environment” somehow broader from its original mission.

EPA has wide spread of responsibilities, which are stated in its mission and are transferred by other Departments/Agencies. Among others, duties transferred to the EPA<sup>307</sup>:

### **Dept. of the Interior (DOI)**

- Federal Water Quality Administration
- Functions transferred to the Secretary by Reorganization Plan #2 of 1966 (80 Stat 1608)
- Functions vested in the Secretary or Department by the Federal Water Pollution Control Act
- Functions vested in the Secretary by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d-1 (an act related to studies of the effects of insecticides, herbicides, fungicides, and pesticides upon fish and wildlife)
- Functions vested by law in the Secretary administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida
- The Water Pollution Control Advisory Board (33 U.S.C. 466f) , and the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g)

### **Dept. of Agriculture (USDA)**

- Functions of the Secretary or Department under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k)
- Functions of the Secretary or Department under section 408(1) of the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended (21 U.S.C. 346a(1))
- Functions vested by law in the Secretary or Department administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service

### **Dept. of Health, Education and Welfare (HEW)**

- Functions vested by law in the Secretary or Department administered through the Environmental Health Service, including:
  - The National Air Pollution Control Administration
- The Environmental Control Administration, including:
  - Bureau of Solid Waste Management
  - Bureau of Water Hygiene
  - Bureau of Radiological Health
- Functions vested in the Secretary for establishing tolerances for pesticides chemicals under the Federal Food, Drug

<sup>306</sup> <http://www.epa.gov/aboutepa/history/topics/epa/20a.html>, last visited January 9, 2013, 3:41PM.

<sup>307</sup> <http://www.epa.gov/aboutepa/history/org/origins/duties.html>, last visited January 9, 2013, 3:52PM.

and Cosmetic Act (FFDCA)

- The Air Quality Advisory Board (42 U.S.C. 1857e)

#### **Atomic Energy Commission (AEC)**

- Functions of the AEC under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions consist of establishing generally applicable environmental standards for protection of the general environment from radioactive material

#### **Federal Radiation Council (FRC)**

- All functions of the Federal Radiation Council (42 U.S.C. 2021(h))

#### **Council on Environmental Quality (CEQ)**

- Functions of CEQ under section 204(5) of the National Environmental Policy Act (NEPA) of 1969 (Public Law 91-190, approved Jan. 1, 1970, 83 Stat. 855), that pertain to ecological systems

This clear division of duties between the EPA and other governmental agencies can be a good best practice for Indonesia's upcoming REDD+ Agency. Indonesia REDD+ Agency is designed to be an independent central agency that is directly responsible to the President of Indonesia. The REDD+ Agency will be the spearhead in leading and coordinating national performance in reducing carbon emission from forest deforestation and degradation in Indonesia. In order for REDD+ Agency to execute its duties responsibly, the Agency will need mandates and authorities that are based on solid legal basis.

According to REDD+ National Strategy, the design principles of the REDD+ Agency are<sup>308</sup>:

1. Independent (free from any interests or Sector linkages)
2. Report directly to the President
3. The Head of the Agency shall be appointed to Ministerial level
4. Structured in phases align with initial coordination function, facilitation and approval and REDD+ project monitoring and implementation of strategic activities
5. The final phase shall bear the full mandate of ensuring the implementation of REDD+ programs and forest and land management by having a Law as the legal basis.

Currently the REDD+ Agency is still in the design and preparation process under the REDD+ Task Force working group (on institutionalization of the REDD+). There is yet a clear division of labor between REDD+ Agency and the existing line ministries of REDD+. Although it is true that REDD+ Agency will only focus on REDD+ related issues, but the fact is, REDD+ issues are very broad and far-reaching. It will be useful to have a clear 'duties transferred to REDD+ Agency' as the US has done with the EPA. This can at least reduce overlapping of duties between agencies, confusion of who is doing what of agencies and of course possible conflict arising from them.

Sources:

<http://www.epa.gov/aboutepa/history/publications/print/origins.html>

<http://www.satgasreddplus.org/dokumen/kebijakan-terkait>

If this 'model' of a REDD+ Task Force, funded by the donor project, is considered a possible success story, then the next question would be: **would it be worth the effort to take this model of the REDD+ Task Force and implement it in other sectors in Indonesia?** If this model is a success and can be guaranteed sustainability, other equally corrupt sectors in Indonesia, such as the Education, Religion, Health, Public Works, and many other sectors may be able to replicate

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<sup>308</sup> <http://www.satgasreddplus.org/dokumen/kebijakan-terkait>, last visited January 9, 2013, 6:10PM.

an institutional networking model such as the REDD+ sector, with a ‘new task force’ as the main coordinating agency.

Past experience with creating an independent new institution to bypass red-tape bureaucracy and eradicate corruption has been achieved in at least two sectors: PPATK (Indonesia Financial Transaction Report and Analysis Center/INTRAC) in the anti-money laundering/financial sector, and KPK (Corruption Eradication Commission) in the anti-corruption sector. Both are still highly regarded in Indonesia, and the Indonesian public still believes in these agencies. Both have to work with line ministries and agencies in each of their sectors. There is still tension between these ‘newly’ created bodies and the existing ministries. It is important to note that PPATK and KPK were established in the year 2002. So, to call them ‘new’ is almost incorrect. They have been formed for a decade and still they have to face resistance from the agencies that they are supposed to work together with.

Another threat is the danger of becoming ‘infected’ with corruption<sup>309</sup>. This is a big probability, as the new agency is working in an already existing and systematically corrupted system. One of the subjects of the research said, *“If a clean fish swims in a dirty pond, [it] cannot stay clean forever. It will get dirty, unless the pond is also being cleaned.”*<sup>310</sup> The effort of ‘changing mentality’ through establishing a new ‘super’ agency should be balanced with a grounded and strong effort to eradicate corruption from the bottom up in the existing agencies.

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<sup>309</sup> Interview result, June 22, 2012.

<sup>310</sup> Interview result, June 22, 2012.

This is an important lesson. It is somewhat beneficial to have a brand-new agency which is ‘clean’ and have extra power in the sector, but we have to pay attention to (i) clear division of labor and authorities between the new and the existing agencies to avoid confusion and overlapping authorities; and (ii) make sure that there are efforts to also work within the existing agencies/ministries to reform the current situation. Unless the last point is carefully done, the red-tape bureaucracy and corrupt activities can and will eventually influence the newly formed agency.

The most obvious hurdle is the fact that ‘independent agencies’<sup>311</sup> in Indonesia are very much disorganized. According to Muchtar<sup>312</sup>, until 1997 there were 21 non department state agencies and 31 extra structural agencies directly under the president and ministers. After the reformation era, ‘independent agencies’ and non-department agencies have increased greatly in numbers. Muchtar thinks that the flourishing of agencies are not based on a clear blue print of the State, and are only reactive (not preventive) to the nation’s problems. There are at least two efforts offered by studies done by the National Administrative Agency (LAN: *Lembaga Administrasi Negara*) and House of Regional Representative (DPD: *Dewan Perwakilan Daerah*). Study from the National Administrative Agency highlighted that there needs to be a

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<sup>311</sup> Ahsiddiqie, Jimly, *supra*, 2008; Substantively, there are three types of independent agencies: (1) Structurally independent; (2) functionally independent, which is seen through the decision making based on goals and instrument which are independently set by that institution/agency; (3) administratively independent, in terms of being independent of financial and human resources. The future REDD+ Agency will have three of these independence, based on the REDD+ National Strategy.

<sup>312</sup> Muchtar, Zainal Arifin, *Penataan Lembaga Negara Independen Setelah Perubahan Undang-undang Dasar 1945 / Reorganizing Independent State Agencies After 1945 Constitution*, Dissertation, Universitas Gadjah Mada, 2012.

reorganization of the ‘non-structural agencies’ in Indonesia<sup>313</sup>; through: (1) integration, termination or encouragement; (2) identification of the terminologies (commission, agencies, bodies, councils, etc)<sup>314</sup>; (3) identification of criteria and networking pattern. The House of Regional Representative study stated that the reorganization of the non-structural agencies can be done through extracting some politically invested non-state agencies’ official recruitments from the House of Representative (DPR) to House of Regional Representative (DPD)<sup>315</sup>. Both studies are useful, although are not being used yet by the GoI. The real challenge for the GoI is answering the real question: would creating a new agency prove to be an effective measure to sustainable governance?

### III. Closing

The institutions/agencies in REDD+ Indonesia clearly think that REDD+ is an important issue. The fact that the donors endorsed REDD+ and are willing to support REDD+ projects in Indonesia is also a sign that there is an international momentum going on in the environmental world. This is in fact taken very seriously by the GoI, which was shown by adopting donor

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<sup>313</sup> National Institute of Public Administration, Pusat Kajian Kinerja Kelembagaan, *STUDY ON: EVALUATION OF NON-STRUCTURAL INSTITUTION IN REORGANIZING OF GOVERNMENTAL INSTITUTION TOWARDS GOOD GOVERNANCE/EVALUASI KELEMBAGAAN NON STRUKTURAL DALAM RANGKA MENATA KELEMBAGAAN PEMERINTAHAN DALAM MEWUJUDKAN TATA PEMERINTAHAN YANG BAIK 344*, Lembaga Administrasi Negara (LAN). This study suggest several efforts for the reorganization of non-state agencies: (1) combination and integration of the agencies, to avoid overlaps and for the effectiveness of the work; (2) termination of the non-effective agencies (which work has already been done by other non-state agencies); (3) encouragement for important non-state agencies (such as Comission for the Supervision of Business Competition, General Election Comission, etc). This study however does not include grievance mechanism to resolve disputes in the agencies, and does not classify the difference between independent agencies and non-state agencies (based on functions).

<sup>314</sup> Currently in Indonesia these terminologies are used freely and inter-changeably.

<sup>315</sup> House of Regional Representative, *BOOK OF BASIC THOUGHTS ON 1945 INDONESIA CONSTITUTION AMENDMENTS/BUKU DASAR-DASAR PEMIKIRAN USULAN PERUBAHAN UNDANG-UNDANG DASAR NEGARA REPUBLIK INDONESIA 1945 33-35*, Sekretariat Jenderal Dewan Perwakilan Daerah Republik Indonesia, 2009.

projects in REDD+, including the two case studies in this research. Setting aside the ‘agenda’ behind all of these actions, it is clear that external pressures in the forms of donor projects in REDD+ Indonesia is a good effort in pushing REDD+ regulatory process in Indonesia. The research has shown commitments from the GoI, REDD+ related agencies in Indonesia and donor governments in regards to REDD+ issues. Lessons learned and best practices from other sectors can also enhance the learning curves in REDD+ Indonesia.

## ANNEX-1: INTERVIEW GUIDE

### DOCTORAL DISSERTATION RESEARCH: “REDD+ Issues Influence Indonesia's Environmental Regulatory Process”

#### 1. Introduction

The researcher introduced the project simply as a PhD research, conducted by a Fulbright scholar from the University of Washington to know the regulatory process in Indonesia’s REDD plus Project. Identifying the researcher as a Fulbright scholar is important, as Fulbright is highly appreciated in Indonesia. In addition, the fact that the researcher is a PhD student from a reputable university in the US would also bring the researcher an advantage of being acknowledged by the government officials. In the same time, the researcher clearly explained the objectives of the research.

The researcher explained clearly that the research is simply a mapping of agencies as actors’ involvement in regulatory process and not intended to give any judgment whatsoever on importance of each individual’s role.

The researcher began each interview by explaining that the discussion is informal and that no comments will be attributed to the respondent. These stipulations are important for protecting the identity of the respondent in a situation in which he or she might face retribution. The recording devices are handwritten notes, all interviews will be conducted in *Bahasa Indonesia*, with some exceptions of English which will be used when interviewing expatriates in NGOs or donor organizations.

#### 2. Questions

These questions are posed to explicitly address the issues of ‘**external pressures**’ and ‘**regulatory process**’ of the agencies to the UNREDD and/or REDD Plus TASK FORCE Project. The goal is not to sensitize respondents to the purpose of the line of questioning. The approach to questioning in the open-ended interviews are reviewed with the knowledgables which will give information to the researcher which areas of questioning are sensitive or awkward and therefore should be approached differently.

*Note to researcher: make sure to have each agency regulation on the agency’s regulatory process design and making.*

##### 2.1. Questions on **Conditionality of funding**:

*(note to researcher on measurement: The higher or the more criteria of steps needed donor approval and terminals pending to donor’s approval on project performance, the higher conditionality of funding there is. The higher conditionality of funding, will also mean the higher existence of external pressures).*

##### **Funding is tied to Project’s Performance**

What is the conditionality of funding for this project?

How do you think that effect the project design?

Please tell me what you think about the funding of this project is tied to the project’s performance?

##### **Degree of Donor’s approval to Project decision making**

Do/did your agency have to make some specific regulations because of this project’s requirements?

Would any steps of decision making should be approved by the donor?

What types of decision should be given prior donor approval?

##### **Agency is required to make specific regulations in re to REDD+**

Is there certain 'terminals' for funding transfers, which are pending to performance appraisal of the project?

Does this project require the agency to make specific regulation for REDD+?

## 2.2. Questions on **Monitoring**.

(note to researcher on *measurement*: *The more strict the monitoring of the project is, the higher possibility of external pressures*).

### **M&E reports and documents**

Is monitoring done very closely in this project?

How is it done?

Do you think that is necessary?

Why do you think that?

### **Periods of M&E reporting**

When is it done? Periodically? How do you know when you have to do the monitoring?

Do you have to submit monitoring report to the donor? When? Periodically?

### **M&E organization (who is doing it)**

Who is doing the monitoring?

### **M&E approval (who gives the approval)**

Who approves the monitoring report?

### **M&E results impact to the project's future**

Does the monitoring report/result influence the future of the project? How?

## 2.3. Questions on **Decision Making Process**.

(note to researcher on *measurement*: *The higher degree of donor involvement in the project decision making is, the higher possibility of external pressures*).

### **Decision making process procedure in the basic agreement**

Who has the final say in important decision in the project?

Would your agency has 'veto power' on the project?

Would the donor has 'veto power' on the project?

Does your agency have access to the Project's decision making? How?

Or if not, Why not? Please kindly explain the reason?

### **Authority given to donor representative in the project**

Who is has the highest decision making power in project's day to day activities?

Would donor representative in the project be the project leader?

### **Foreign staffers**

Is there any foreign staff involved in the project?

Is the position of foreign staff crucial to project's decision making?

## 2.4. Questions on **Bureaucratic change**

(note to researcher on *measurement*: *The higher bureaucratic change there is, the higher possibility of external pressures*).

#### **Bureaucratic change endured**

How does the change of bureaucratic structure in the REDD+ regime impact your agency?

What changes were needed? / Not needed?

How many staff were relocated?

What were the reasons for the change?

#### **Bureaucratic change impact to agencies**

Does your agency have to go through a bureaucratic change for this project?

Do you have to make a new policy/regulation re the change? What are they?

Does this change impact the regulatory making process? How?

### **2.5. Questions on Involvement and ownership**

(note to researcher on *measurement*: *The higher involvement and ownership, the lower external pressures exist*).

#### **Agency's involvement and ownership**

How does your agency involved in the REDD+ issue?

What about your agency's involvement with the UNREDD and/or REDD+ TF project?

Why is your agency's involvement important in the UNREDD and/or REDD+ TF project?

Does you agency contribute budgetary wise to the projects?

Does your agency contribute:

Human Resources (HR)?

Time (how long per day/week)?

Technical Assistance?

Other?

Why is that contribution made: (HR, time, money, personnel, advise, etc) –  
(and not other type of contribution)?

### **3. Closing**

*Note to researcher: make sure all interview results are written down in the hand written note, if possible, find a place near the interview place, directly after the interview and review all the notes that were taken, as well as make correction and addition when the memories are still fresh.*

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