

## The Indonesian Forestry Laws as Basis for a REDD Regime?

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During COP 13 in Bali, the Government of Indonesia officially showed interest in REDD (Reduced Emission from Deforestation in Developing Countries) schemes, which offer financial rewards for activities that reduce CO<sub>2</sub> emissions from clearing, converting, or degrading forests. If current emissions are multiplied with current prices for emission reduction credits, a very high value (about US\$1.8 billion/year) can be calculated as an upper limit. The dollar signs in the eyes of stakeholders, however, are not necessarily beneficial in helping to see what it will take to make it work. Lack of performance rather than lack of funds may well be the primary constraint. The mechanisms will have to be realistic (dealing with the real causes and drivers), conditional (performance based), and voluntary (providing sustainable benefits along the value chain of involved stakeholders). Current forestry laws and institutions in Indonesia were not designed to deal with a benefit distribution mechanism from REDD incentives, but they will form the background for discussions on who has a right to benefit, and who has the resources and power to obstruct others from benefiting.

The first issue to note is that the Basic Forestry Law (BFL) of Indonesia approved in 1999 designated 120 million ha of land as "forest zone," presumably with permanent forest cover. Based on the Kyoto Protocol definition of forest, this designation is enough to qualify as forest—even if there are no/scarce trees on the land. There is, however, a substantial area outside of the permanent forest zone that has enough tree cover to qualify as forest. Lands outside the permanent forest estate (with or without trees doesn't matter, legally) have become the primary target for A/R CDM and will be a prime target for REDD.

Secondly, only 12 million ha, or just 10% of the 120 million hectare of forest zone, has been legally and legitimately declared as State Forest Zone, leaving 108 million with uncertain rights. The National Land Bureau (BPN) and Ministry of Forestry are in dialogue on legal claims over this land, but there is no consensus as yet. It is therefore not clear who will be legal and legitimate claimants on income on REDD—but if such income is to be based on legally justified opportunity costs, we may note that the majority of current emissions is in breach of one or more laws and regulations.

Thirdly, the BFL offers a number of openings for community management within the state forest zone, which could be a basis for sharing REDD benefits along a value chain of actors. The government has created a number of decrees on community management such as community forestry (*hutan kemasyarakatan*), people plantation forest (*hutan tanaman rakyat*), customary forest (*hutan adat*), village forest (*hutan desa*), and community-based forest (*hutan rakyat*); but the management of each of these types of forest will need to be evaluated for impact on carbon stocks and emissions.

Although Indonesia has a track record of high emission levels and is thus best placed to reduce emissions, substantial trust building will be needed to establish accountability, and open an account in the international C<sub>REDD</sub> schemes.

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