

Preliminary Observations on the Indonesian Ministry of Forestry Decree SK.323/Menhut-II/2011 and Indicative Maps Concerning the Suspension of New Licenses for Forest and Peatland Utilisation

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8th July 2011

Introduction

Presidential Instruction No. 10 2011 (PI) Regarding the Suspension of Granting New Licences and Improvement of Natural Primary Forest and Peatland Governance was enacted in May 2011. This PI (known popularly as “*the Moratorium*”) forms part of the implementation of the Government of Indonesia’s policy to reduce emissions from deforestation and degradation (REDD) by 26% whilst maintaining 7% economic growth, as well as partial fulfilment of obligations under the letter of intent with the Government of Norway to assist with this low emissions development strategy. The PI was released with an accompanying indicative map showing primary forest and peatlands covered by the moratorium published at a scale of 1:19,000,000¹. As part of the mandate given to the Ministry of Forestry (MoF) within the PI and to enable operational implementation of the moratorium, the MoF has now published a series of maps at a scale of 1:250,000 as an Indicative Map for the Moratorium on the Issuance New Licenses for the whole of Indonesia, along with a Ministerial Decree (SK 323/Menhut-II/2011) intended to elaborate its purpose and the process by which it shall be revised in the future². This report outlines a short set of observations pertaining to these new maps and the associated Ministerial decree.

¹ An analysis of the PI No. 10 2011 and an English translation by Daemeter Consulting can be found on <http://www.daemeter.org/news/daemeter-provides-analysis-of-presidential-instruction-no-102011/>

² <http://appgis.dephut.go.id/appgis/petamoratorium.html>

Observations on maps associated with SK 323/Menhut-II/2011

Based on preliminary comparison of these new maps with the original Indicative Map published previously as part of the PI, a few notable differences are found. These include:

1. The legend of the new maps specifically includes, and the map appears to show, all protected areas and protected forest (as per MoF) as part of the moratorium area, whether or not they support primary forest or peatlands. These protected areas and protected forest are not differentiated from areas shown as primary forest, which potentially causes confusion. In the original map, some but not all protected areas and protected forest were included within the moratorium and depicted as primary forest without stating this within the legend. Further checks will be required to ensure the map of protected areas and protected forest is complete and accurate.
2. The Primary Forest as shown appears to be forest classified by MoF using 2009 Landsat imagery to map primary³ minus areas where the MoF has granted forest concessions, although no explicit explanation that such concessions have been removed from the moratorium map is provided. This is similar to the original moratorium map published with the PI, but the source of the concession map used to define areas exempted from the moratorium by MoF in the new maps appears to be an older version than the concession map used to the original map, with the consequence that some areas previously excluded now appear to be covered by the moratorium.
3. Peatlands remain undefined, but as in the original map the new maps appear to include all areas estimated to be >50cm in depth as mapped by Wetlands International⁴, minus MoF concessions exempted from the moratorium using the same version of the concession map used to exclude areas from the primary forest map described under point 2 above. In addition, some areas of peatlands outside of Forest Lands (*Kawasan Hutan*) that were previously excluded from the moratorium have now been included, for reasons not immediately clear.

Overall, in comparison to the original map published with the PI, the new maps are more detailed and appear to be more systematic in the treatment of protected areas and protected forest, but they appear to use different methods and datasets than used to produce the original map. Nevertheless, as the MoF has been tasked by the President with enacting the moratorium map, it should be assumed that the new map as published (not the original map) carries the full authority of the PI.

³ The term primary forest is defined by the MoF as forest that has never been exploited; the MoF 2009 land cover map has not yet been made public domain.

⁴ http://www.wetlands.or.id/publications_maps.php

The new maps produced by the MoF also retain properties of the original maps that make both sets of maps inconsistent with the text of the PI. The text stipulates production of a map covering all primary forest and peatlands on which new licenses (with defined exemptions) should not be issued and various actions by government institutions should be undertaken to improve management and governance. By excluding from the moratorium map specified forest concessions, MoF in effect places those concessions outside the scope of enhanced management and governance required by the PI, even though such concession areas may contain primary forest and peatlands. Also inconsistent with the PI, the MoF maps protected areas and protected forest as part of the moratorium without differentiating these areas from primary forest outside protected areas. This introduces ambiguity and unnecessary widening to the scope of the moratorium, given that such protected areas are already subject to restrictions in excess of those required by the moratorium. Greater clarity and improved monitoring of the moratorium would be achieved if the maps showed areas defined as primary forest and peatlands separately, upon which MoF concessions and various protected areas are overlain and also shown separately, thereby distinguishing clearly biophysical factors from administrative ones. It is also unclear why many of the areas defined as protected by the National Spatial Plan⁵ have been excluded from the new maps, despite the fact that the Ministerial Decree (SK 323/Menhut-II/2011) itself specifically refers to the National Spatial Plan in its preamble.

Observations on provisions of SK 323/Menhut-II/2011

The associated Ministerial Decree (SK) adds further detail on restrictions for utilization and licensing beyond that provided in PI No.10/2011. The decree specifically states that a suspension on new licenses will be imposed in moratorium areas covered by the map to:

1. Exploit forest (*IUPHHK*, which include ecosystem restoration projects)
2. Limited licences to harvest timber (*IPHHK*)
3. Forest utilization licences (e.g. *Izin Pinjam Pakai*, forest leases for mining)
4. Change in the allocation of forest lands (i.e. release of forest lands for other purposes with the exception of when this is used for the revision of provincial spatial plans)

Confusingly, the clause in the SK that stipulates suspension of such licenses refers to an earlier clause in the SK that discusses Non-Forest Lands (*APL*), rather than Forest Lands (*Kawasan Hutan*). It is unclear whether this was the intention of the decree, or if it was a mistake, since forest utilization licenses would not, in the

⁵ Peraturan Pemerintah Republik Indonesia Nomor 26 Tahun 2008 Tentang Rencana Tata Ruang Wilayah Nasional

first place, be issued by MoF within Non-Forest Lands. If we assume this was a mistake, and it was the intention of MoF for these restrictions to be imposed on Forest Lands, then two implications of the text deserve mention. First, the decree does not mention the exemption provided in the PI for ecosystem restoration licences potentially prohibiting the MoF itself from issuing such licences. Second, it clarifies that the release of legally defined Forest Lands (*Kawasan Hutan*) within areas covered by the moratorium is permissible only via the process of revising spatial plans, currently underway across Indonesia. Allowing release of Forest Lands for non-forest uses through spatial planning could be an important means to achieve the government's 7/26 objectives, if for example those areas released are low carbon/low biodiversity and were re-assigned for economically important development such as oil palm. It would be surprising - though not impossible - for any area currently included in the moratorium as primary forest or peat to be low carbon/low biodiversity, but may be found to be such after a detailed survey.

The Ministerial Decree also states that authorised officers can allow licences to be issued within the moratorium area if it is found to be non-peat (which remains undefined) or non-primary forest. Likewise, areas currently excluded from the map but that in fact are peatlands or support primary forest can be added to the map for inclusion in the moratorium, so preventing new licences to be issued. Such inclusions and exclusions would then form the basis for a new indicative map for areas within Forest Lands controlled by MoF. It is not specified in the Decree who shall be deemed authorised officers, or what methods or criteria they will use to determine whether an area is primary forest or peatlands. It also is not specified if every new licence application would require a survey to ensure that peatlands and primary forest were incorrectly included or omitted. This ad hoc method of revising the Indicative Map appears to be the only system proposed at present for the Forest Lands over which the MoF has full authority. For revision outside of Forest Lands the process by which MoF will work together with the National Mapping Agency remains unspecified.

Conclusion

In summary, the higher resolution (1:250,000) maps produced by MoF enable the moratorium to become operational, but would benefit substantially from depicting all peatlands and primary forest explicitly, with protected areas (including those defined in the National Spatial Plan) and concession licences exempted from the moratorium shown separately. Planning across all of the Forest Lands would be improved markedly if the ad hoc method for revision of the map described in the SK were supplemented with a systematic and transparent review over all areas.

Disclosure

No financial support of any kind was offered by or accepted from third parties to prepare this report.

Recommended Citation

Wells, P.L. and G.D. Paoli (2011) Preliminary Observations on the Indonesian Ministry of Forestry Decree SK.323/Menhut-II/2011 and Indicative Maps Concerning the Suspension of New Licenses for Forest and Peatland Utilisation. Published by Daemeter Consulting, Bogor, Indonesia. (Available for download at www.daemeter.org)