

Hopes rise for mining ban in Indonesia's forests

Despite sustained lobbying by major mining companies and foreign embassies, the Indonesian government of President Megawati Sukarnoputri is responding to growing community pressure to reject pleas from mining companies to be exempted from a ban on mining in protected areas.

In 2002, the Indonesian Parliament announced it would examine the claims of 22 mining companies from over 150 projects, which sought an exemption from the ban on mining in protected forests. In September 2002, a team established by parliament agreed to exempt three mines from the ban – BHP Billiton's Gag Island Nickel project in West Papua, Newcrest's Halmahera mine and the Canadian-owned Weda Bay nickel project, both in the civil war-torn Maluku province.

This exemption was done by downgrading the areas from "protected forest" to "production" or "limited production" areas while leaving the forestry law intact. Subsequently the government has proposed enacting a 'Regulation to Replace a Law' – a measure originally intended only for use in a state of emergency – to remove the forestry law entirely.¹

A broad coalition of community non-government organisations has mobilised public pressure – in testimony to parliamentary committee meetings, in the media, at universities and shopping centres – against the proposed changes.²

In late March 2003 an Indonesian Cabinet meeting rejected mining industry requests to scrap the for-



The tarsier, threatened by loss of its forest habitat in central Sulawesi and elsewhere in Indonesia.

estry law ban on mining altogether. Instead the Cabinet, chaired by President Megawati Sukarnoputri, directed an interdepartmental team to consider a subset of mining claims over protected areas. Their report is due in June 2003.³

"Palu Mineral has been banned from its operations because its area is for forest conservation"

Muhammad Prakosa
Indonesian Minister for Forests

In Central Sulawesi a vigorous local community campaign against mining in Poboya Forest Park has succeeded. *"There are some forest areas that can be used for production, but Palu Mineral has been banned from its operations because its area is for forest conservation,"* Minister Prakosa said announcing the Cabinet decision.⁴ Provincial government opposition to Rio Tinto's gold mining plans was also cited as a reason for the decision.⁵

PT Citra Palu Mineral is majority owned by Rio Tinto, but Newcrest has negotiated to assume Rio's 90% stake subject to the project obtaining government permission. This transfer is therefore assumed to be now in doubt.

Some Indonesian government ministers have claimed that the ban should be removed in order to avoid the threat by foreign mining companies to seek international arbitration.⁶

Indonesian Center for Environmental Law board member, Mr Achmad Santosa, argues that the Indonesian government has nothing to worry about. *"There's a clause which says that the Indonesian government can't be held liable for damages in the event that the license is rendered null due to government policy,"* he said.⁷

Answers provided by the Australian Minister for Foreign Affairs, Alexander Downer, to parliamentary questions from Australian Greens Senator Bob Brown have revealed extensive lobbying of Indonesian

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government officials by Australian Embassy staff in Jakarta, including the Ambassador, at the behest of Australian mining companies.

Special meetings by Embassy staff with Australian mining company executives were convened on six occasions. Downer's answers revealed that BHP Billiton, Newcrest, Placer Dome, and Rio Tinto specifically requested, and received, lobbying assistance from the Australian Embassy on the matter of mining in protected areas.⁸

Following the meetings, Australian embassy officials on nine occasions pressed Indonesian government Ministers and officials to drop the ban on mining in protected areas. According to Downer, the Indonesian Ministers and officials lobbied by Australia included the Minister for the Environment, the Minister for Economic Affairs, two successive Ministers for Mines and Energy, the Minister for Finance, various parliamentarians chairing and participating in standing committees on environment and resource management and senior officials from the Department of Forestry and the Department of Mines and Energy.⁹

Central to the lobbying undertaken by the Australian, US, British and Canadian governments is the suggestion that some of the protected areas are "not forested" or are not of high quality or biodiversity value.¹⁰

The claims are unsupported by documented independent investigations but ignore the key function of protected forest areas. Under the Forestry Law a protected forest is defined as an area with the purpose of protecting livelihoods and ecology including through flood mitigation, controlling erosion, inhibiting the intrusion of saltwater, and maintaining soil fertility. These are lifesaving functions in a country where

Australian embassy officials on nine occasions pressed Indonesian government Ministers and officials to drop the ban on mining in protected areas

hundreds of people lose their lives each year due to flooding blamed on deforestation of water catchment areas.

Igor O'Neill

¹ Bill Guerin, "Forest Gold and a Race Against Time" Miningindo Weekly e-Newsletter, www.miningindo.com/, 9 April 2003.

² The "Non Government Coalition to oppose conversion of forest areas to mining" includes Forest Watch Indonesia, the Indonesian Mining Advocacy Network (JATAM), Indonesian Forum for the Environment (WALHI), Indonesian Center for Environmental Law, WWF Indonesia, Indonesian Fisheries Network (Jaring Pela), Kehati, Pelangi, Natural Resources Management Working Group, and Australia's Mineral Policy Institute.

³ "Mining: It takes a village", Laksamana.Net, www.laksamana.net, 30 March 2003.

⁴ "Indonesia bans Palu Mineral mine operation - minister", Reuters, 7 April 2003.

⁵ Forestry Department of Indonesia, "Mining in protected forests requires a breakthrough in environmentally friendly technology" (translation), Press Release, 4 February 2003

⁶ "Protected areas international arbitration threat to Indonesia", Koran Tempo, 3 April 2002.

⁷ "Investors threaten to withdraw due to overlapping regulations" (translation), Kompas, 15 March 2003.

⁸ Minister for Foreign Affairs, Alexander Downer, Senate Hansard, www.aph.gov.au/hansard/hanssen.htm, question number 716 and 717, 5 February 2003, page 8646.

⁹ Minister for Foreign Affairs, Alexander Downer, Senate Hansard, www.aph.gov.au/hansard/hanssen.htm, question number 717, 5 February 2003, page 8646.

¹⁰ For example, a letter from Alexander Downer, Australian Minister for Foreign Affairs, 9 May 2002, in response to an international petition against mining in protected areas compiled by JATAM.



ISSN 1443-5284

Editor: Bob Burton

Sub-editing/proof reading: Consensus Productions

Mining Monitor is published quarterly by the Mineral Policy Institute (MPI). *Mining Monitor* aims to provide detailed, referenced information to inform and support community organisations concerned about the impacts of mining projects (including oil and gas) in Australasia and the Pacific. The views expressed are not necessarily those of MPI.

Please consult the editor prior to submitting material for major stories. You may send comments and criticisms as a letter to the editor to *Mining Monitor*. Preference is for contributions via e-mail to bobburton@ozemail.com.au. Otherwise material may be posted to PO Box 157 O'Connor ACT 2602 Australia. Deadline for the next edition is 30 May 2003.

Mineral Policy Institute PO Box 89 Erskineville NSW 2043 Australia

Phone 61 2 9557 9019 Fax 61 2 9557 9822 Email: mpi@mpi.org.au Website: www.mpi.org.au

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