

# REDD+ legal framework in the making: Indonesian experience

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# Presentation outline:

- Indonesia's legal framework related to REDD+
- Some key issues for sub-national governments
- Recommendations

# Legal framework of REDD+ in Indonesia



# General legal framework of REDD+

Legislation	Provisions related to REDD+
The Constitution	<ul style="list-style-type: none"> <li>•Citizens' right to enjoy prosperous life and <b>good and healthy environment</b> (Art. 28 H (1)).</li> <li>•The basis of national economy: economic democracy that upholds the principles of solidarity, efficiency along with fairness, <b>sustainability, keeping the environment in perspective</b>, self-sufficiency (Art 33 (4))</li> </ul>
Law 41/1999	Forestry planning, management and utilization; property status of forest.
Law 32/2009	Inventory, eco-region area, environmental protection and management plan, strategic environmental study (KLHS).
Law 26/2007	Principles and procedure of spatial planning
GR 6/2007	Utilization on environmental services (Art. 23, 24); licenses of forest utilization for business and communities, forest management unit (KPH)
Law 25/2004	Principles in each type of development planning: Long term, mid-term, annual development planning of national-sub national govt, including mid-term and annual planning of national/sub-national agencies.

## REDD under the Ministry of Forestry

Legislation	Provisions related to REDD+
Govt Regulation 6/2007	<ul style="list-style-type: none"><li>•Licenses of forest utilization</li><li>•Utilization of environmental services</li><li>•Forest management unit (KPH, Kesatuan Pemngelolaan Hutan)</li></ul>
Govt. Regulation 44/2004	Forest gazettment procedure, forest functions.
MoFor Regulation P. 68/2008	Procedure of REDD Demonstration Activities establishment
MoFor Regulation P. 30/2009	Procedure of REDD: where, who, how.
MoFor Regulation P. 36/2009	REDD licenses, division of authority between national and sub-national government, standard for developing carbon projects and market

# Recent development

Legislation	Key provisions related to REDD+
Presidential Instruction 10/2011	<ul style="list-style-type: none"><li>•Moratorium of new licenses;</li><li>•Governance improvement of primary forest and peat land management.</li></ul>
Presidential Decree 19/2010	The establishment of REDD+ task force (annuled by Decree 25/2011).
Presidential Decre 25/2011,	<p>The establishment of (new) national REDD+ task force.</p> <ul style="list-style-type: none"><li>-Implement the Lol between GOI and Norway Govt;</li><li>-- Monitoring of the impelementation of Presidential Instruction 10/2011</li><li>-- Develop instrment and mechanism of REDD fund;</li><li>-- Coordinating national REDD+ strategy;</li><li>-- Conducting REDD+ projects in pilot province.</li></ul>

# Key questions for sub-national governments

▪ REDD+ can be implemented inside and outside forest areas (*kawasan hutan*);

1. The legal status of forest areas, taking into consideration only about 14% of forest areas gazettement have been completed: to which extent could sub-national governments support the acceleration of forest gazettment process in a good and participatory procedure?
2. REDD+ in non-forest areas (privete forests): have sub-national governments designated the areas of private forest as obliged by MoFor Regulation 26/2005?
3. REDD+ in *APL* (*areal penggunaan lain*); have sub-national governments developed an integrated environmental management policy on land use in *APL*?

■ The right holders of REDD+ are all license holders, forest communities, including indigenous peoples and village communities, authorities of forest management unit (KPH) and conservation areas (national park, etc.).

1. All potential right holders of REDD+ should be legally recognized by the government. To which extent have sub-national governments recognized adat communities in their regions using provincial/district regulation, granted licenses to local communities through community forestry scheme: village managed forest by Governor decrees, community forestry through decrees of district head (*bupati*).
2. Overlapping licenses have been found in forest and non-forest areas, have sub-national governments developed a mechanism of conflict resolution, particularly during the new licenses moratorium?

# REDD+ projects and sub-national REDD+ strategy should be in line with other development plan.

1. Taking into account that Law 32/2009 obliges government to develop environmental protection and management plan: do the existing initiatives of sub-national REDD+ strategies, REDD+ base line studies relate to this obligation?
2. Strategic environmental study (KLHS) is mandatory for spatial planning and other development program: to which extent have these studies applied in (potential) REDD+ projects?
3. Are sub-national REDD+ strategies been adopted in mid-term development plan of provincial/district government?

# Toward effective REDD+ legal framework: Some recommendations

1. REDD+ regulations/related legislation in Indonesia should prioritize the legality of areas where the projects will be implemented; the legality of forest communities as the main right holders;
2. A clear and accessible mechanism of conflict resolution should be available before RED+ projects implemented;
3. REDD+ strategy (national and sub-national) should be part of development plan, the strategies need a clear legal basis to make them mandatory for all related government agencies, they also should be in line with other regulations of development planning.