Dear Colleague,

We are pleased to send you the third in a series of informal, periodic updates to share information within the nascent “community of practice” that includes individuals and organizations interested in the “jurisdictional approach” (JA) to transforming land use practices in Indonesia, with a particular focus on the palm oil sector. Providing support to that community is one of the objectives of a modest project supported by the David and Lucile Packard Foundation as part of the Climate and Land Use Alliance (CLUA) in Indonesia.

This message includes a brief report (see Annex) on our insights from discussions that we held during field trips and meetings with many of you in Indonesia in March, as well as updates from other initiatives and links to useful resources that have come to our attention.

We welcome your feedback and suggestions for items to be included in future updates.

With warm regards,

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RECENT JA-RELATED DEVELOPMENTS

In February and March 2017, the Climate and Land Use Alliance (CLUA) conducted a series of consultations with grantees and other partners as part of a process to refresh and develop the Alliance’s Indonesia Initiative Strategy for 2018 to 2022. Consultations included two focus group discussions (FGDs) in Jakarta and a workshop with experts in Bogor, Indonesia. The strategy is expected to maintain support for the “jurisdictional approach” (JA) and is being aligned with the Packard Foundation’s refreshed strategy on palm oil. The CLUA strategy is expected to be published in late 2017.

At the 2nd General Assembly of the Tropical Forest Alliance 2020 in March 2017 in Brasilia, Brazil, WWF led a Knowledge Exchange Session themed Beyond the Buzz: Designing an Effective Jurisdictional Approach to Address Deforestation. This session aimed to present various models and engage participants to tease out specific interests and limitations of governments, companies, and civil society to assess whether and how they might converge on a viable jurisdictional approach. It focused on development pressures and JA experiences in the Colombian Orinoco.

On 24 March 2017, the David and Lucile Packard Foundation and CLUA convened a small meeting in Jakarta to bring together leading organisations and individuals currently working to promote and implement recognition of hutan adat (in accordance with the Constitutional Court decision MK35) and those working to promote JA in Indonesia. In the half-day meeting, participants shared recent developments around the recognition of indigenous peoples’ rights and JA-related programs in which their organisations are involved in as well as more generally. Challenges and opportunities were highlighted, and common entry points and possible synergies were also identified. Interventions in the meeting suggested that it would be useful to further inventory specific districts where agendas overlap, and convene follow-on discussions to ensure enhanced coordination and synergy. A summary of highlights from the meeting is in Annex.

In March 2017, the Government of Ecuador signed an MoU with palm oil producers and civil society, marking the start of a country-wide RSPO Jurisdictional Certification process, the first in the world. According to the RSPO website, jurisdictional certification at the country level would ensure the inclusion of all stakeholders in palm oil supply chains, from smallholders to mills and big palm oil companies in sustainable palm oil production.

In April 2017, Indonesia’s Corruption Eradication Commission (KPK) issued a press release (in Indonesian) highlighting findings from its study of the country’s palm oil industry as a strategic commodity. KPK discovered that weak mechanisms related to licensing, monitoring, and control has made the sector vulnerable to corruption. In the report from the study, KPK called for the Ministry of Agriculture
to reconcile conflicting plantation licenses and implement the One Map Policy, in collaboration with local agriculture and plantation agencies, the Ministry of Environment and Forestry, and other relevant government agencies. KPK also made other recommendations related to the use of the Palm Oil Fund (the link to the full report is provided below). The KPK study on palm oil is relevant to JA, as JA proponents have identified the desire to avoid adverse scrutiny from the KPK as an incentive for local leaders to adopt more transparent land-use decision-making practices at the jurisdictional level.

In May 2017, WWF convened an experts workshop over several days in Brasilia, Brazil, to discuss jurisdictional approaches to commodity-driven deforestation and examine their theories of change. Practitioners shared experience from Brazil, Colombia, Ghana, and Liberia. Themes highlighted included the importance of robust multi-stakeholder dialogues and public sector leadership.

PUBLICATIONS, VIDEOS, AND OTHER RESOURCES

- **Jurisdictional Sustainability: Primer for Practitioners**, Earth Innovation Institute, 2017. The document highlights some of the key elements of successful strategies for achieving jurisdictional sustainability. Central Kalimantan features as a brief case study, along with Mato Grosso and Acre in Brazil.


- **Suits, greens, and govs forge green supply chains on International Day of Forests**, Ecosystem Marketplace, 2017. This blog highlights Unilever’s efforts to certify an entire village of palm oil smallholders in Central Kalimantan in collaboration with Institut Penelitian Inovasi Bumi (Inobu).

- **Kajian sistem pengelolaan komoditas kelapa sawit** or Study of palm oil commodity management system, KPK, 2016 (in Indonesian). The English version of the document is expected to be available later this year.

- **Tapping global expertise on jurisdictional approaches to deforestation**, WWF, 2017. This blog summarizes the workshop held in May in Brasilia; WWF will prepare a full workshop report in the coming months.
LOOKING AHEAD

• Lingkar Temu Kabupaten Lestari (LTKL), an initiative developed to support cross-learning between districts with sustainability commitments and a common platform for advocacy, plans to hold its first Annual Forum in Jakarta in July 2017 (date tbc). Leaders from eight member districts are expected to discuss and reconfirm their collective vision of sustainability in this meeting. At the event, LTKL also plans to enter into partnership through an MOU with APKASI, Indonesia’s main national district association, to work together to promote sustainable development visions at the jurisdictional scale.

• The Governors Climate and Forest Task Force (GCF) will hold its annual meeting in Balikpapan, East Kalimantan, Indonesia, on 25-30 September 2017. The annual meeting aims to (1) serve as a platform for collaboration to create new partnerships with jurisdictions of Indonesia, the private sector, civil society, indigenous peoples, and financial institutions; (2) provide an opportunity to learn about subnational success stories and chart future pathways to success; (3) identify new funding streams for GCF states and provinces to preserve progress already made and help them reach goals established in the Rio Branco Declaration; and (4) be a catalyst for uniting subnational initiatives in a common voice.
Highlights of Discussion on Recognition of *Hutan Adat* and Jurisdictional-Scale Approaches to Forest and Peatland Conservation

*Jakarta, 24 March 2017*

**Summary of the Meeting**

On 24 March 2017, the David and Lucile Packard Foundation, a member of the Climate and Land Use Alliance (CLUA), convened a small group of individuals from civil society currently working to promote and implement recognition of *hutan adat* and those working to promote the “jurisdictional approach” (JA) to reducing deforestation and peatland conversion. The purpose of the meeting, which was held in Jakarta, was to share objectives and strategies at national and sub-national levels, and identify possible synergies to be exploited and risks of possible dis-synergies to be managed.

In the half-day meeting, participants shared recent developments around the recognition of indigenous peoples’ rights and JA-related programs in which their organisations are involved in as well as more generally. Challenges and opportunities were highlighted, and common entry points and possible synergies were also identified. Although next steps were not explicitly discussed, interventions in the meeting suggested that it would be useful to further inventory specific districts where agendas overlap, and convene follow-on discussions to ensure enhanced coordination and synergy.

More detailed highlights from the presentations and discussions are summarized below.

**Context for indigenous peoples’ rights recognition**

- The recognition of indigenous peoples’ (IP) rights to land in Indonesia usually goes through four steps, namely participatory mapping, registration, verification, and finally recognition of the IP rights. There are several avenues used to push for such recognition:
  1. Recognition of indigenous peoples’ areas through local government decrees/regulations;
  2. Recognition of *hutan adat*, the first batch of which was achieved at the end of 2016 with the recognition of 13,000 ha of *hutan adat*. (Note: AMAN/BRWA is not focusing on “village forests”, which are currently being actively promoted by the national government as part of the social forestry agenda, as a way to gain control over IP areas.)
3) Recognition of hak ulayat, as supported by the planned national-led agrarian reform. This could be done particularly in areas with special autonomy, such as Papua.

4) The formation of adat village, which is made possible under Law no. 6/2014 on Villages. AMAN has not taken an official position on this approach, but some areas, e.g., Bali, have made use of this regulation.

- The following key challenges in getting indigenous peoples’ areas recognised by local governments were discussed:
  - Ensuring political support and processes, both at the bupati as well as the local parliament levels. This is the focus of some organisations for this year, e.g., for the West Kalimantan chapter of AMAN, which, with partners, has mapped 1.5 million ha of IP areas in the province.
  - Lack of government budget to push forward the process and fulfill the requirements for IP rights recognition, including mapping and public consultations. CSOs must be ready to support this process continuously, which can take more than a year.
  - Lack of standardised mechanisms to recognise IP areas and hutan adat that can be used by all stakeholders.

- Possible opportunities:
  - The national government’s push for hutan adat as part of its social forestry agenda, led by the Ministry of Environment and Forestry.
  - A ministerial regulation on the use of village fund to map village assets, including forests, is currently being drafted. This could accelerate the mapping of IP areas and/or forests.
  - Continued efforts to integrate the IP areas that have been mapped by CSOs, working with IP groups, into the government-led One Map Policy. Success of these efforts requires political commitment.

Context for the jurisdictional approach and its development

- Actors that should be considered under the jurisdictional approach (JA) include local governments, the private sector (major companies as well as small and medium-sized ones), communities, including smallholders, CSOs with grassroots influence, and other influencers, including adat institutions and leaders.

- Current challenges related to JA that were discussed:
  - There is no value proposition yet for elected local governments to support real jurisdiction-wide sustainability efforts.
  - Despite “green” commitments made, sub-national governments are not clear on what their commitments mean and how to operationalise and measure their implementation.
  - Local governments’ authority to implement JA-related policies is limited by national governments’ policies and/or control over significant areas (i.e., forest zone) within their provinces/districts. The same challenge applies
when IP areas are within conservation areas, e.g., National Parks, which are under the national government’s authority.

- **Current developments that JA proponents could use:**
  - National government support for social forestry and tenurial conflict resolution, led by the Ministry of Environment and Forestry (KLHK). The new program will include a monitoring system for after the forest is awarded to local communities and after a conflict is resolved.
  - JA opens the opportunity for the private sector to participate and be involved as part of solutions led by local governments (and supported by CSOs).
  - Several initiatives that take into account sub-national jurisdictions’ commitment to sustainability have been developed, including a Norway-led USD400 million fund (supported by CSOs, e.g., IDH, and companies, e.g., Unilever) to kick start investments in deforestation-free agriculture in jurisdictions with green commitments. (See more information in the following pages)
  - Repositioning and reactivation of REDD+ efforts in Indonesia under the bigger umbrella of climate change, including the development of the government regulation on economic instruments for environmental protection, a new institution (BLU) to channel and manage climate funding, and MRV mechanisms.
  - Lingkar Temu Kabupaten Lestari (LTKL) as a platform for districts committing to sustainability can facilitate, through a multi-stakeholder process, the development of a measureable framework to articulate the districts’ vision for sustainable development. Indicators for this framework could include deforestation rate, number of certified smallholders, and others. Support for the local governments should be long-term and targeted to the operational level, e.g., investment planning and incorporating the vision in the local budgets. Currently LTKL’s partners network, which is the backbone support for the green districts, is still missing organisations that focus on IP issues to assist its members and amplify the importance of the recognition of IP rights as part of sustainable districts.

**Common entry points for JA and IP issues**

- IP and JA proponents are both looking into the possibility of utilising momentum around the national government’s agrarian reform, e.g., to recognise hak ulayat and to improve land governance.
- The One Map Policy is also seen as a common entry point for both agendas, with actors such as CSOs, IP groups, and the private sector seeking to integrate their maps under the Policy and facing the same challenge in the lack of a mechanism to do this quickly and efficiently. (Currently only relevant ministries and government agencies have the authority to make thematic maps.)
• Proponents also share the concern of making sure that communities, including IP groups and smallholders, have the capacity and know-how for sustainable management of the lands/forests after they receive legal recognition. The government’s social forestry program currently does not have a "Management Framework" attached to it. There is a need to support NGOs working on IP issues with the capacity to develop a "Management Plan" for the forests that would be officially designated as hutan adat forest to their adat communities. Such a Management Plan is crucial to help adat communities to continue conserving the forest while at the same time increasing their livelihoods in a meaningful way.

• Synergies could be found where there is an overlap among priority districts and provinces that have been identified for the promotion of IP areas recognition (e.g., under the BERSAMA initiative), those that have made sustainability-related commitments, including for conservation and sustainable palm oil and under the Lingkar Temu Kabupaten Lestari platform, and those that were heavily engaged in REDD+ between 2012 and 2015. These districts and their bupatis could serve as champions for various sustainability and land governance-related issues in their jurisdictions as well as at the provincial and national levels.

• Two aspects where IP issues can be supported by JA programs:
  o Ensuring that the recognition of IPs is a pillar of JA initiatives, i.e. the long-term planning of sustainable/green districts must include resolution of tenure issues and IP rights.
  o Recognition of IP issues could be an entry point for some JA proponents in starting the dialog about sustainable districts. This potential will depend on each sub-national jurisdictions’ priority issues. In the development from the entry point to a wider, comprehensive and long-term approach, the question will still revolve around how to align incentives for local leaders, e.g., as part of the agrarian reform or utilising outside funding sources (which still has not been trialled).

• Participants discussed the importance of not overly relying on the label of JA as to not confuse or exclude actors, particularly local governments, that have made previous programs at jurisdiction-level.

Challenges and opportunities to utilise recently-launched global funds to build value propositions in sub-national jurisdictions

Participants were interested in learning about two global funds that were recently launched to promote sustainable commodity production at sub-national and landscape levels and their potential to support JA programs and the recognition of IP rights in Indonesia.

• General information about the initiatives that were discussed in the meeting:
  o The USD400 million fund to kick-start investments in deforestation-free agriculture and aims to protect over 5 million hectares of forests and peatlands by 2020. Announced during the World Economic Forum in January 2017, the fund includes an initial USD100 million from Norway, with the rest to be raised in partnership with the Global Environment Facility, UN
Environment Programme, the Sustainable Trade Initiative (IDH) and major food companies and environmental NGOs. This fund can only be used in jurisdictions that have made sustainability commitments, with agreed key performance indicators (KPIs) and a system to monitor the progress of the implementation of this commitment. Such a requirement for a major investment – even if directed to a private corporation -- could potentially serve as a value proposition for a local government.

- The Tropical Landscapes Finance Facility (TLFF), launched in Jakarta in October 2016 to bring long-term finance to projects and companies that stimulate green growth, for example through sustainable commodities and energy, and improve rural livelihoods. TLFF targets to raise USD1 billion from the private sector and USD100 million in development assistance. Key partners in the facility include UN Environment Program, which will manage the secretariat, BNP Paribas, and ADM Capital, which will act as fund manager.

- With respect to the potential of these funds to support activities related to IP issues and jurisdictional approaches, it was observed that both global initiatives have a minimum investment size of USD20 million, which is challenging to achieve at sub-national level. TLFF also specifically looks for low-risk investments in its first batch, which could work against smallholder inclusion. In addition, it is unclear how targeting finance to private sector beneficiaries will directly address the key need to develop value propositions for local governments.

- Both initiatives, however, provide the opportunities for outside guarantors for the investments, i.e., local governments for TLFF and the Norwegian government for the deforestation-free investments, to lower the risks and increase appetite for the projects.
Meetings with JA proponents in Indonesia

As part of a project to promote jurisdictional approaches to transform the palm oil industry in Indonesia, Frances Seymour (Project Adviser) visited Indonesia in March 2017. During her visit, she and Leony Aurora (Consultant, Daemeter) met and held discussions with several proponents of jurisdictional approaches, as well as a variety of relevant staff from government agencies, civil society organizations (CSOs), and private corporations. The series of meetings included an expert consultation associated with a meeting of the Climate and Land Use Alliance Indonesia Team in Bogor, discussions at a book launch event hosted by WRI-Indonesia, a half-day workshop that brought together JA and indigenous rights proponents, a brief visit to Pekanbaru, Riau, and a field visit to several areas in Central Kalimantan. Key insights from the trip include:

- **State of the concept:** JA has caught on as a popular concept for framing attempts to transform the palm oil sector at sub-national scale in Indonesia. The “jurisdictional approach” has caught on as an idea, both among funders and more broadly, although the concept remains poorly understood. While some dispute the utility of the term itself (in favor of “Green Districts”, “Sustainable Districts”, or other formulations), and others doubt the feasibility of its implementation, JA is being widely used as short-hand for concentrating efforts in one geography to influence the trajectory of land-use change at the sub-national level.

- **State of implementation:** JA proponents are beginning to realize that progress will be much slower and more difficult than initially hoped, with significant potential for “entry points” to morph into “side tracks” that diverge from ultimate objectives. Actual implementation of JA in specific places remains at an early stage, and is often focused on a particular activity – such as legalization of smallholders or introducing improved agricultural practices – as an entry point to build support for a more comprehensive approach to sustainable land use. One interviewee characterized her organization’s approach as “trying to learn by doing and make progress in the right direction without trying to resolve everything.” Most JA proponents have not yet articulated a clear theory of change (in terms of putting together a value proposition for elected leaders at the sub-national level sufficient to motivate them to give priority to forest protection), nor have they established strong linkages with potential sources of public or private sector incentives outside the jurisdiction. As a result, JA proponents risk focusing on proximate “entry point” objectives such as smallholder certification, and losing sight of the ultimate goal of reducing forest and peatland conversion.

- **Political incentives:** The role of the national government in JA remains important. Several informants in Riau, referring to JA-related objectives for improved land-use decision-making at both provincial and district levels, highlighted the need to engage the national government if JA is to succeed. They explained that sub-national efforts towards sustainability could be heavily influenced by national policies and decision-making processes. In addition to the more recent presidential initiatives related to peatland conversion and oil palm licensing, they stressed the role of ministerial decision-making related to approval of district and provincial spatial plans.
(RTRW), the categorization of forests (conversion, production, or protection), and management of protected areas. Several informants highlighted the potential role of the Ministry of Home Affairs (Dalam Negeri) in disciplining local government on land-use policy and implementation, and in enforcing a regulation requiring public consultation in the context of spatial planning in particular.

- **Financial incentives:** Discussions on the potential for fiscal policy reform to create incentives for JA continue, and could get a boost from expected promulgation of the draft government regulation (PP) on Economic Instruments for Environmental Protection, but accessing climate finance remains essential. While the workshop on fiscal policy reform that we convened in Jakarta in October 2016 (described in our last JA Update) has not yet resulted in a coordinated strategy among CSOs, the ideas discussed continue to percolate. (For example, the topic was highlighted by government and academic panelists at a book launch hosted by WRI-Indonesia in Jakarta, and one bilateral technical assistance agency is planning to support a conference on the issue later this year.) Proposals for performance-based payments to sub-national jurisdictions could benefit from promulgation of the new Government Regulation on Economic Instruments for Environment Protection, which we were told is nearing completion after seven years of development. A trial of performance-based payments for fire control proposed under development by an Indonesian-US research team could also serve to highlight the efficacy of providing cash rewards for forest protection. In the meantime, it’s clear that comprehensive JA implementation will need access to climate finance in order to fund the “protect” side of the “produce and protect” agenda.

- **Market incentives:** Buyer commitments to preferential sourcing at jurisdictional scale do not appear to be moving forward. At COP21 in Paris in December 2015, Consumer Goods Forum co-chairs Unilever and Marks & Spencer announced a commitment to “prioritize commodity sourcing from areas that are pursuing comprehensive forest climate programmes”. We were hopeful that such preferential sourcing could serve as an element of a value proposition for JA, and convened a workshop on the issue in Jakarta in October 2016 (summarized in our last JA Update). However, it appears that buyers of palm oil are currently still concentrating their efforts on de-risking their supply chains through strategies focused more narrowly on their supply sheds rather than entire jurisdictions. There is also concern around lack of credible performance metrics that would give buyers the confidence they need to source preferentially from one jurisdiction over another. At the same time, there is growing skepticism among CSOs about follow-through on corporate “No Deforestation, No Peat, No Exploitation” commitments more generally; for example, we were told in Pekanbaru that several companies that have taken on such commitments continue to purchase fresh fruit bunches of oil palm sourced from within Tesso Nilo National Park. While one should not over-generalize from these troubling examples of policy non-compliance, they raise legitimate concerns and undermine confidence in the potential role of the private sector in supporting JA.

- **Disincentives:** There appears to be increasing interest in “sticks” as well as “carrots” as part of a JA value proposition. Whereas disincentives (e.g., enhanced law enforcement, restricted access to credit for high-deforestation jurisdictions) played important roles in Brazil’s success in reducing deforestation in the Amazon, early strategies to promote JA in Indonesia have focused mostly on positive incentives. Recent discussions with JA proponents and others suggest that there is increasing recognition of the need for complementary negative incentives (e.g., bad
publicity related to fires, unwelcome attention from the KPK) as part of an overall value proposition for improved land use, so that leaders of “laggard” jurisdictions would feel pressure to improve. Several of the people with whom we spoke in Pekanbaru emphasized the role of the central government entities – including the KPK, the Ministry of Environment and Forests, and the Office of the President, in addition to the Ministry of Home Affairs mentioned above – in wielding various “sticks”, including adverse attention related to fires.

- **Unresolved “legacy” issues remain a significant barrier to the public-private partnerships and multi-stakeholder processes envisioned for JA in some jurisdictions.** During our discussions in Pekanbaru in particular – with CSOs, academics, and government officials – we were struck by the deep well of resentment expressed toward large commodity producers for their past sins in abusing both the land and the people of the province. Individuals with such strong negative feelings toward the companies would likely hesitate to join a multi-stakeholder JA process involving such companies without reassurance that the process would deal with legacy issues in a meaningful way. As one informant put it, “We cannot move forward without looking back.” While this challenge is likely to be particularly acute in Riau, similar legacy issues may also prove a constraint on JA in other jurisdictions.

- **Discussions among proponents of JA and indigenous rights recognition remain at a very early stage, but opportunities for coordination at the policy and implementation levels have been identified.** As described in a separate document summarizing highlights from the small meeting convened by the project in Jakarta on March 24th, there are several national-level policy processes which could serve both sets of objectives (including the Ministry of Environment and Forestry’s push for hutan adat as part of its social forestry agenda, inclusion of hak ulayat in agrarian reform, and implementation of the One Map Policy). In addition, there are opportunities to exploit synergies in specific geographical areas where activities under initiatives such as AMAN’s BERSAMA, LTKL, and REDD+ overlap.