

30 August 2012

Greenomics Indonesia Open Statement in Response to Interview with Scott Poynton in REDD-Monitor

First of all, we at Greenomics Indonesia would like to express our appreciation to Chris Lang (REDD-Monitor) for posing important questions arising from Greenomics Indonesia reports to Scott Poynton (Executive Director of TFT) in an interview that was carried by **redd-monitor.org** on 23 August 2012. The questions put by Chris Lang are key questions based on Greenomics Indonesia reports on the agreement between TFT and GAR. Chris Lang provided space in REDD-Monitor for Greenomics Indonesia's views when we strongly criticized the collaboration between TFT and GAR. We are thankful therefore for the support that has been provided by Chris Lang and REDD-Monitor.

Greenomics Indonesia now feels called upon to respond to the points raised by Scott Poynton in the said his constructive and productive comments on the Greenomics Indonesia reports, particularly the report of our investigation into the first year of operation of the collaboration agreement between TFT-GAR in respect of three GAR concessions in West Kalimantan Province.

In Greenomics Indonesia's view, the points set out herein need to be raised for the purpose of clarifying what was said in the interview.

1. The criticism levied by Greenomics Indonesia against the TFT-GAR Agreement is not based on antipathy on the part of Greenomics Indonesia to the agreement, but rather the need to have regard to a report by the Indonesian State Audit Board stating that the greater part of GAR palm concessions in Central Kalimantan Province are located in areas that are legally designated as forestland. Greenomics Indonesia's criticism is therefore not based on the perceptions, or indeed prejudice, on the part of our organization, but rather on an audit report issued by the Indonesian State Audit Board.
2. We also need to avail of this opportunity to update TFT and Greenpeace about the latest report from the Indonesian State Audit Board (2012), which is based on samples of legal violations of forestry law by palm companies in Central Kalimantan Province. This report states that 3 of the 17 palm companies found to have committed legal violations are actually GAR companies. The report also reveals that GAR has palm concessions blocks that are located in designated forest zones based on the Central Kalimantan spatial plan. This means that these GAR palm concession blocks are operating in violation of the Central Kalimantan government's own spatial plan. Consequently, it will be clear that Greenomics Indonesia's criticisms continue to be highly relevant, namely, even based on the Central Kalimantan spatial plan, GAR still operates palm concession blocks that are located within designated forest areas. TFT and Greenpeace need to take head of these serious legal violations.

3. Clear legal evidence that the bulk of GAR palm concessions in Central Kalimantan Province are located on land that is legally designated as forestland is provided by Government Regulation No. 60 of 2012, which was signed by President Susilo Bambang Yudhoyono on 6 July 2012. This Government Regulation proves that Greenomics Indonesia's criticism of the TFT-GAR Agreement is well-founded and valid from the legal perspective. The President's signature on this Government Regulation clearly shows that the majority of GAR palm concessions in Central Kalimantan are sited on legally designated forestland and therefore require forestland relinquishment permits. The issuance of this Government Regulation proves beyond doubt that the Greenomics Indonesia criticism of the TFT-GAR Agreement is more than just an exercise in cynicism.
4. One of the proofs that Greenomics Indonesia is not acting cynically in respect of the TFT-GAR Agreement is that fact that following the issuance of Government Regulation No. 60 of 2012, Greenomics Indonesia took the initiative of holding discussions with the President Director of PT Smart Tbk, Daud Dharsono. PT Smart is the GAR subsidiary that manages all of the GAR concessions in Indonesia, including those operating in Central Kalimantan. The said discussions were intended to ascertain the extent to which the GAR concessions can obtain forestland relinquishment permits following the issuance of Government Regulation No. 60. It is found that thanks to Government Regulation No. 60, forestland relinquishment permits can be obtained by GAR in respect of palm concessions located in convertible production forest, by paying compensation for timber that had been cleared without the obtaining of timber clearing permits. Meanwhile, for GAR concessions in permanent production forest, the GAR concessions can obtain forestland relinquishment permits by providing substitute land to be set aside as permanent production forest and paying compensation for timber that had been cleared without the obtaining of timber clearing permits.

TFT, Greenpeace and GAR should pay close attention to this Government Regulation bearing in mind that it represents the position of the President of the Republic of Indonesia and is highly relevant to the legal reality that the majority of GAR palm concessions in Central Kalimantan Province continue to be legally designated as forestland.

5. Scott Poynton stated in his interview with REDD-Monitor that "We made maps with Greenpeace and areas were marked 'Go' and 'No-Go' ". This statement shows that TFT and Greenpeace played key roles in determining the areas that could be cleared and those that could not on the GAR concessions. In its report, Greenomics Indonesia investigated three GAR concessions in West Kalimantan Province, and revealed that in the interests of forest conservation, changes were made in the areas designated for clearance so as to avoid clearing natural forest that was still relative intact and connected with relatively extensive forest blocks. From the conservation perspective, such choices were correct.

However, these conservation choices nevertheless violated forestry law as the changes in the locations to be cleared were not accompanied by revision of the relevant timber clearing permits (IPK). Under forestry law, the punishment for this is a fine of 10 times that amount of forestry royalties that have been paid to the state. Bearing in mind that TFT and Greenpeace played an instrumental role in determining the "Go" and "No-Go" areas for land clearance, accordingly TFT and Greenpeace have a legal responsibility to ask GAR to pay such a fine.

The payment thereof should be seen as proof of a high level of commitment to the GAR forest conservation program and a willingness to transfer land clearance from blocks that have relatively intact forest cover to locations that are considered as no longer capable of supporting the forest conservation program, notwithstanding the obligation to pay a fine. This would set a good example for other palm oil companies operating in Indonesia. However, if the fine were not to be paid by GAR, this would be contrast set a bad precedent. In fact, both TFT and Greenpeace could be seen as promoting violations of forestry law. Accordingly, this legal responsibility to encourage GAR to pay the fine should be discharged as expeditiously as possible. Greenomics Indonesia has already informed Daud Dharsono that it would be more than willing to provide input and technical facilities to hold the company fulfill its duty to pay the fine. This also shows that Greenomics Indonesia is not acting cynically as regards the TFT-GAR Agreement.

6. Greenomics Indonesia has also exposed a number of GAR palm operations that are located within designated forest areas in South Kalimantan Province. The report in question is serious and far from being an exercise in cynicism aimed at the TFT-GAR Agreement. Rather, it represents an attempt by Greenomics Indonesia to remind TFT and Greenpeace that the TFT-GAR Agreement has the potential to give rise to legal action against GAR palm concessions located in designated forest areas. As an update for TFT and Greenpeace, top GAR/PT Smart executive responsible for the management of GAR palm concessions in South Kalimantan Province have been detained by the police and are being processed according to law, primarily in connection with GAR' s operation of palm concessions located on designated forestland. It would be far-fetched indeed to claim that the police moves in this respect are also motivated by cynicism towards the TFT-GAR Agreement.
7. Greenomics Indonesia firmly believes that sustainability must be brought about in line with the relevant legal parameters so as to ensure best practice. Sustainability must not be used as an excuse for failing to respect legal rules and boundaries.

In conclusion, Greenomics Indonesia would like to once again express its sincere appreciation to Chris Lang and Scott Poynton for, among other things, discussing the Greenomics Indonesia reports related to the TFT-GAR Agreement in the REDD-Monitor interview. Greenomics Indonesia believes that the GAR Forest Conservation Program has the potential to serve as an excellent example for the development of the palm oil industry in Indonesia, particularly on Borneo Island. But first, the problems related to licensing in Central Kalimantan, the issue of fines in West Kalimantan and the overlapping of GAR palm concessions in South Kalimantan will all need to be resolved as expeditiously as possible. ***