



Permanent Mission
of the Republic of Indonesia to the UN, WTO,
and Other International Organizations
in Geneva

No.: 104 / POL-II / VII /2020

The Permanent Mission of the Republic of Indonesia to the United Nations, WTO, and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to a letter from the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment of 29 May 2020, has the honour to convey the Government of Indonesia's submission for the thematic report on on Healthy Ecosystem and Human Rights: Sustaining the Foundations of Life.

The Permanent Mission of the Republic of Indonesia to the UN, WTO, and Other International Organizations in Geneva, avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 6 July 2020



Office of the High Commissioner for Human Rights

Geneva

**RESPONSES TO THE QUESTIONNAIRE OF SPECIAL RAPPORTEUR ON THE ISSUE
OF HUMAN RIGHTS OBLIGATIONS RELATING TO THE ENJOYMENT OF A SAFE,
CLEAN, HEALTHY AND SUSTAINABLE ENVIRONMENT**

1. Please provide examples of ways in which declining biodiversity and degraded ecosystems are already having adverse impacts on human rights. Adversely affected rights could include, among others, the rights to life, health, water, food, culture, non-discrimination, a safe, clean, healthy and sustainable environment, and Indigenous rights.

- Illegal mining has taken place in several areas, namely South Solok, Sijunjung and Pasaman Regencies, all of which are located in West Sumatra Province. These unlicensed activities caused land damage and pollution of clean water sources in those locations, which also served as production forests, protected forests and customary lands of various Minangkabau tribes. Damage in the agricultural land and plantations caused farmers to lose their livelihoods, threatened public health and the Minangkabau community's identity.

To address this, the Government of Indonesia is developing various measures, including: formulating a Presidential Regulation on better coordination in addressing post-mining reclamation and unlicensed mining; establish a Task Force consisting of the army and police to take legal action on the owner and operator of unlicensed mining; drafting policies on post-mining activities and chemical circulation control.

- Land degradation: The Government of Indonesia works towards replacing the function of degraded land for conservation through rehabilitation of forests and land as well as for agricultural purposes.
- Threats to Coastal Zone: Mangroves have an important ecological, economic and social role in supporting the development of coastal areas, and are under threats. To protect mangroves, the local government work together and facilitate collaboration between the private sector and the local community to protect the mangroves forests. To ensure such practices, community-based management is implemented in managing the environment in the coastal areas with activities which include making embankments and planting mangrove vegetation.

2. To protect a wide range of human rights, what are the specific obligations of States and responsibilities of businesses in terms of addressing the main direct drivers of harm to biodiversity and ecosystems (e.g. land conversion, loss and degradation of habitat, climate change, overexploitation, pollution, invasive species) and the indirect drivers (unsustainable production and consumption, rapid human population growth, trade, conflict and inequality)?

State Obligations:

The right to enjoy good and healthy environment is guaranteed under the 1945 Constitution which states that the earth, water and natural resources therein are under the power of the state and be used for the greatest benefit and prosperity of the people. With respect to environmental management as mandated in the constitution, Law No. 32/2009 on Environmental Protection and Management stipulated the government's responsibilities where the government is obliged to carry out its affairs in the field of environmental protection and management aimed at protecting the territory of the Republic of Indonesia from pollution and environmental damage, as well as to ensure the survival of living things and the preservation of their ecosystems.

The strategic efforts in environmental protection includes:

- Establish and implement policies regarding the Strategic Environmental Assessment (Kajian Lingkungan Hidup Strategis/KLHS);
- Establish and implement policies on Environmental Impact Analysis (Analisis Dampak Lingkungan/AMDAL) and Environmental Management Efforts and Environmental Monitoring Efforts (Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup/UKL-UPL);
- Carry out an inventory of national natural resources and greenhouse gas emissions;
- Formulate cooperation standards;
- Coordinate and implement pollution control and / or environmental damage;
- Establish and implement policies regarding biological and non-biological natural resources, biodiversity, genetic resources, and biological safety of genetically engineered products.

In addition, the Government of Indonesia continue to placed the environment as one of the key considerations in the preparation of programs and targets in various sectors under the 2020-2024 National Medium-Term Development Plan (RPJMN). With the implementation of the programs, the Plan expected improvement of environmental quality in 2025, indicated by the national Environmental Quality Index (Indeks Kualitas Lingkungan Hidup/IKLH). The index targeting the range of 75.5 - 79.0 to support the lives and socio-economic activities of the community. Furthermore, the Government set out target for greenhouse gas (GHG) emission reduction over 27 percent and GHG emission intensity reduction up to 24 percent.

The State have particular obligation in addressing the indirect causes of damages to biodiversity and ecosystems by **monitoring the mining business activities**, with several efforts as follows:

- mining business operators must acquire **environmental permits** for activities / businesses, environmental management and monitoring permits, and other permits related to the environment;
- mining business activities can only **be carried out in places that are not prohibited** from conducting mining business activities in accordance with statutory provisions such as conservation areas, protected forests, and areas outside the Mining Business Permit Area (Wilayah Ijin Usaha Pertambangan/WIUP) except for supporting areas;
- the activities of mining businesses, since exploration stage, must obtain **approval from the holders of land rights** prior to the implementation of the activities / business including the designation of their post-mining land;
- obligation to restore post-mining land in the Reclamation and Post-mining activities, especially in forest areas to ensure environmental sustainability including diversity of flora and fauna;
- **reclamation of ex-mining land** as one of the mitigation actions to reduce greenhouse gases and must be reported annually to the Ministry of Energy and Mineral Resources as per Ministerial Regulation No. 22/2019 on Guidelines for Organizing Greenhouse Gas Inventory and Mitigation. This is the one of the contributions of the mining sector to Indonesia's commitment in reducing GHG emissions;
- recognition of People's Mining Areas (Wilayah Pertambangan Rakyat/WPR) and the issuance of Smallholder Mining Permits (Izin Pertambangan Rakyat/IPR) to manage small scale mining activities that have a high risk to the environment and reduce conflicts and inequalities for community mining management;
- **control of production and exports**, especially of coal commodities through national coal production restrictions in the National Energy General Plan (Rencana Umum Energi Nasional/ RUEN) in accordance with Government Regulation No. 22/2017, to prevent uncontrolled

conversion to mining land. In addition, the National Energy General Plan encourages the use of renewable energy resources as the national energy source; and

- **policy to increase the added-value of mining products** which prohibits the export of nickel ore and bauxite and to encourage the construction of smelters in the country, with the objective to prevent uncontrolled conversion of mining land.

Furthermore, the State's has special obligation in addressing the direct causes of damage to biodiversity and ecosystems by fostering and overseeing implementation of obligations by mining businesses, with the following policies:

- management and monitoring of the mining environment, including reclamation and postmining activities;
- waste management from a mining activity in solid, liquid, or gas form, so that the waste meets environmental quality standards before being released;
- application of environmental standards and quality according to the characteristics of an area;
- water management preservation of water resources that may be affected, in accordance with the provisions of the legislation;
- submission of the Reclamation plan and Postmining plan, as well as the Reclamation Guarantee and Postmining Guarantee; and
- the implementation of Reclamation and Postmining, which is carried out in accordance with the allotment of Postmining land, protection and restoration of biodiversity, as well as respect for local social and cultural values.

Business sector obligations:

In general, corporate responsibility towards the environment is stipulated in Law No. 40/2007 on Limited Liability Companies and Government Regulation No. 47/2012 on Social and Environmental Responsibility of Limited Liability Companies.

The business sector, especially in the industrial sector, has the obligation to prevent environmental damage and pollution as stipulated in Article 21 of the Industrial Law:

- Industrial companies are required to carry out efforts to balance and preserve natural resources and prevent damage and pollution to the environment due to industrial activities. This obligation is excluded for certain types of industries in small industry groups.
- The government provides directives and counselling regarding the damage and pollution prevention due to industrial activities.

A company must pay attention to the balance and sustainability of natural resources used in its production process, as well as preventing environmental damage and pollution, such as disruption, damage, danger to the safety and health of the community due to pollution of soil, water, and air where the business activities are conducted.

An example of this obligation is in the form of corporate social responsibility (CSR) which is set out in Law No. 40/2007 on Limited Liability Companies. To that end, companies are obliged to provide information related to the protection and management of life in a correct, accurate, open and timely manner to maintain the sustainability of environmental functions.

The obligation to protect the environment for mining business is regulated by the Law No. 4/2009 on Mineral and Coal Mining as a technical regulation for the management of mineral and coal mining. The main idea of the law is that mining business activities must be carried out in accordance with environmental principles, transparency, and community participation, as well as in accordance with the principles and objectives of mineral and coal mining management, namely ensuring the benefits of mineral and coal mining in a sustainable and environmentally sound manner.

Regarding forest protection, the government and the private sector are cooperating in a number of prototype/pilot projects on forest fire control in their respective regions and in the areas around companies that hold concessions. Management of conservation areas is also carried out by involving donor agencies from abroad, collaborating in managing cross-border conservation areas together with neighbouring countries.

3. Please provide specific examples of constitutional provisions, legislation, regulations, policies, programs or other measures that employ a rights-based approach to prevent, reduce, or eliminate harm to biodiversity and ecosystems or to restore and rehabilitate biodiversity and ecosystems.

The people's right to environment is guaranteed by the Constitution, as follows:

1. Article 28 H paragraph (1): Each person has the right to live in physical and spiritual prosperity, to have a home and to enjoy a good and healthy environment, and to have the right to obtain medical care.
2. Article 33 paragraph (3): Land, waters and natural resources contained therein shall be under the powers of the state and shall be used for the greatest benefit of the people.
3. Article 33 paragraph (4): The organization of the national economy shall be based on economic democracy that upholds the principles of solidarity, efficiency along with fairness, sustainability, keeping the environment in perspective, self-sufficiency, and that is concerned as well with balanced progress and with the unity of the national economy.

The right to the environment is also regulated in the decree of the Parliament of the Republic of Indonesia No. XVII / MPR / 1998 concerning Human Rights which states that "Everyone has the right to a good and healthy environment".

The Government has issued various legal instruments related to environmental protection, with provisions to promote and protect human rights. To date, there are 15 laws, 9 government regulations, 3 presidential decrees and regulations, and 11 ministerial decrees and regulations.

Laws

1. Law No. 5/1960 on Primary Agrarian Law, which regulate principles and procedural matters of land entitlements including recognition of traditional rights over land and the usage of land;
2. Law No. 5/1990 on Conservation of Biological Natural Resources and their Ecosystems, which regulates the protection of life support systems through conservation of biological natural resources and their ecosystems. Protection of life support systems is aimed at maintaining ecological processes that support the continuity of life to improve the welfare of society and the quality of human life;
3. Law No. 12/1992 on the Plant Cultivation System, which regulates the farming system based on benefits and sustainability;
4. Law No. 5/1994 on Ratification of the United Nations Convention on Biological Diversity, which contains guarantee of access to technology in the environmental field;
5. Law No. 26/2007 on Spatial Planning, which regulates the realization of a safe, comfortable and productive national territory that pays attention to environmental harmony;
6. Law No. 30/2007 on Energy which regulates energy management based on: fair efficiency, sustainability, community welfare, and preservation of environmental functions;
7. Law No. 32/2009 on Environmental Protection and Management. Article 65 emphasizes the fulfilment and protection of the right to the environment as part of human rights, including the right to a good and healthy environment, the right to obtain environmental education, access to information, access to participation, and access to

- justice, the right to have an opinion on business plans and / or activities that are expected to have an impact on the environment, the right to play a role in environmental protection and management in accordance with statutory regulations, and the right to make complaints due to alleged environmental pollution and / or damage. Article 66 stipulates that anyone who fights for the right to a good and healthy environment cannot be prosecuted criminal or civilly sued.
8. Law No. 39/1999 on Human Rights. Article 9 paragraph (3) states that everyone has the right to a good and healthy environment;
 9. Law No. 11/2005 on Ratification of the International Covenant on ECOSOC Rights;
 10. Law No. 1/2014 on the Amendment of Law No. 27/2007 on Management of Coastal Areas and Small Islands, namely the protection of biological resources and the lives of people living in coastal areas and small islands;
 11. Law No. 31/2004 on Fisheries and Law No. 45/2009 on Amendments to Law No. 31/2004 on Fisheries, which regulates the importance of managing fisheries to protect fish stock/resources from excessive pressure of overfishing, and from unsustainable fishing practices in fish management areas, including (i) Indonesian waters, (ii) Indonesia's exclusive economic zones, and (iii) rivers, lakes, reservoirs, swamps and other potential fish cultivation areas in the territory of the Republic of Indonesia;
 12. Law No. 32/2004 on Regional Government, as amended by Law No. 23/2014, as replaced by Government Regulation in Lieu of Law No. 2/2015, and replaced by Law No. 9/2015 on Second Amendment to Law No. 23/2014 on Regional Government, which regulates the distribution and relationship between the central and regional governments in the management of natural resources and other resources;
 13. Law No. 41/1999 on Forestry, emphasizes that the implementation of forestry is aimed at maximizing the welfare of the people in a fair and sustainable manner by: (i) guaranteeing the existence of forests with sufficient area and proportional distribution; (ii) optimizing various forest functions including conservation, protection and production functions to achieve balanced, sustainable environmental, social, cultural and economic benefits; (iii) increasing the carrying capacity of watersheds; (iv) increasing the ability, capacity and empowerment of local community in a participatory, fair and environmentally friendly manner so as to create social and economic resilience against consequences of external changes; and (v) ensuring the equitable and sustainable distribution of benefits. The control of forests by the State authorizes the government to: (i) regulate and manage all matters relating to forests, forest areas, and forest products; (ii) determine the status of certain areas as forest areas or forest areas as non-forest areas; and (iii) regulate and establish legal relations between people and the forest, and regulate legal actions regarding forestry. The control of forests by the State still pays attention to hukum adat (traditional customary law) and masyarakat hukum adat (traditional customary law community).
 14. Law No. 18/2013 on Prevention and Eradication of Forest Destruction; and
 15. Law No. 12/2014 on Geothermal, which regulates that implementation of geothermal activities shall be environmentally friendly and for the prosperity of the people.

Government Regulations

1. Government Regulation No. 82/2001 on Management of Water Quality and Water Pollution Control;
2. Government Regulation No. 30/2009 on Procedures for Reducing Emissions from Deforestation and Forest Degradation;
3. Government Regulation No. 6/2010 on Norms, Standards, Procedures and Criteria of Forest Management in Protected Forest and Production Management Units;
4. Government Regulation No. 1/2010 on Environmental Management Efforts and Environmental Monitoring Efforts and Statement of Environmental Management and Monitoring Capability;

5. Government Regulation No. 17/2012 on Guidelines for Community Involvement in the Environmental Impact Analysis and Environmental Permit Process;
6. Government Regulation No. 27/2012 on Obligations of Environmental Permit Holders;
7. Government Regulation (Ministry of Agriculture) No. 64/2013 on the Organic Agriculture System;
8. Government Regulation No. 15/2013 on Measurement, Reporting and Verification of Mitigation Actions; and
9. Government Regulation No. 101/2014 on Management of Hazardous and Toxic Waste.

Presidential Decrees and Regulations

1. Presidential Decree and Regulation No. 9/2000 on Gender Mainstreaming in the Development Process;
2. Presidential Decree and Regulation No. 32/1990 on Management of Protected Areas;
3. Presidential Decree and Regulation 61/2011 on National Action on Reducing Greenhouse Gas Emissions;

Ministerial Decrees and Regulations

1. Decree of the Head of the Environmental Impact Management Agency No. 299/1996 on the Technical Guidelines for the Study of Social Aspects in Preparation of Environmental Impact Analysis;
2. Decree of the Head of the Environmental Impact Management Agency No.124/1997 on the study of Public Health in the Preparation of an Environmental Impact Analysis;
3. Decree of the Minister of Environment No. 45/2005 on Guidelines for the Preparation of Reports on the Implementation of Environmental Management Plans (RKL) and Environmental Monitoring Plans;
4. Decree of the Minister of Environment No. 31/2009 on the Development and Supervision of the Implementation of Environmental and Ecolabel Management Systems, Cleaner Production and Environmental-Based Technology in the Regions;
5. Decree of the Minister of Environment No. 9/2010 on Procedures for Complaints and Handling of Complaints Due to Alleged Pollution and / or Environmental Damage;
6. Decree of the Minister of Environment No. 5/2012 on Types of Business Required for Environmental Impact Analysis;
7. Decree of the Minister of Environment No. 17/2012 on Community Involvement in the Environmental and Environmental Impact Analysis Process;
8. Decree of the Minister of Environment No. 62/2013 on the Management Agency for Reducing Emissions from Deforestation and Degradation of Forests and Peatlands;
9. Decree of the Minister of Environment No. 11/2015 on the Principles and Criteria for Management of Indonesian Palm Oil Plantations;
10. Regulation of the Minister of Environment and Forestry No. 83 / MenLHK / Setjen / Kum.1 / 10/2016 on Social Forestry; and
11. Regulation of the Minister of Environment and Forestry No. 37 / MenLHK / Setjen / Kum.1 / 7/2019 on Social Forestry in Peat Ecosystems.

4. If your State is one of the 156 UN Member States that recognizes the right to a safe, clean, healthy and sustainable environment, * has this right contributed to protecting, conserving and restoring biodiversity and healthy ecosystems? If so, how? If not, why not? * See, A/HRC/43/53, Annex II.

In managing its biodiversity, the Government applies three pillars of conservation, which are protection of life support systems, the conservation of biodiversity and its ecosystem, and the sustainable use of biodiversity and the ecosystem. All these are carried out based on the

principle that a good and healthy environment is the basic right of every citizen, as regulated in article 65 of Law No. 32/2009 on Environmental Protection and Management.

The objective of Law No. 32/2009 on Environmental Protection and Management is to create sustainable development through environmental planning policies and the rational use, development, maintenance, recovery, supervision and control of the environment.

Article 5 of the above Law states that one of the stages in the planning of environmental protection and management is the preparation of the Environmental Protection and Management Plan (Rencana Perlindungan dan Pengelolaan Lingkungan Hidup/RPPLH). RPPLH is divided into 3 parts: national, provincial, and district. The RPPLH has been translated into various regional regulations on environmental protection and management. In addition, each local government regulates certain particular aspects of environmental management, for example Waste Management, Environmental Management Documents and Environmental Operational Planning.

State recognition of the right to clean, safe, healthy and sustainable environment contributes to biodiversity conservation. This can be seen from the active participation of community in reporting significant environmental/forest violations through dedicated channels as provided by Minister of Environment and Forestry Regulation No. P.22 / MenLHK /Setjen/Set.1/3/2017 on Procedures for Managing Complaints in the Presumption of Pollution and / or Destruction of Environment and / or Forests) as well as assistance by local/national NGOs.

Indonesia's commitment to nature has produced various positive impacts including the increasing number of protected areas, extending over more than 51 million hectares, which is equivalent to more than 28% of the land area. This exceeds the target of 17% set in the biodiversity convention (CBD) or called the Aichi target. Likewise, for waters conservation areas, Indonesia already has around 20 million hectares per 2018, exceeding the planned target to be reached by 2020.

In addition, Indonesia has designed a number of national strategic action plans and roadmaps to restore populations of 25 endangered species. The impact of these various policies, an increase in the population of a number of endangered species in Indonesia based on monitoring at 270 points, including the population of Bali Myna, Sumatran Tiger, Javan Rhino, Sumatran Elephant and Javanese Eagle.

5. Please provide specific examples of good practices in preventing, reducing, or eliminating harm to biodiversity and ecosystems, or restoring and rehabilitating biodiversity and ecosystems. These examples may occur at the international, national, sub-national, or local level. Where possible, please provide evidence related to the implementation, enforcement, and effectiveness of the good practices (e.g. measurable outcomes such as increases in terrestrial and marine protected areas, increases in Indigenous and Community Conserved Areas, declining rates of deforestation and poaching, or progress in the recovery of species that were previously threatened or endangered).

Cluster-based preventive measures against forest and land fire

A cluster is a grouping constituted of several companies that hold concessions and other regional stakeholders, working together to carry out forest and land fire prevention activities. Clusters are formed based on agreements drawn up and agreed upon by the members. The main purpose of the cluster is to facilitate coordination, mobilize resources, and exchange information. Prevention of forest and land fires conducted on a cluster basis has 3 main activities, namely: (1) village development, both inside and outside of the concession area; (2) early detection; and (3) early suppression.

Management of the Heart of Borneo (HoB)

HoB Management is a model of sustainable management of natural resources across countries through cooperation between three countries Indonesia, Brunei Darussalam and Malaysia. The program aims to create collaborative natural resource management based on the principles of conservation and sustainable development. The HoB area is an area with high biodiversity having 381 mammal species, (173 endemic), 771 bird species (146 endemic), 449 reptile and amphibian species (249 endemic), and 430 fish species (164 endemic) and 82% of plant species medicine (from 2,039 species that exist in Indonesia). The HoB area is also an important habitat for Bornean orangutans and elephants and is an upstream area of 14 large rivers in Kalimantan.

Management of the HoB includes several elements which includes:

- (1) Sustainable Development of Natural Resources;
- (2) Sustainable Economic Development in the Cross-Border Region; and
- (3) Ecotourism Development.

To protect species and ecosystems that are outside of the conservation area, the Government establish Essential Ecosystem Areas (Kawasan Ekosistem Esensial / KEE) which comprise of ecosystem areas, outside conservation areas, that have high biodiversity values and are ecologically, socially and economically important. The implementation of KEE is carried out by local governments, with the supervision by the central government. The progress of designating an area as KEE have continue to increase. From 13 units of KEE in 2015 to 63 units of KEE in 2020. By designating an area as KEE, the area will be preserved for its ecological functions for biodiversity conservation by local governments.

Protection of animal species such as orangutans from the threat of extinction

As explained earlier, Indonesia has designed a number of national strategic action plans and roadmaps to replenish and restore populations of endangered species. This policy has succeeded in increasing the population of a number of endangered species. The Government of Indonesia through the Ministry of Environment and Forestry (KLHK) has rehabilitated and moved orangutans and hornbills to safer habitats.

At the end of December 2017, 726 orangutans have been released back to its natural habitat and 1,059 others were still in rehabilitation. Based on the Population and Habitat Viability Assessment (PHVA) on orangutan species in 2016A total of 57,350 Bornean orangutans are estimated to live in a habitat area of 16,013,600 hectares spread over 42 population pockets.

Furthermore, the Indonesian Government also has strategies in place to preserve endangered Rangkong Gading bird or ivory hornbills (Rhinoplax Vigil).

Forest Reclamation

Forest reclamation is regulated under Law No. 41 of 1999 on Forestry dan Government Regulation No. 28 of 2011 on the Management of Natural Reserves and Nature Conservation Areas. Furthermore, forest rehabilitation related activities have been carried out by the government since 1976 through the issuance of the President's Instruction on Reforestation in 1976 and continues with the Forest and Land Rehabilitation program.

Since 2004, the Ministry of Forestry (now Ministry of Environment and Forestry) has issued a policy on production-forest management license namely the Business License for the Utilisation of Timber 9 Forest Products-Ecosystem Restoration in an attempt to restore the area of production forest to its natural ecological balance. Through this policy, products from production forest, such as timber and non-timber forest products, may be utilised after the return of its biological and ecosystem reach balance.

Forest reclamations are carried out in areas previously utilised as mining areas, construction of electricity networks, telephones network, water installations, religious/cultural activities,

defence and security activities, or areas affected by natural disasters. Forest reclamation in the natural disaster affected areas is carried out in all forest areas except for the natural reserves and the core zone of the national park.

These reclamation efforts are not only undertaken by the government, but also by the business sectors, including mining companies, in accordance with their obligations under national legislations. Ex-Mining and Postmining Land Reclamation are carried out under the allotment of postmining land and must adhere to the principle of protection and restoration of biodiversity with respect to local social and cultural values. Under the environment and forestry sector provisions, ex-mining lands in forest areas must be restored, while ex-mining lands in non-forest areas could be developed into forests to increase forest areas nationwide.

Mining business operators must carry out progressive reclamation during their mining operation and post-mining reclamation when the mining activity is over. Mining business operators whose mining activity is in the forest area must carry out critical land rehabilitation in the watershed, as determined by the environmental and forestry sector. In other words, mining businesses in Indonesia that use forest areas as their mining operations, are subject to multiple obligations to restore their mining sites, as well as to rehabilitate watershed outside their mining sites.

Some examples of efforts to rehabilitate biodiversity and ecosystems in ex-mining land following energy and natural resources sector regulations are:

- protection of surface water, groundwater, seawater, land and air according to quality standards or environmental damage criteria, as regulated in relevant provisions;
- guarantees the stability and security of overburden piles, tailings ponds, mined land and other artificial structures;
- protection of groundwater quality;
- monitoring aquatic and terrestrial flora and fauna diversity index.

These activities serve as a parameter for the success of revegetation reclamation and the current condition of biodiversity in the ex-mining land, whether it has recovered to its initial conditions. As of December 2019, 8,295.77 ha of ex-mining land is reclaimed in 2019.

An example of case studies on the recovery of biodiversity and ecosystems after ex-mining land reclamation limited production forest in the reclaimed ex-mining area of 221 ha by PT Newmont Minahasa Raya is converted into a Special Purpose Forest Zone for the Research, Development and Environmental Education Forest, stipulated through Minister of Forestry Decree No. 175 / Menhut – II / 2014; and •

6. Please identify specific gaps, challenges and barriers that your government, business, or organization has faced in attempting to employ a rights-based approach to preventing, reducing, or eliminating harm to biodiversity and ecosystems.

Every Indonesian citizen has the right to obtain the greatest benefit from natural resources and the environment to establish decent life and respect for life. This right is inherent to every individual in society, the duty of the state is to fulfil it fairly and equally. There are still difficulties, challenges and obstacles in implementing a rights-based perspective due to the complexity and large scope of managing biodiversity and ecosystems for the fulfilment of the rights of every person.

These includes *inter alia* the need of stronger implementation on biodiversity and ecosystem management systems; lack of public awareness relating to active participation including indifference perspective about the threats and dangers faced by biodiversity and ecosystems, as well as illegally exploiting biodiversity and ecosystems for personal gain.

The government endeavours to overcome these difficulties and challenges through various policy responses. Indonesia emphasizes the mainstreaming of biodiversity within cross-sectoral sustainable development planning, which includes the public and private sectors, as well as central and regional authorities. These efforts are key to balancing conservation with sustainable development.

Indonesia has stepped up efforts to enforce environmental and forestry law, the results of which are the ability to preserve 7.6 million ha of forests. This shows the importance of law enforcement and the close relationship between biodiversity and forests as ecosystems. Deforestation rates have fallen sharply during the term of President Joko Widodo, as evidence by the number of deforestation in Indonesia, which have fall from 3.5 million hectares in the period of 1996 to 2000 to 0.44 million hectares per year.

Indonesia have established the Indonesia Biodiversity Strategy and Action Plan (IBSAP). One of the strategies is the policy to manage biodiversity responsibly and in accordance with global standards, as well as in a participatory, inclusive and mutually beneficial manner. The Indonesian government always encourages participation from the community to support environmental preservation, including through the commemoration of National Nature Conservation Day (10 August) and National Plant and Animal Love Day (5 November) each year as national movement to raise awareness on protection and preservation of Indonesia's rich biodiversity.

7. Please specify ways in which additional protection is provided (or should be provided) for populations who may be particularly vulnerable to declining biodiversity and degraded ecosystems (e.g. women, children, persons living in poverty, members of Indigenous peoples and local communities, older persons, persons with disabilities, ethnic, racial or other minorities and displaced persons). How can these populations be empowered to protect and restore declining biodiversity and degraded ecosystems?

The Government set out the Gender Responsive Budgeting program at all levels of government. This includes women empowerment and coordination with relevant stakeholders to widen access and benefits, as well as opportunity to participate on development planning and implementation. In the environmental field, women's empowerment is encouraged through various environmental related movements. One of them is through the "Women Movement for Tree Planting and Caring," commemorated every December 1. In addition, women's empowerment in protecting the environment is also widely developed through various women-based organizations, at the grassroot this include the Family Welfare Development (PKK) which has a branch at all levels including the smallest community unit nation-wide. Through involvement in various movements and organizations, women own strategic role in protecting and preserving the environment, monitoring environmental damage and pollution, rehabilitating the environment, and becoming agents of change and policymakers in a gender responsive environment.

Masyarakat hukum adat (Customary law communities) are groups of people who have traditionally lived in certain geographical regions usually remote from urban areas, with strong ties to ancestral origins and the environment, and carry a unique value system that determines their economic, political, social and legal institutions. They actively participate in environmental conservation by carrying out efforts through safeguarding nature with strict customary rules, one of which is to prohibit illegal logging in their customary forests.

Customary law communities' empowerment in preserving the environment starts with data collection on the number of these communities in Indonesia. It is the first step to protect their existence, which are very influential in the existence of customary forests. If the customary law community is lost, so will its customary forest, thus adversely affecting biodiversity and natural ecosystems. After data collection, the next step is to acknowledge and protect the communities' cultural rights and heritage to preserve their local wisdom protecting nature from extinction. Customary law communities are highly susceptible to environmental conflicts in the realm of business interests that are potentially damaging to their environment. Therefore, protecting their human rights is also an effort to protect biodiversity and natural ecosystems.

8. How do you safeguard the rights of individuals and communities working on biodiversity issues (potentially identified as environmental human rights defenders or land defenders)? What efforts has your Government made to create a safe environment for them to freely exercise their rights without fear of violence, intimidation, or reprisal?

The protection of environmental human rights defenders is stipulated in Article 66 of Law No. 32 of 2009 on Environmental Protection and Management, which stipulated that anyone who defend the rights to a good and healthy environment shall not be prosecuted by criminal or civil suit.

The Ministry of Law and Human Rights, in collaboration with the Swiss Embassy in Indonesia, has carried out a series of activities related to the Convention on Anti Torture, including creating modules, workshops, and training for trainers for law enforcement officials in both central and local levels. These activities are part of efforts to increase awareness of human rights relating to their area of work and minimize acts of offences. The Ministry of Law and Human Rights also established the Community Communication Services on Human Rights Issues (Yankomas) available at national and regent/district level, in the Regional Technical Implementation Units. In addition, complaints about human rights issues can also be made through submission to a web-based service called SIMAS HAM. In 2018, Yankomas facilitated an activity that involved all levels of relevant officials from the Ministry of Human Law and Human Rights and directed by the Ministry of Forestry to formulate recommendations to resolve human rights issues related to the protection of environmental human rights defenders in Indonesia.

9. There is substantial evidence that consumption in high-income States is adversely affecting biodiversity and ecosystems in low and middle-income States. What are ways in which high-income States should assist low-income States in responding to biodiversity loss and ecosystem degradation, while simultaneously contributing to sustainable development in those low-income States?

High-income states should start reducing consumption that harms the environment and biodiversity and, at the same time, assists low and middle income countries in making a transition to a more sustainable production to conserve biodiversity and livelihood of their citizens. It should be fully acknowledged that economic and social development and poverty eradication are the first and overriding priorities of the least developed and developing countries. Assistance to least developed and developing countries for biodiversity and ecosystem conservation should go hand-in-hand with support for sustainable development as a whole, in line with the 2030 Agenda for Sustainable Development. In addressing climate change and the responsible practices of high-income countries, Green Climate Funds can serve as one mechanism for development and environmental conservation in low and middle-income states. Nevertheless, low- and middle-income states should also pursue solutions for biodiversity conservation, including for long-term financing. This may be achieved by starting or continuing to trade products and services obtained from biodiversity through BioTrade as one option for the countries to advance and mainstream their biodiversity objectives at national and international levels. In the case of biodiversity loss and ecosystem degradation due to climate change, the issue requires global response and international solidarity. Developed countries should take the lead in climate action, as stipulated in the United Nations Framework Convention on Climate Change. Countries should share resources, knowledge and technology. International assistance for climate change mitigation and adaptation should be additional to existing ODA commitment, the mechanism of allocation and disbursement of climate finance should subscribe to relevant human rights principles, which are adequate, effective and transparent. It should be administered through participatory, accountable and non-discriminatory processes and targeted towards the most in need.

10. For businesses, what policies or practices are in place to ensure that your activities, products, and services across the entire supply chain (extraction/sourcing, manufacturing, distribution, sale, and end-of life management) minimize biodiversity

loss and ecosystem degradation and meet human rights standards, especially those articulated in the Guiding Principles on Business and Human Rights?

The Government of Indonesia has issued several policies to standardize human rights in harmony with the United Nations Guiding Principles on Business and Human Rights (UNGPs). Under Presidential Regulation No. 33 Year 2018, the Ministry of Environment and Forestry, the Ministry of Foreign Affairs, and the Ministry of Law and Human Rights are responsible for increasing awareness of the UN principles on business and human rights issues in the business community and related sectors. The Ministry of Law and Human Rights, in collaboration with various institutions (including UNDP, University of Indonesia, and The Institute for Policy Research and Advocacy - ELSAM the Embassy of Netherland), has produced business and human rights programs in the environmental sector, including: • Business and Human Rights training module for state civil servants and business groups including in the plantation sector; • conducting workshops and training for civil servants, academics, and business groups on the principles of Business and Human Rights.

Indonesia also specifically regulates energy and mineral resources management, and developed policies on mineral and coal mining business management activities to prevent adverse impacts on biodiversity and ecosystems and to meet human rights standards.

These includes:

- Companies must conduct public and stakeholder consultation in the preparation of Environment Impact Analysis and Postmining plans before can be granted an environmental permit for mining activities. Mining businesses must also consult with stakeholders to bring to light public expectations completing mining activities to prepare for the Reclamation and Postmining plan,
- Mining environment management consists of pollution prevention programs, biodiversity conservation, efficient use of energy and water, and reclamation on stable, safe and productive ex-mining land. Reclamation and Postmining are carried out following the allotment of Postmining land, protection and restoration of biodiversity, as well as respect for local social and cultural values;
- In addition to the obligation to carry out reclamation in the mining area, business license holders must also carry out rehabilitation in watersheds to accelerate regional environmental recovery;
- Mining environment monitoring is also carried out by monitoring aquatic and terrestrial flora and fauna diversity index. This monitoring also serves as a parameter for the success of revegetation reclamation and the current condition of biodiversity in the ex-mining land, whether it has recovered to its initial conditions.
- Mining businesses listed on the stock exchange market must submit an annual sustainability report, one of which refers to the Global Reporting Initiative;
- To guarantee responsible mineral supply not originating from conflict areas, most tin producers in Indonesia are regularly audited by the Responsible Minerals Initiative; and
- Precious metal refining facilities in Indonesia owned by the state-owned company have obtained Responsible Gold Certificate from the London Bullion Market Association in recognition of the implementation of best practices in the mineral industry.
