Half-Hearted Recognition
A Study on Customary Forest Concession License in Papua
HALF-HEARTED RECOGNITION

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CITATION


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HALF-HEARTED RECOGNITION

This publication would not have been successfully made without the contribution of many stakeholders who have genuinely shared their insights and knowledge on special autonomy with regard to the acknowledgement of Papuan indigenous peoples and their customary territories, as well as their forest management. Auriga Nusantara Foundation would like to express its gratitude to Jerat Papua, Mo Make Unaf KSU (Merauke), Jibogol KSU (Jayapura Regency), Tetom Jaya KOPERMAS and Sapusaniye KOPERMAS (Sarmi Regency), Papua Provincial Forestry Office, Ministry of Environment and Forestry, Research and Development Department of Corruption Eradication Commission (KPK), Septer Manufandu, Pieter Roky, and David Saweri, as well as others for their input to support this publication.
A. INTRODUCTION

**THIS** brief report describes the latest condition of forest management policy faced by the Papuan indigenous peoples. This report focuses on the Customary Forest Concession License. (IUPHHK-MHA) when discussing challenges that take form of competition between the central government and Papua regional administrations over forest management. This competition is found in the implementation of forest and indigenous peoples-related laws and regulations.

On the ground, such competition is counterproductive to forest and indigenous peoples. Illegal loggers can claim that the timber they harvest is from indigenous peoples’ forest in order to cover up their unlawful activities (Koalisi Anti Mafia Hutan, 2017). On the other hand, customary forests controlled by indigenous peoples are getting smaller in size as they become claimed by large concessions authorised by the central government. By the end of 2017, the total area of Business Permit for Forest Timber Utilisation in Natural Forest (IUPHHK-HA—also known as HPH) and Industrial Forest Permit (IUPHHK-HTI—also known as HTI) concessions in Papua Island (Papua and West Papua provinces) reached at least 5,596,838 hectares (ha) and 524,675 ha. Other than forest products utilisation permit, there is also the forest area release license granted only to corporations. There is no single permit, however, that has been issued by the central government to Papuan indigenous peoples to date. Nevertheless, the Papua Provincial Government has issued 18 IUPHHK-MHA permits for a total area of 78,040 ha (see Diagram 1), but they remain inoperative because of obstacles from the central government.

One of the solutions that the central government (Ministry of Environmental and Forestry) proposes is the establishment of the Norm, Standard, Procedure and Criteria (NSPK) for the issuance of IUPHHK-HA concessions in production forest areas in Papua. This is an idea worth criticizing as it puts the IUPHHK-MHA and Forest Concession Rights (HPH) at the same position. Still, the Papua Provincial Government and stakeholders are trying to accommodate that idea, although the Forestry Ministry is yet to authorise the draft NSPK (see Appendix 2).

As a matter of fact, according to a series of investigations by the Anti Forest-Mafia Coalition, whose report will be published at a later date, illegal logging activities are rampant in this province and most of the extracted timbers are believed to be sourced from indigenous peoples’
territories. This condition is worsened by the ineffective monitoring by the regional governments due to the presence of Law No. 23/2014 in conjunction with Law No. 9/2015 on Regional Government (Regional Government Law) that transfers forestry authority of the regency administration to the provincial government.

Diagram 1. Forest Use in Papua Island in 2016 (in hectares)

Source: Ministry of Environment and Forestry; Papua Provincial Government; and Papua Barat Provincial Government.

With such description, this report focuses on the abovementioned problems and offers potential solutions to all stakeholders. Other than materials from secondary documents, this report is also based on primary sources including interviews with relevant informants and direct field observations.
B. BACKGROUND OF IUPHHK-MHA ISSUANCE

PAPUA’S special autonomy which is regulated by Law No. 21/2001 on Papua Special Autonomy aims to facilitate the Papua Provincial Government to rule and administer local community’s interests through initiatives based on Papuan people’s aspirations and basic rights. This law is the basis to making natural resources management policies that are in favour of the indigenous peoples. One thing to emphasise under this law is its feature that positions natural resources management under the framework for acknowledging and strengthening the Papuan indigenous peoples’ customary rights.

These customary rights are exercised by means of indigenous peoples’ traditional control which should be acknowledged, respected, protected, empowered and developed by the provincial government. The management principles also include local community and indigenous peoples’ opportunity to be involved in the process of development that is in favour of Papuan people’s interests. Such alignment is essential for helping indigenous peoples overcome the socio-economic lag. In terms of forest utilisation, the alignment is realised by providing opportunities to indigenous peoples to sustainably manage forests and harvest the timber.

The Papua Special Autonomy Law, however, does not explicitly mention forest as one of the objects that lies within the Papua Provincial Government’s authority. The authority to regulate forests arises as a special authority that should be translated into the law’s derivative regulation, both in the form of special bylaws (Perdasus) and provincial bylaws (Perdasi). The principles on the use of natural resources, including forest, must (1) respect indigenous peoples’ rights; (2) guarantee legal certainty for businesses; (3) enforce environmental preservation principles; and (4) implement sustainable development which is regulated through the Perdasus (Article 38 of Papua Special Autonomy Law).

B. 1. PERDASUS NO. 21/2008 ON SUSTAINABLE FOREST MANAGEMENT IN PAPUA

Specific arrangement regarding forest management in Papua are regulated under the Papua Province Special Bylaws No. 21/2008 on Sustainable Forest Management in the Province of Papua.
(Perdasus No. 21/2008). This regulation should emphasize the main subjects, indigenous people and their rights, before regulating about forest management. This regulation confirms that Papuan indigenous peoples have rights to natural forests, depending on the boundaries of their respective customary territories.

The Perdasus indicates that all forests in Papua are under indigenous peoples’ stewardship. It sets forth the criteria for customary law communities, namely: (i) those with clear customary law jurisdiction whose boundaries are mutually agreed with the neighbouring groups of indigenous peoples; (ii) those who have customary law institutions and structures; and lastly (iii) those possessing spiritual and historical relationships with their customary territories.

The regulation goes into more detail to govern the relationship between the indigenous peoples and their forests. As for the acknowledgement and protection of indigenous peoples as the subject, these are regulated under another special bylaw, namely Perdasus No. 22/2008 on Protection and Management of Papuan Indigenous Peoples’ Natural Resources (Perdasus No. 22/2008). This bylaw complements indigenous peoples’ criteria that are already governed under Perdasus No. 21/2008 by adding the second standards, i.e. the availability of legal norms, customary institution structures and leadership systems that function to govern members of indigenous peoples, and removing the
‘historical relationship’ in the third criterion. This way, Perdasus No. 22/2008 fills in the legal gap that Perdasus No. 21/2008 overlooks in regards to the acknowledgement of indigenous peoples governed by regency and/or provincial regulations.

Perdasus No. 21/2008 regulates that indigenous peoples’ forest refers to forest located within indigenous peoples’ territory. This provision is different from the customary forest definition under Law No. 41/1999 on Forestry, also known as the Forestry Law (prior to Constitutional Court Decision No. 35/2012), which states that customary forest was actually state-owned forest located within indigenous peoples’ territory. Therefore, it can be concluded that the arrangement under Perdasus No. 21/2008 has already preceded the revised national regulation on customary forest. This emphasis is important to mention as it can reinforce the presence of customary territories through a series of customary forest mapping.

This forest mapping is carried out either under the facilitation of the regency government or based on indigenous peoples’ initiative. The forest mapping will be authorised through a regent and/or gubernatorial decree if the location intersects with more than one regency/municipality. The map will then be integrated into the provincial and regency’s Spatial Plan (RTRW) to strengthen the presence of indigenous peoples’ forest areas. More specific regulations on the subject and object acknowledgment, which continues on to site-level customary forest mapping, actually serve as a robust foundation for the next forest regulation such as the arrangement concerning the forest management unit (KPH), forest stewardship, forest products distribution and processing, and so on.

Perdasus No. 21/2008 also regulates that the implementation of forest utilisation in all types of forest function (conservation, protection and production) must follow its provisions. For instance, forest timbers can be used to improve indigenous peoples’ prosperity while also maintaining the forest’s sustainability. Indigenous peoples may use any forest areas in accordance to the type of the forestry concessions. This Perdasus places indigenous peoples in the central role and accommodates their interests in the forests. Forest sustainability is emphasised in the process of forest utilisation while, at the same time, indigenous peoples may use the forest for both commercial and non-commercial purposes.

Indigenous peoples may establish enterprises for commercial purposes and then can apply for forest utilisation permit to the provincial and regency governments. To carry out activities under
this permit, these enterprises may work alone or in partnership with other companies. One of the permits regulated under Article 38 of Perdasus No. 21/2008 is the IUPHHK-MHA. More detailed regulation on this is included in the Papua Governor Regulation No. 13/2010 on IUPHK-MHA in the Papua Province (Pergub No. 13/2010).

Before going deeper into the IUPHHK-MHA, it is important to review similar forest management permits in Papua, such as the Timber Utilisation Permit for Indigenous Peoples (IPK-MA) and Customary Forest Management Permit (IHPHA). This review is important to understand why the IUPHHK-MHA was introduced or, in a wider sense, the presence of the IUPHHK-MHA as one of the forms of forest management by indigenous peoples.

B. 2.  TIMBER USE PERMIT BEFORE THE IUPHHK-MHA

Prior to the IUPHHK-MHA, there was a policy in favour of the indigenous peoples in the utilisation of timber in Papua. This includes the IPK-MA which was managed by the Indigenous Peoples Cooperative (KOPERMAS). This permit was introduced through the Forestry and Plantation Ministerial Decree No. 317/Kpts-II/1999 dated May 7, 1999 on Indigenous Peoples’ Rights to Forest Products Extraction in Production Forest Concession,
as well as Forestry and Plantation Ministerial Decree No. 318/Kpts-II/1999 on Community Participation in Forestry Business Management.

The two regulations, which opened more access for indigenous peoples to forest management, were driven by the new era of decentralisation as marked by the passing of Law No. 22/1999 on Regional Government, and Law No. 33/2004 on the Financial Ratio between the Central and Regional Governments. The decentralisation policy also stimulated passage of the Papua Special Autonomy Law. It is this Papua Special Autonomy Law that regulates the position of the indigenous peoples who control and benefit from their surrounding forests.

In response to its new autonomy status, the Papua Provincial Government unilaterally regulated forest timber extraction (by means of Papua Gubernatorial Decree No. 522.2/3386/SET/2002 on Regulation of Extraction of Forest Timber by Indigenous Peoples), disregarding the non-synchronised regulations between the Ministerial Decrees and their implementing regulations (according to the Ministerial Decree, the regent issues permits for non-commercial timber extraction activities, while according to their implementing regulations, it is the governor that issues permit for extraction activities and this may include commercial activities). The IPK-MA permit was issued by the governor and valid only for one year. IPK-MA applicants could be individuals, private companies in partnership with indigenous peoples, and groups of indigenous peoples formally authorised by local government. Indigenous peoples could also apply for an IPK-MA permit through the KOPERMAS.

Unfortunately, the IPK-MA failed to realise its initial objectives. The reason being is that customary institutions had but limited capital and knowledge, forcing them to forge partnerships with other parties such as regional/state-owned enterprises, private concession holders, and other private investors. In addition, there was lack of participation from local clans in the IPK-MA concession areas. It was worsened by the contracts and partnerships that were not in favour of the customary institutions (Tokede et al., 2005).

It appears that the IPK-MA was used as a cover by outsiders who desired to use Papua timbers by exploiting inconsistent, weak regulations and poor monitoring in the field. Several illegal logging eradication operations were carried out against IPK-MA permit holders. The permit that initially was legal in nature was then considered otherwise by the central government, resulting in the permit holder’s activities being frozen and some of them being
labelled as illegal loggers (Mujiyanto and Pietsaw, 2006).

The IPK-MA is believed to have expanded unsustainable logging practices. The regulation which governed indigenous peoples’ rights over forest timber extraction was eventually revoked in 2005 through the Forestry Minister Regulation No. 7/2005. On the other hand, based on observations, the regulations on community participation in the forestry business remain effective and are yet to be revoked.
C. CHARACTERISTICS OF THE IUPHHK-MHA

The deviation of IPK-MA from its initial purpose has impeded policies aimed to broaden indigenous peoples' access and promote their rights to their forests, making them no longer trustworthy. The community is considered cannot yet be trusted to sustainably manage forests. In fact, the disharmony between the central and regional regulations, not to mention the weak timber surveillance, have made the IPK-MA system prone to exploitation by those aiming only to get cheap timbers. In addition, a fundamental issue remains outstanding, i.e. overlapping fields between forest areas and customary territories. This has trapped the community and made them a mere passive actor. When they manage the forests by themselves, they would be accused as illegal loggers, while the
concession holders who ‘stole’ their customary lands would merely give little compensations and probably low labourer wages (Pietsaw, 2006).

Note must be taken that before 2008, there were no implementing regulations for the Papua Special Autonomy Law on indigenous peoples’ forest management. They were issued only in 2008, in the form of Papua Perdasus No. 21/2008, Perdasus No. 22/2008 and Perdasus No. 23/2008 on Indigenous Peoples’ Communal and Individual Rights on Land Title (Perdasus No. 23/2008).

It is Perdasus No. 21/2008 that subsequently encouraged indigenous peoples to manage their surrounding forests with various regulations that followed conservation principles. There are 16 implementing regulations at the same level as the governor regulation that should be issued to ensure its implementation in the field. Some of them have already been issued, such as the indigenous peoples’ forests mapping, non-timber forest product (NTFP) utilisation permit, forest timber extraction permit, and forest timber utilisation permit for indigenous peoples. The IUPHHK-MHA is derived from the latter.

The IUPHHK-MHA was designed as an instrument to deal with the downside of the IPK-MA. Such improvement includes its conformance with provisions under the Papua Special Autonomy Law (Perdasus No. 21/2008 and Pergub No. 13/2010) and better governance, in which sustainable forest management (the presence of field supervisor on site, avoidance of use of heavy machinery during operation, area restriction, location certainty, etc.) is emphasised.

The IUPHHK-MHA is a type of permit that is given to the Papuan indigenous peoples who hold customary land title to allow them to use timbers in their customary forests. This permit is given through a gubernatorial decree, while the work plan (RKU) is approved by the Head of the Provincial Forestry Office, and the annual work plan (RKT) is authorised by the Head of the Regency Forestry Office. The IUPHHK-MHA includes the following activities: forest timber harvest or logging, processing, planting, maintenance, securing and marketing.
To ensure land certainty, the governor reserves and assigns forest area through his/her decree before the IUPHHK-MHA is issued. Proposed by the regent, the reservation must be accompanied with 1:50,000 or 1:25,000-scaled location map. Such scales provide excellent accuracy compared to the forest area map scale normally used at that time, i.e. 1:250,000. Land certainty is vital as the proposed location may take the form of permanent production forest, convertible production forest, non-forestry cultivation area (APL), and other areas for which timber use concessions have been issued. Therefore, it is evident that the reservation is done to make the IUPHHK-MHA concession ‘clean and clean’. Nevertheless, even if it is located within other concessions’ work areas, this permit can still be issued, but in the form a partnership with the existing concession holder.

Those who can apply for the IUPHHK-MHA permit are cooperatives and local indigenous peoples-owned enterprises, with a maximum concession size of 5,000 ha and a validity period of 10 years, which is extendable upon expiry. While the IUPHHK-MHA requirements are much more detailed than that of the IPK-MA, the permit should take into account the capacity of the indigenous peoples. For an instance, the costs of initial
field checking process are covered by the Regional Budget (APBD) of the regency where the proposed IUPHHK-MHA concession will be located, or by a non-binding third party funding scheme.

Pergub No. 13/2010 also regulates the utilisation mechanisms (RKT and RKU) that prohibits the use of heavy equipment, so that the logging should be carried out manually or with chainsaw, and the timber should be processed in portable sawmills. The regulation also determines the marketing mechanism, forest product administration, and so on, that in fact are in compliance with the requirements on the IUPHHK permit issuance to those who are not indigenous peoples.

Table 2. IUPHHK-MHA Application Flow Chart

- Carry out pre-harvesting inventory
- Request for approval from customary institution chief
- Make work map
- Request for technical consideration from district/municipal forestry office
- Request for recommendation from District Head/Mayor

The diagram illustrates the application flow chart for the IUPHHK-MHA process, detailing each step from the applicant to the governor's decision on the proposal.
C. 1. ASSESSMENT RESULTS OF IUPHHK-MHA IMPLEMENTATION

Based on the accessible data until 2017, there were 18 IUPHHK-MHA permits issued by the Papua Provincial Government, in addition to another still being processed. The total area of IUPHHK-MHA concessions is 78,040 ha. Our researchers managed to assess three IUPHHK-MHA concession holders in Jayapura and Sarmi Regencies, i.e. (i) Jibogol Business Cooperative (KSU) in Jayapura; (ii) Tetom Jaya KOPERMAS; and (iii) Sapusaniye KOPERMAS in Sarmi. We also visited one of the three concessions, namely the Sapusaniye KOPERMAS in Aruswar Village, Pantai Barat District, Sarmi Regency.

All IUPHHK-MHA permit holders shared similar stories about their long wait for the operation of their permits, which they received in 2011. All holders thought they had already gone through the entire process for permit issuance, and they had even already prepared the timber distribution monitoring infrastructure in the field. However, they were yet to be able to benefit from the permits they held. At the same time, they described the increasingly massive illegal timber distribution around their IUPHHK-MHA concessions.

These permit holders are irritated and feel they have been treated
unfairly. Those who operated without permits behaved at will when extracting timbers from customary territories, while the IUPHHK-MHA permit holders are unable to operate for reasons they do not know. Head of Tetom Jaya KOPERMAS, Hendrik Abowai, even said that he feels like he has been made a ‘guinea pig’ by the government, given the lengthy process to obtain the permit and the long wait for operation upon its issuance.

The inoperable IUPHHK-MHA permits—in the sense that the holders should have been allowed to harvest timbers included in the RKT, and process and distribute them not only in Papua, but also outside the province—is undoubtedly confusing. Based on an interview with an official of the Papua Provincial Forestry Office, the problem lies in the conflicting legal interpretations by the central government that holds on to the Forestry Law and the Papua Provincial Government that persists on the Papua Special Autonomy Law. The conflict is the reason why the provincial government was unable to give a green light to IUPHHK-MHA holders and let them benefit from the permits they already held. Such condition was even faced by IUPHHK-MHA permit holders whose RKTs had already been approved.

Without the green light, IUPHHK-MHA holders were afraid that if they insisted on operating (despite them genuinely trusting the permit legality), some officials would have seen that their permits were not in compliance with forestry regulations. For example, police would have arrested IUPHHK-MHA holders on the
allegation of illegal logging (based on an interview with an official of the Papua Provincial Forestry Office, October 9, 2017).

From the brief field assessment, there are several important observations:

1. The IUPHHK-MHA permits, along with their approved RKUs, were mostly issued during 2011-2012. Tetom Jaya KOPERMAS obtained IUPHHK-MHA No. 100/2011 and the 2011-2022 RKU approval from the Papua Provincial Forestry Office Head Decree No. KEP-522.1/4106 dated October 23, 2012. However, not all IUPHHK-MHA holders have their RKT approved. According to WWF, there is only one IUPHHK-MHA holder whose RKT has already been approved, i.e. Jibogol KSU in Jayapura (for two IUPHHK-MHA locations).

2. The IUPHHK-MHA locations are normally customary territories owned by more than one clan. This indicates a spirit to cooperate and work together between clans. For instance, Tetom Jaya KOPERMAS 4,800 ha concession is custom land controlled by five local clans, namely Karuf, Korman, Sisre, Joks, and Warmo; while Sapusaniye KOPERMAS’ concession is located on a land owned by the Saweri, Catuwe, Yapo, Wabror, Sawinai, Mirne, and Orowai clans. The location of the 4,800 ha concession is already mapped and determined to be free from conflict between clans or tribes.

3. Timber harvest is minimal in IUPHHK-MHA concessions. Most of them are still being maintained by the permit holders pending the government’s notification to commence operation. Even if there is any harvest at all, it is normally carried out only to meet local village needs and subsistence use for domestic-scaled furniture making.

4. Some KSU/KOPERMAS chiefs are not traditional leaders or from local clans where the IUPHHK-MHA concessions are located. This indicates acknowledgement of meritocracy principles instead of a familial one, which actually is common in Papuan customary structures. It is true that clan leadership is normally familial (paternal), but when it comes to alliances between clans, any man can lead so long as he is capable of leading and trusted by the allied clans.

5. IUPHHK-MHA concessions are located quite far away from the villages and in moderately difficult terrains, as can be seen in the Sapusaniye KOPERMAS concession in Pantai Barat, Sarmi Regency, which is about five kilometres away from the village, passing through several shallow rivers and swamps. Given such condition, they hope they can get assistance in
the form of heavy equipment, while one of the requirements of the IUPHHK-MHA prohibits the use of heavy machinery (excavator and the likes) in harvesting and extracting forest timbers.

6. Several IUPHHK-MHAs are located in forest areas with active business concessions. To get the IUPHHK-MHA, applicant is mandated to obtain an agreement from the existing concession holders to reduce the business’ operational area. In one case, namely the Mo Make Unaf KSU in Merauke, where an area reduction arrangement that had initially been agreed by PT Selaras Inti Semesta as the existing concession holder, was unexpectedly revoked by the company’s new management (based on an interview with an official of the Papua Provincial Forestry Office, October 9, 2017). In the future, this condition will definitely present an obstacle to IUPHHHK-MHA operation as they mostly are located in production forest areas already occupied by existing business concessions, with regards that an IUPHHK-MHA concession should be issued for indigenous peoples’ customary land. Meaning, there are overlapping claims between the state and the indigenous peoples over the lands.
D. CHALLENGES IN IUPHHK-MHA IMPLEMENTATION AND INDIGENOUS PEOPLES’ FOREST MANAGEMENT

According to this assessment, the problems that can be dragged out to a wider domain, particularly with regard to indigenous peoples’ forest management, are the shifting of forest area status from state forest to customary forest, and the special autonomy implementation. Although the IUPHHK-MHA is the realization of Papua Provincial Government’s authority as derived from the Papua Special Autonomy Law, its implementation it gets obstructed by the central government, which fails to accept the presence of this permit.

This condition indicates the central government’s inconsistent policies in Papua’s special autonomy status. On the one hand, the central government encourages the implementation of special autonomy as a way towards reconciliation to gain Papuan people’s trust of the Indonesian government, as well as to resolve problems in Papua such as strengthening Papuan native peoples’ basic rights protection, respect for human rights, and improving economic prosperity. On the other hand, the implementation of Papua Provincial Government initiatives as mandated by the Special Autonomy Law, which is intended to strengthen the rights of Papuan native/indigenous peoples and give them a bigger role to use natural resources in the form of forests, get impeded with the reason that such initiatives are in conflict with sectoral regulations and have no status within the national timber management system.

In fact, the Papua Special Autonomy Law clearly mentions that the Papua Provincial Government authority covers all governmental aspects, except for foreign affairs, defence and security, monetary and fiscal affairs, religion, judiciary, and other particular authorities that are governed in existing laws and regulations. While the special autonomy does not explicitly mention the provincial government’s authority to manage forests or other natural resources in the province, one of the Papua Special Autonomy Law’s main pillars is the acknowledgement and reinforcement of the rights of Papuan native peoples to customary lands, from which the Papua special autonomy over natural resources
management arises. The principles in natural resources utilising include: 1) respect for indigenous peoples' rights; 2) legal certainty to business people; 3) environmental preservation principles; and 4) sustainable development which is governed through the Perdasus. The Perdasus on forest-managing includes Perdasus No. 21/2008 on Sustainable Forest Management in Papua. This Perdasus strengthens Papua's special authority in managing forests.

From the Forestry Law standpoint, the IUPHHK-MHA itself is in line with the spirit of respect for indigenous peoples' rights to forest. The Forestry Law provides space to indigenous peoples to manage their own customary forests (Article 37 paragraph 1). Indigenous peoples' position in forest management becomes stronger with the Constitutional Court Decision No. 35/PUU-X/2012 which nullifies provisions that consider customary forest as state forest. Today, the status of customary forest is non-state forest, so its management is given to indigenous peoples, and the IUPHHK-MHA is the embodiment of indigenous peoples' authority to manage customary forests within their customary territory.

An official of the Environment and Forestry Ministry, in an interview on November 13, 2017, offered another perspective concerning these 'overlapping regulations'. According to the official, the presence of forest management permits (particularly timber) outside the forestry sector regulation (that can only be issued by the Minister) can actually be understood as a fundamental consequence of special autonomy status, as in Aceh, Papua, and Yogyakarta. Such permit is not illegal or in any
way conflicting with sectoral regulations as it is introduced by ‘another chamber or law’. It is valid and binding.

Being also a valid and binding permit, the IUPHHK-MHA can as well be applicable in other territory in Indonesia. However, according to the official, despite its valid and binding nature, it is difficult to integrate it into Indonesia’s timber administration system as the system (which is subject only to national forestry regulations) does not to recognise it.

The same instance also took place in Aceh. Through Aceh Gubernatorial Decree No. 522.51/BP2T/4729/2010 dated June 7, 2010, the Aceh Provincial Governor issued an IUPHHK-HTI to PT Rencong Pulp dan Paper Industry (PT RPPI) for an area of 10,384 ha in Nisam Antara Subdistrict, North Aceh. The company’s IUPHHK-HTI legal standing is acknowledged but it is not included in the national timber administration system.

Referring to the case in Aceh, the Forestry Ministry official confirmed that rejection of the IUPHHK-MHA in Papua is not purely a legal issue, but also a political issue as it is concerned with the separatist movement issue in Papua. Such concern is a quite irrational, because on one hand the central government believes that special autonomy belongs to the unitary state of the Republic of Indonesia, but on the other hand the government does not acknowledge legal products or permits born out of the special autonomy. This inconsistency only strengthens the notion that government policies in and over Papua disregard local values and customary institutional structures, and injure the reinforcement of indigenous peoples' rights to manage forests.

This conflict of laws should not have happened if only those involved could see the bigger picture of the resolution of conflict in Papua, which is recorded as the longest conflict in the country, having been present since its independence. The stigma of separatists and invaders, along with the problems of native Papuans' neglected socio-cultural basic rights, indigenous peoples' unprotected rights to natural resources, and their lag in education, health and basic services, are grave issues in Papua and more important to deal with, rather than maintaining unreasonable suspicions.

D. 1. IMPACTS OF REGIONAL GOVERNMENT LAW OF 2014

Two targets of this report are impacts of the passing of Regional Government Law on the indigenous peoples’ rights acknowledgment and forestry affairs. Concerning the acknowledgment of indigenous peoples’ rights, the Regional Government Law regulates it in two different area, i.e. environmental and social aspects.

The environmental issue includes the acknowledgement of
indigenous peoples, their local wisdom, and their rights. It also includes the empowerment of indigenous peoples that is still follows the old pattern where authorities between different levels of government are classified by administrative boundaries. This way, the acknowledgement of a group of indigenous peoples in one regency falls in the hands of the regency administration; those living in a cross-regency area are in the hands of the provincial government; and, if they populate an area that involves more than one province, the responsibility will be in the hands of the central government.

The social issue relates to Remote Indigenous Community (KAT) empowerment. However, governmental power to authorise KAT locations is held solely by the central government, while the others concerning empowerment and regulation of contributions are distributed across governmental hierarchy by administrative boundary.

Note should be taken that, it is not this report’s capacity to render a view whether the stable model that has been used all this time (with distribution of authority to acknowledge indigenous peoples from the national to regency levels) is more in favour of indigenous communities or has become the source of the problem in acknowledging indigenous peoples.

In relation to the presence of Papua’s special autonomy, actually the Regional Government Law would not affect the process of acknowledgement of indigenous peoples as provided under the Papua Special Autonomy Law and its implementing regulations. The distribution of authority under the Regional Government Law with regard to acknowledgement of indigenous peoples is already the same as that under the Papua Special Autonomy Law. For an instance, Perdasus No. 22/2008 states that indigenous peoples would be determined through the provincial regulation (when an indigenous peoples territory involves two or more regencies) or the regency/municipality regulation (when an indigenous peoples territory is located in one single regency/municipality). To some extent, the harmony in arranging the distribution of authority to acknowledge indigenous peoples becomes a huge opportunity for the Papua Provincial Government to achieve one of the purposes behind the passing of the Papua Special Autonomy Law.

With regard to forestry administration, the Regional Government Law brought about a change where almost all forestry authorities of the regency/municipality government are stripped off (Article 14 of the Regional Government Law). The only forestry-related authority that remains in effect at the regency/municipality level is the regulation on People’s Forest Park (Tahura) that is located
within a single regency/municipality territory. In principle, the Papua Special Autonomy Law regulates autonomous authority particularly to provincial government, instead of regency/municipality administrations, so that both laws in this matter are already in line with each other. The problem lies in forestry arrangement under the Papua Special Autonomy Law that shares much similarity with the arrangement under the national forestry regulations (which, prior to the passing of the Regional Government Law, have distributed forestry authority until the regency/municipality level).

Therefore, when forestry authority is stripped off at the regency/municipality level, the implementation of forestry authority in Papua would also get affected. The Papua Provincial Government appears to use the momentum of the passing of the Regional Government Law. The provincial government complies with the law's provision that removes almost all forestry authorities at the regency level. The most noticeable instance is that government officials no longer process forestry affairs at the regency level. In some regencies, there are no longer forestry-related activities. What are left are only deserted forestry office buildings. Transition processes, such as the plan to establish forestry Technical Implementation Unit (UPT) at the regency level or rotation of regency forestry office employees, are still ongoing.

The most obvious general impact is the absence of direct monitoring at site level which opens the opportunity for violations or forestry crimes. Another potential impact in the future is when forestry UPTs are established at the regency level, the coordination (with the Provincial Forestry Office) will be more difficult and costly, given Papua's geographical condition. The community will also feel the impact as permit issuance administration will be more expensive and difficult because the process will be centred at the province capital.

The Regional Government Law clearly impacts IUPHHK-MHA, therefore revision of IUPHHK-MHA was necessary if the permit continued to exist beyond 2014. Roles of regency/municipality governments (in this case represented by local forestry offices) in the IUPHHK-MHA administration, will also be found from the time of permit application and requirement completion verification, to the phase where the IUPHHK-MHA concession is operational in the field. The removed roles of regency forestry office in the IUPHHK-MHA administration process with the presence of the Regional Government Law are: regent recommendation to governor for the proposed location for provisioning, the authorisation of RKT (Article 6 of Pergub No. 13/2010), the determination of forest log pond and

The Regional Government Law may also impacts timber administration such as the Primary Industry Business Permit for Community Forest Timber (IUIPHHK-Community) that has IUPHHK-MHA. Several matters that need to adjust include the roles of regent who issues the IUIPHHK-Community for industry with a capacity of below 2,000 m3/year (Article 10 of Pergub No. 15/2010), and the authorisation of FAKO-Community document.

D. 2. FAILURE TO FIRST ESTABLISH THE FOUNDATION: ACKNOWLEDGEMENT OF INDIGENOUS PEOPLES AND THE CERTAINTY OF THEIR TERRITORY

Apart from challenges from outside the province, this IUPHHK-MHA assessment also found problems from within the provincial government, which are more about consistency with the principles and procedures that it made itself, in addition to structural obstructions (lack of human resources and financial support for local government, etc.).

Before the creation of IUPHHK-MHA, we found an important factor missing, particularly in the process of acknowledging indigenous peoples and their territories. Perdasus No. 21/2008 confirmed the acknowledgement of indigenous peoples’ rights and their criteria in the first place prior to regulating forests. Forestry authority was born out of the acknowledgment and protection of indigenous peoples. This is a fundamental issue that must be identified before stepping forward into forest administration and its utilisation. Indigenous peoples in Papua hold rights to natural forests in accordance with their respective territory. The acknowledgement of indigenous peoples’ rights needs to be confirmed through an administrative decree from the Papua Provincial Government. The procedure may follow other provisions under Perdasus No. 22/2008 and Perdasus No. 23/2008. Therefore, the three special bylaws (Perdasus No. 21, 22, 23/2008) must be interpreted in an integrated manner when discussing indigenous peoples’ rights and natural resources management in Papua.

Under the three bylaws, the regulation on Papua indigenous
The lingguu tree (*Pterocarpus* spp.) marked by a member of the KSU IUPHHK-MHA Sapu Saniye. This marking of trees is part of the technical requirements for timber administration. It also allows tracking in the RKT (annual work plan) proposal, including which KSU (cooperative) member has the right to harvest it.

peoples is actually not integrative and still takes into account the presence of indigenous peoples within or outside forest areas (with the same pattern as national-level acknowledgement of indigenous peoples). That is because indigenous peoples’ communal and individual rights are regulated differently from the indigenous peoples’ forests. With different identification, mapping and authorisation processes, the indigenous peoples are acknowledged through regional regulation (Perda), both provincial or regency/municipal regulations (Perdasus No. 22/2008), while communal or individual customary rights are governed through regent/gubernatorial decree (Perdasus No. 23/2008).

Other than the acknowledgement of indigenous peoples as authorised through regional regulations, Perdasus No. 21/2008 also regulates customary territories and their mapping. The customary forest map itself is authorised through a regent decree that will be integrated into the regency and province’s spatial planning.
Table 3. Comparison between the three (3) Perdasus Concerning the Acknowledgement of Indigenous Peoples and Their Territory

<table>
<thead>
<tr>
<th>Condition and Elements</th>
<th>Process</th>
<th>Authorisation</th>
</tr>
</thead>
</table>
| **PAPUA SAPR 21/2008** | Customary law community identification and forest mapping in customary territories | Community has clear customary territory with particular boundaries acknowledged by the neighbouring customary law community groups; | Customary law community presence is authorised subject to SAPR concerning customary law community; 
Forest area in customary territory is authorised by district head/mayor (if located within one single district/municipality) or governor (if it involves more than one district/municipality). |
| **PAPUA SAPR 22/2008** | Recognition of customary law community presence | Community has customary jurisprudence and institutional structure; | Provisi concerning process of territory mapping in the course of authorisation of the presence of customary law community. |
| **PAPUA SAPR 23/2008** | Communal and individual customary rights | Customary has spiritual and historical relationship with their customary territory. | District head/mayor or governor decree (appended with map). |

**Conditions and Elements**
- Tableau 3. Comparison between the three (3) Perdasus Concerning the Acknowledgement of Indigenous Peoples and Their Territory
- PAPUA SAPR 21/2008: Customary law community identification and forest mapping in customary territories
- PAPUA SAPR 22/2008: Recognition of customary law community presence
- PAPUA SAPR 23/2008: Communal and individual customary rights

**Process**
- District/municipal government identifies and facilitates mapping of customary law community forest area;
- Regulated further in Papua Governor Regulation 16/2010: establishment of committee of customary law community forest identification and mapping (by district head), minutes of customary forest mapping is signed by customary law community forest mapping committee.

**Authorisation**
- No explanation on the process of authorisation of the presence of customary law community;
- This regulation has a provision concerning process of territory mapping in the course of authorisation of the presence of customary law community.

**Conditions and Elements**
- Regulated in the following matters as researched by team:
  - Customary law structure applicable to the customary law community in question as well as customary leadership structure that remain complied with by the community members;
  - Procedure to regulate, control and use customary law community’ customary and individual land rights based on the law of the customary law community in question;
  - Customary leaders authorised to regulate allocation, use and control of customary law community’s communal and/or individual land rights;
  - Boundaries of customary territory acknowledged as the community’s communal and/or the members’ individual land rights are set by the customary law community in question.

**Process**
- The presence of customary law community and their communal/individual rights is determined with research output;
- Establishment of research community authorised with district/mayor decree (in case the territory is located within one single district/municipality) or governor decree (in case it involves more than one district/municipality);
- Report output to district head/governor
- Upon authorisation, communal/individual customary land is registered to National Land Agency’s (BPN) land registration book.
Having compared the IUPHHK-MHA process with the procedure for acknowledging indigenous peoples and their territory, we observed that a part of the process has been overlooked. It is the process that includes territory reservation, territory mapping and the acknowledgment of indigenous peoples, that is explicitly mentioned in the regulation. As a matter of fact, this is not a process that can be deviated from by state official’s discretion. Indigenous peoples’ verification teams can barely be found in all regencies where IUPHKK-MHA concessions are located, no regional regulations—both provincial and regency regulations—acknowledge indigenous peoples. There is also no customary territory provisioning which serves as the benchmark before authorising customary territories and issuing the permits over them. Customary territory provisioning and forest area designation for IUPHHK-MHA issuance must be carried out and authorised by the governor upon a proposal from the regent/mayor (Article 2 of Pergub No. 13/2010) before the permit is issued.

This condition leads to the recognition of indigenous peoples’ forests to have no administrative power in dealing with a dispute in the field when they are claimed as state forest areas. Rather than strengthening the special autonomy and indigenous peoples’ rights to the forests, the IUPHK-MHA appears like dancing on a fragile stage. The lack of courage to give an operation approval is also affected by the fact that IUPHHK-MHA concessions are still located in state forest areas. The change of status into a customary forest will take place when there is an acknowledgement in the regional regulation (unfortunately, the mandate for such acknowledgement in the regional regulation is made not only in the Forestry Law, but is also governed in the Perdasus), an effort that is sadly not taken. Likewise, customary areas are not mapped and authorised—two important steps in confirming and taking over the state’s place as the steward of their forests and customary territories.

It is then completely understandable that such case as the Mo Make Unaf Cooperative occurs when they were unable to strengthen an enclave working area agreement with PT Selaras Inti as the company’s new management unilaterally revoked it. This is because the agreement to reduce the company’s working area was not followed with the delineation process by the Planology/Forest Area Stabilization Agency (BPKH) that should have set the borders between the company and the cooperative concessions. Furthermore, such change should have been included in a revision of the IUPHHK-HTI decree for PT Selaras Indah Semesta.

If the governor authorised the customary area reserve for which the IUPHHK-MHA permit would be issued, followed by customary territory mapping and authorisation through regional regulations to acknowledge the presence of indigenous peoples, IUPHHK-MHA holders would not have faced unfortunate conditions such as that in the Mo Make Unaf case. Regional regulations serve as the basis for the state to shift its position
away from customary territories and hand over the area management to
the indigenous people. While the presence of a concession in a customary
territory will definitely be respected, nevertheless it should adapt to the
interests of the indigenous peoples who are now the area’s stewards.

The Provincial Forestry Office’s reasoning for not conducting the
provisioning, customary territory mapping and acknowledgement of
indigenous peoples through regional regulations in the first place is the
possible resistance from the central government. There is concern that
the reserve area is located on a land with a concession or it is already
allocated for other permits (based on an interview with an official of
the Papua Provincial Forestry Office, October 9, 2017). In fact, resistance
against the IUPHHK-MHA persists, in addition to the burden of the
rapidly declining expectation of community members who hold the
permit. The provisioning of a forest area or customary territory should
have been carried out without involving the community, so that when
compromise was not reached between the central government and the
Papua administrations, only few had to carry the burden.

In addition, there is also a view that says formal and legalistic approaches
do not suit the condition in Papua. Such a view is understandable
amidst the state of the Papua bureaucracy, which is lacking qualified
human resources. To allow indigenous peoples to manage customary
forests they are entitled to, a full length bureaucracy process should
be taken, taking into account political and economic interests. So
the question is, why should these requirements be put into detail in
a regulation while in fact they can be easily be diverged on behalf
of suitability for local condition? There is a problem when planning
or legislation process overlooks the local condition and when there
is hesitation to execute what has been planned based on one’s own
regulation.

It must be acknowledged that the national policy to acknowledge
indigenous peoples and their territory within 2008-2012 period (at the
time of Perdasus No. 21, 22, 23/2008 and the IUPHHK were issued) was
yet to be optimally implemented in the field. While indigenous peoples
are acknowledged by the 1945 Constitution and its implementing
regulations at the ministerial level to implement such acknowledgement,
strong obstructions still emerge from within the ministries. In principle,
there is no political will to realise it in the field. Obstructions also occur
in the field (mainly in forest areas which many officials believe to be
state-owned forests) that can discourage IUPHHK-MHA policymakers
who see that it is less than likely that consistent implementation of all
provisions concerning the acknowledgement of indigenous peoples could
materialise.

Nevertheless, such acknowledgement policies have gradually come
up to the surface. There have been several revisions to the impeding
regulations (for example, Constitutional Court Decisions No. 45/2011 and No. 25/2012), and more comprehensive arrangements to resolve conflicts in forest areas (Presidential Regulation No. 88/2017 on Settlement of Tenure Inside Forest Areas—Perpres No. 88/2017)). Policies that acknowledge indigenous peoples are having an increasingly strong moment in the current administration (2014-2019), in the forms of social forestry programmes through customary forest and agrarian reform. This means, it is also the time for the acknowledgement of indigenous peoples—in the forms of mapping of customary territories, customary forests, and areas of communal customary rights—to materialise in Papua.
E. NSPK: CAN IT BE A SOLUTION?

Regional autonomy has divided governmental affairs into two aspects, namely central and regional affairs. This also applies to the special autonomy in Papua. The Regional Government Law divides them into absolute, concurrent and general governmental affairs. Regional government affairs refer to any governmental affairs that belong to the group of concurrent affairs. To allow the synergy between the central and regional governments in implementing the mandated affairs, the law’s elucidation mentions that ministrial/non-ministerial state agency must establish the NSPK that can be used by regional governments as a guide to implement governmental affairs handed over to them, and can be used by ministries/state agencies to carry out development.

Before the passing of the Regional Government Law, the NSPK concept was getting more popular at the time of the issuance of Government Regulation (PP) No. 38/2007 on the Division of Government Affairs between the Central, Provincial, and Regency/Municipal Administrations (PP No.38/2007). Article 1 paragraph 6 of the regulation mentions that national policy constitutes series of rules that may take form of norm, standard, procedure and/or criterion that the Government uses to guide the implementation of governmental affairs. The NSPK is established by ministers or heads of non-ministerial state agencies to implement mandatory and voluntary affairs. Forestry is one of the affairs that the law classifies as facultative. Therefore, the implementation of forestry affairs by regional governments, in this case, can be interpreted based on the NSPK established by the Ministry of Environment and Forestry.

However, an NSPK establishment should take into account the harmonious relationship between the central and regional governments and between local administrations, as an integrated governmental system (Article 9 paragraph 2 of PP No. 38/2007), especially in the case of provinces with special autonomy. When minister/head of non-ministerial state agency fails to establish the NSPK within two years as of the issuance of PP No. 38/2007, regional governments may directly implement the authorities vested in them, based on the existing laws and regulations until the NSPK is established.

Concerning forestry affairs, Papua as a province with a special autonomy status has established a series of bylaws regulating forestry affairs such
as on the forest products use. This means that if the central government wishes to establish an NSPK for forestry affairs in this province, it should be in line with the direction of the local policy. Moreover, Papua is a special province, in the sense that its special autonomy relates to, among others issues, natural resources management.

As previously mentioned, the provincial government introduced a model of IUPHHK-MHA. This permit is not recognised across the forestry sector’s permit nomenclature managed under the Ministry of Environment and Forestry. To accommodate the proposal from local administrations, both the central government (the Forestry Ministry) and regional governments agreed to establish an NSPK to follow up on local ideas using the procedures and system under the Forestry Ministry.

Among several regional forestry related-regulations established by the Papua Province to implement their special autonomy, the idea to establish the proposed NSPK, particularly concerning the mechanism of permits issued for indigenous peoples is ruled by Pergub No.13/2010 in conjunction with Perdasus No. 21/2008. The idea to establish an NSPK is already accommodated by the Draft Regulation of Environment and Forestry Minister on the NSPK of Business Permit on the Utilisation of Timber Products of Natural Forests in Production Forest Concessions in Papua Province. The latest draft version is dated June 27, 2016.

The idea of NSPK establishment for forest timber utilisation by indigenous peoples in Papua should take into account the province’s specificity. The Papua Special Autonomy Law facilitates the provincial government to regulate and administer local community interests on their own initiative based on the people’s basic rights. What is interesting about the law is that it puts natural resources management in favour of the indigenous peoples and places the management in such a way that acknowledges indigenous peoples’ customary rights.

However, the law does not explicitly put forest within Papua Provincial Government’s full authority. Forest management comes in the form of a special authority. As previously mentioned, special authorities must be governed under the law’s implementing regulations taking the form of Perdasus and Perdasi. This is the background of the passing of Perdasus No. 21/2008 and Pergub No. 13/2010 as the law’s derivatives.

NSPK’s position should be seen as means for the central government (Ministry of Environment and Forestry) to accommodate ideas from Papua, given its status as a special autonomy province. If later on the NSPK ends up removing idea from Papua, this means that it is in conflict with the province’s special autonomy. Meaning, if the spirit is to accommodate ideas from Papua such as the IUPHHK-MHA, the NSPK being formed should completely be in line with the mechanism agreed by this province, as stated in Perdasus No. 21/2008 and Pergub No. 13/2010.
To see whether the proposed NSPK is already in line with the legal content of Perdasus No. 21/2008 and Pergub No. 13/2010 as their derivatives, the following indicators should be checked: **location certainty, permit type, permit issuer, permit holder, concession location, permit period, permit prerequisites, and prohibitions.** The indicators focus on the permit because the presence of NSPK is aimed more at the aspects of permit issuance for the indigenous peoples to allow them to use forest timber.

Table 4. Comparison between Legal Contents under Pergub No. 13/2010 as a Derivative to Perdasuss No. 21/2008 and the June 27, 2016 NSPK Version Draft Proposal

<table>
<thead>
<tr>
<th>PERATURAN DAERAH KHUSUS PROVINSI PAPUA (PERDASUS 21)</th>
<th>EVALUATION INDICATOR</th>
<th>DRAF USULAN NSPK VERSI 27 JUNI 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>Governor allocates and designates forest areas for IUPHHK-MHA upon proposal from district head/mayor.</td>
<td>Location certainty</td>
<td>N/A</td>
</tr>
<tr>
<td>IUPHHK-MHA</td>
<td>Permit type</td>
<td>IUPHHK-HA</td>
</tr>
<tr>
<td>Papua Governor</td>
<td>Permit issuer</td>
<td>Government</td>
</tr>
<tr>
<td>Papua Governor</td>
<td>Permit issuer</td>
<td>Papua Provincial Government</td>
</tr>
<tr>
<td>Cooperative of customary right holders</td>
<td>Permit holder</td>
<td>Cooperative of local community or other communities within and around forest</td>
</tr>
<tr>
<td>Indigenous peoples-owned enterprise incorporated by local customary law community</td>
<td>Permit/concession location</td>
<td>Production forest area</td>
</tr>
<tr>
<td>Permanent Production Forest Area</td>
<td>Permit/concession location</td>
<td>According to indicative directive map of IUPHHK-HA</td>
</tr>
<tr>
<td>Convertible Production Forest</td>
<td>Permit/concession location</td>
<td>Not covered by other permits/concessions in accordance with other laws and regulations on forest use business permit or forest area use permit</td>
</tr>
<tr>
<td>Non-forestry cultivation area (Other Uses Zone/APL)</td>
<td>Permit issuance conditions:</td>
<td></td>
</tr>
<tr>
<td>Areas already covered by forest timber use business permit</td>
<td>2,000 – 5,000 ha located in an intact area</td>
<td>concession size</td>
</tr>
<tr>
<td>Located around the permit applicant’s village</td>
<td>&gt; 40 cm in swamp area</td>
<td>tree diameter</td>
</tr>
<tr>
<td>&gt; 50 cm in dryland forests with maximum potentials of 20 m³/ha</td>
<td>10 years (extendable)</td>
<td>Permit validity period</td>
</tr>
<tr>
<td></td>
<td>Use of heavy machinery</td>
<td>Prohibition</td>
</tr>
<tr>
<td>Transferring IUPHHK-MHA permit to any third party</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
From the comparison above, there are several differences concerning legal contents regulating the IUPHHK-MHA between Perdasus No. 21/2008 (in conjunction with Pergub No. 13/2010) and the draft NSPK. It needs to be emphasised the current NSPK’s content is still a draft and it is very likely that the draft will be revised in the future. Moreover, the current draft is dated June 27, 2016. Following are the explanations on each indicator.

1. **LOCATION CERTAINTY INDICATOR.**
This indicator is a necessity in permit issuance in Papua. There are at least 20 IUPHHK-MHA concessions (3,414,350 ha) in Papua, in addition to IUPHHK-HTI concessions (1,197,055 ha), so that the governor needs to decide which locations can be proposed for IUPHHK-MHA concession. Given the field situation, generally locations proposed for the IUPHHK-MHA are situated in areas already covered by other concessions. For example, in Mo Make Unaf, the IUPHHK-MHA that the community proposed is located within an HTI concession. Concerning location certainty, Pergub No. 13/2010 offers a much better regulation. Through Article 2, this regulation authorises the governor upon a regent/mayor proposal, while the current draft NSPK does not cover the content on location certainty.

2. **PERMIT TYPE INDICATOR**
This indicator is important to accommodate the province’s special autonomy in forest management. The term of indigenous peoples is not only an indication that the permit is issued to indigenous peoples; but it is also an acknowledgement of indigenous peoples, along with their rights to their forests. As previously mentioned, Perdasus No. 21/2008 (in conjunction with Pergub No. 13/2010) that was issued prior to Constitutional Court Decision No. 35/2012 still defines customary forest as indigenous peoples’ forest that was located within state’s forest area.

Nevertheless, following the Constitutional Court Decision No. 35/2012, the Forestry Ministry has issued a series of regulations to acknowledge indigenous peoples, along with their rights to their forests. Therefore, the use of the term ‘indigenous peoples’ should not be a problem to the ministry today. However, the latest draft prepared in 2016 still uses the natural forest nomenclature. This means that, once this draft is finalised, all IUPHHK-MHA holders must make adjustments to their permit documents, or again, reapply for the permit. Therefore, to facilitate the province’s special autonomy and to follow the Constitutional Court’s decision, the Forestry Ministry should accommodate this permit model and adopt it into its permit issuance system that applies specifically to the Papua Province.

3. **PERMIT ISSUER INDICATOR**
Permit issuer is a state official authorised to issue permits. There is a difference on permit issuer between the Perdasus and the
draft NSPK. Perdasus No. 21/2008 (in conjunction with Pergub No. 13/2010) explicitly mentions that the IUPHHK-MHA is issued by the governor upon recommendation from the regent/mayor, based on technical consideration from the Papua Provincial Forestry and Conservation Office. The Draft NSPK places two state officials at the same time as the permit issuer: the central government and the Papua Provincial Government. There is no explanation as to who the central government is. However, because this draft will be issued by the Environment and Forestry Ministry, it is implied that the central government is the ministry, to which the government delegates the forestry authority.

Permit issuance by the central government refers to regulations outside the NSPK, while that by the governor refers to the NSPK. Giving the opportunity for the Forestry Minister to issue potential licenses may cause uncertainty in permit issuance. For example, when an application is declined by the provincial government, the applicant may seek another way through the Forestry Minister, and vice versa. In fact, in the context of special autonomy, the authority to issue a permit should be delegated to the provincial government (governor), while the minister only takes the monitoring role. One of the surveillance instruments that can be used is the Forest Product Administration Information System (SIPUHH), in addition to other systems that the ministry has developed.

4. PERMIT HOLDER INDICATOR
There is a fundamental difference as to who the permit holder is. The Perdasus and Pergub clearly state that the one who receives the permit is cooperative of customary right holders or indigenous peoples-owned enterprise. The term ‘...customary right holders’ in this case confirms that only customary right-holding community members may apply for this permit. This confirmation is a lesson learnt from the failure of the IPK-MA where many outsiders who did not own customary lands could obtain the IPK-MA permit. While the draft NSPK has revoked this fundamental element and uses a more general terms, i.e. local community cooperative or other community living in and around the forests.

The use of the phrase ‘local community’ is fundamentally different from ‘indigenous peoples’. The former can be understood as any individuals, both indigenous and non-indigenous people, who populate an area. In addition, issuing permit to other types of community would completely ignore the lessons learnt from the IPK-MA in which proxy practices were used in using forest timber, so that the illegal timbers were extracted on behalf of indigenous peoples.

5. PERMIT LOCATION INDICATOR
Based on the draft NSPK, IUPHHK concession is situated in an area
that is not covered by any other land titles or concessions (Article 4 letter a of draft NSPK). This regulation will become a problem in several locations of the existing IUPHHK-MHA concessions, such as what happened to the Mo Make Unaf KSU whose location is situated in PT Selaras Inti Semesta’s concession. Once this regulation is put into effect, Mo Make Unaf KSU will certainly have to find a new location for their IUPHHK-MHA concession, while the current location is actually their customary land. Another option is for the company to reduce the size of their concession.

This situation will be increasingly difficult given the fact that since 2016, the central government has given concessions to more than 17 million ha of forest area. The potential for land conflicts will increase, not to mention that currently there are 18 IUPHHK-MHA concessions granted by the Papua Governor, which might end up in the same fate as Mo Make Unaf KSU. If this mechanism is implemented, horizontal conflicts among communities are imminent. Those who apply for a permit will definitely do it on their own customary land. And if that customary land is situated in an area with an existing concession, conflicts are likely to occur.

In this case, Pergub No. 13/2010 is more relevant to the conditions in Papua as it allows a partnership scheme between the community and concession holder. However, this model still needs to be further clarified because if the government issues a permit on an existing concession with the same business activity, this will contradict the administration principles and complicate both permits’ timber production documentation.

6. PERMIT PREREQUISITES INDICATOR

There are two aspects that become the main focus, i.e. limitation to concession area and the diameter of the tree allowed to be harvested. In terms of concession size, there is almost no fundamental difference between Pergub No. 13/2010 and the draft NSPK. However, the Pergub regulates that the permit must be in a compact area, and it clearly determines the diameter of the tree allowed to be cut down, namely ≥ 40 cm in swamp area and ≥ 50 cm in dryland forests with a potential of 20 m³/hectare.

This tree diameter limitation guides permit holders to manage their concessions and promote sustainable production forest management practices. This is a lesson learnt from the previous implementation of IPK-MA, where trees with smaller diameter were also cut down, or in similar illegal logging cases that often happened in Papua today. As for the draft NSPK, it does not provide limit for the diameter of the tree allowed to be harvested.
7. PERMIT PERIOD INDICATOR
The draft NSPK provides a longer validity period (20 years) than Pergub No. 13/2010 (10 years). Longer period will provide certainty for permit holders to manage their concessions and save them from administrative procedures for extending their permit.

8. PROHIBITIONS INDICATOR
One of the advantages that Pergub No. 13/2010 offers as a derivative of Perdasus No. 21/2008 is that it has two prohibitions for permit holders, namely the use of heavy machinery and handing over permit to other parties. The heavy equipment use prohibition is an effort to prevent the side effects of production that may result in forest degradation, while the permit handover ban is meant to protect indigenous peoples’ rights from outsiders trying to take over the permit (based on an interview with an official of the Papua Forestry Office, October 9, 2017). As for the draft NSPK, it has no such prohibitions, allowing permits to be handed over and the use of heavy machinery.

Having observed the content of the draft NSPK, the next question is, can it resolve IUPHHK-MHA issues? To answer that question, it can be seen from two sides: the content (material) and the regulation making (formal) process.

From the content perspective, as previously mentioned, the arrangement in the draft NSPK is not much different from that in Perdasus No. 21/2008 (in conjunction with Pergub No. 13/2010). In fact, the content of Pergub No. 13/2010 is considered better than that of the draft NSPK. This can be seen from several aspects as shown in the comparison of Table 4 above, including the limitations for permit holders and those who will receive the permit. The draft NSPK gives the opportunity to non-indigenous people to receive the permit. The use of the term ‘local community and other communities around forest area’ means that even company workers who live around forest areas can also apply for this permit. This may potentially contribute to imbalanced social conditions in Papua. When timber forest products start to be used by other parties other than Papuan native communities and when permits that particularly are intended for the indigenous peoples can be accessed by other parties, this will surely weaken the bargaining position of the indigenous peoples. This is what is happening today, when the distribution of illegal timber in Papua is almost fully controlled by migrant groups using the presence of the indigenous peoples.

From the formal point of view, the idea of NSPK can be traced back where it aimed to fill in the gap between the Forestry Law and Papua Special Autonomy Law. This is based on analysis that the IUPHHK-MHA cannot be implemented because its nomenclature is not recognised by the permit issuance system under the Ministry of Environment and Forestry, which at that time was known as the Ministry of Forestry. The draft NSPK
Half-hearted recognition

Aims to connect both laws through a ministerial regulation, but it is not strong enough from the standpoint of national law and regulation establishment. First of all, in the hierarchy of laws and regulations, a ministerial regulation is not equal to, and even should not be in conflict with, any law. So the question is, how could a ministerial regulation be used as means to connect two laws? Secondly, the Papua Special Autonomy Law does not delegate authority to the ministry to govern forestry affairs in Papua. On the contrary, the law delegates the authority of forestry affairs or natural resources to the Papua government by establishing the Perdasus and Perdasi.

Considering the above factors, the current draft NSPK would not be the answer to IUPHHK-MHA issues because of the following:

1. The draft provision is weak from the perspective of national law and regulation establishment.
2. The draft content opens an opportunity for non-indigenous people to access timber utilisation permits.
3. The position of the minister as the permit issuer may potentially lead to legal uncertainty.
4. The draft may potentially create uncertainty and burden the current IUPHHK-MHA holders. At least the existing IUPHHK-MHA holders would be burdened with the requirement to adjust their permits and change their locations.

If the draft NSPK should be made the solution, its current content should be adjusted taking into account the conditions above.
F. CONCLUSION AND RECOMMENDATION

F.1. CONCLUSION

From the above explanations, several conclusions and recommendations can be drawn for future implementations. Papua issues are so complex that there is no easy and quick solutions, including in resolving the matters of forest management and indigenous peoples in Papua. These issues relate to several variables, such as: forestry sectoral policies at the national level, along with all their subsequent infrastructures that demand compliance from the regional governments and the communities; the ‘ideology’ of forest areas; unfinished forest area designation; and the powerful policies that see forest only from the angle of its economic contribution.

On the other hand, the most difficult issue that the community is facing is the acknowledgement of their customary territories that currently are overlapping with the state-controlled areas and land concessions. Apart from that, there are also issues including a lengthy bureaucracy for the acknowledgement of indigenous peoples, and the specific characteristics of traditional Papuan community, both in the sense of the people and the customary territory management. Nevertheless, despite the current policies, there is opportunity to acknowledge and protect indigenous peoples’ rights to natural resources in Papua, and it remains wide open.

In the past two decades, the IUPHHK-MHA is an initiative by the Papua Provincial Government through their special autonomy status to encourage indigenous peoples to sustainably manage their forests and be the one who benefits most from the use of their lands. In practice, some of the initiatives ended up in failure and even jeopardized the ambition of forest management by indigenous peoples, as can be seen from the case of IPK-MA. However, the Papua government and their supporters do not
remain still. They have prepared a sustainable forest management regulation that reflects the aspiration of the special autonomy in Papua to allow natural resources to improve the prosperity of the Papuan native community, and to pave the way to the acknowledgement of their basic rights and sustainable forest management.

Perdasus No. 21/2008 (along with Perdasus No. 22 and No. 23/2008) contains the policy that reflects Papua's typical condition by promoting the acknowledgement of indigenous peoples' rights to natural resources management. Normatively speaking, the route towards indigenous peoples' sovereignty over their forests (and customary territories) is quite ideal with the arrangement of several important issues: mapping, acknowledgement of indigenous peoples through regional regulations, arrangements on indigenous peoples-owned enterprise, assistance, and forest governance that is compatible with local wisdom and conservation. However, the implementation in the field should be optimised, as the past political situation was not conducive to the acknowledgement of indigenous peoples and their territories.

Amidst the difficulty to implement such acknowledgment, the IUPHHK-MHA was born during the period of 2011-2012. Such leap in the process was due to two conditions that shared the same urgency: the increasingly cornered indigenous peoples and illegal timber extraction from state forests and customary territories (commonly known as illegal logging). It is unfortunate that today IUPHHK-MHA permits still cannot be implemented. Such impediment could lead indigenous peoples who have the permits to lose faith in the state's consistency in providing for them. Even more so, when in the field they see people with no permits could easily extract timbers from state forests or customary territories.

The birth of Regional Government Law and Papua Special Autonomy Law without proper planning has left some parts of Papuan forests in an 'open access' condition during the transition period. The lack of direct surveillance in the field lets timber trafficking (both legal and illegal) go unchecked. The matters of acknowledgement of indigenous peoples, local wisdom, communal rights definition, indigenous people empowerment, and other indigenous peoples-related issues are considered to be in line with Papua's special autonomy. However, it is necessary to anticipate the establishment of different ad hoc committees or agencies to exercise particular tasks that may end up burdening to regional (provincial and regency) governments.

Concerning forestry affairs, disharmony may potentially arise in the arrangement of authority in forests with conservation functions,
and the management of the utilisation of forest products. We see those as a potential problem because provisions on the management of conservation forest under both the Papua Special Autonomy Law and Perdasus are still unclear and too general in nature. Concerning the utilisation of forest products, given the current position of the Papua Provincial Government that is supportive to the Regional Government Law, a series of revisions should be made on the regulatory level to the special autonomy implementing regulations. Given Papua’s geographical condition and socio-cultural typicality, it is also necessary to consider a clearer arrangement on how to delegate forestry authority to Provincial Forestry Office and their personnel in the regencies.

We see the NSPK initiative from two perspectives. On one side, if political issues can be resolved with its presence, the NSPK will strengthen the central government’s position in forest management in Papua. On the other side, some provisions will weaken the position of Papuan indigenous peoples because permits may be issued to non-indigenous people and concessions are required to take place outside the existing ones. The NSPK should accommodate only administrative barriers and refrain from meddling in principle matters which have been governed under the Papua Special Autonomy Law and its implementing regulations.
The desire to remain part of the Unitary State of the Republic of Indonesia does not automatically reduce Papua's specialness as stated in the Papua Special Autonomy Law. The distinctiveness in forest management in Papua should put forward the acknowledgement of indigenous peoples’ rights and their customary territories in the frame work of the province’s forest management. In the past (2008-2012), such provision could be seen as something ‘malicious’, but with today’s policy, it is no longer the case. Furthermore, the current NSPK is limited only to the utilisation of natural forest timbers from the production forest areas. It would be much better if the NSPK also takes into account a more comprehensive forest management in Papua.

The Constitutional Court Decisions No. 35/2012 and No. 45/2011 paved the way for the acknowledgement of indigenous peoples in forest area, as well as clarifying the customary territories that are different from the state forest. The consequence of the indigenous peoples’ status should first be regulated in forest management is no longer harmful, because today’s policies and regulations already accommodate such provision. There is also the assumption that there is a lack of harmony between forestry regulations at the national level and provisions under the Papua Special Autonomy Law. The presence of policies that confirm the position of customary forests in forest areas and the acknowledgement of communal rights have put an end to such beliefs.

With its distinctiveness, Papua wants to regulate its own forest resources by firstly acknowledging the indigenous peoples that live in the forests. State’s forest (that will be directly controlled by the state) should be considered non-existent in Papua until customary territory mapping is done and indigenous peoples and their territories are acknowledged. Administrative provisions concerning governance may adjust to existing conditions and even absorb regulations at the national level, so long as they are suitable to the condition in Papua.

The IUPHHKK-MHA is not an illegal, invalid and non-binding product of law. On the contrary, it is a permit that was born out of a series of state regulations. It is valid and binding. The problem is that the location where IUPHHK-MHA concessions are situated is not clear: are they state's forest or customary forest? The Papua Provincial Government and other institutions should be encouraged to support and make such confirmation. In the past two years, we can see intense mapping of customary territories, synchronisation with maps related to use of state-owned lands, the birth of acknowledgement of customary forests and communal rights, and the acknowledgement of indigenous
peoples. These are the good lessons that can be taken by the Papua government.

On the other hand, the central government could actually take a lesson from the presence of the IUPHHK-MHA. Once the forests are acknowledged, the government should consider its governance, including the permit, utilisation conditions, and so on. Some of the provisions and technical conditions can refer to the regulations on the IUPHHK-MHA in Papua.

F. 2. RECOMMENDATION

**Recommendation for the Central Government:**
1. Confirm the harmonisation of regulations in the context of Papua’s special autonomy. A harmonisation should not necessarily be interpreted as adjustment of regulations to comply with the local contexts and to protect Papua indigenous peoples’ rights with the national instruments. Harmonisation here refers to the respect of the distinctiveness of Papua’s special autonomy.
2. Integrate the IUPHHK-MHA permit system with the national timber governance mechanism.
3. Provide counselling to the Papua government in the course of the acknowledgement of indigenous peoples and their territories.

**Recommendation for Papua Provincial Government:**
1. Maintain the IUPHHK-MHA procedure by improving the acknowledgement of indigenous peoples and their territories. IUPHHK-MHA concessions that are completely within customary territories, which are situated outside state’s forests and not covered by other concessions, can commence operation to address the disappointment of IUPHHK-MHA holders.
2. Conduct mapping on customary territories located within and outside forest areas, and make customary territory reservation for the IUPHHK-MHA or other forest managements by indigenous peoples.
3. Commence the process to acknowledge indigenous peoples and their territories based on the special autonomy provision.
4. Integrate customary territories in forest areas into the national forestry map, and register communal or individual land rights into the national land register.
5. During the transition period before the customary forest areas are confirmed, assist the indigenous peoples to obtain the Non-Timber Forest Product (NTFP) collection permit.
6. Provide assistance to indigenous peoples in developing land-based economy in accordance with the local condition and wisdom.

7. Accelerate the transition process of Law No. 23/2014 (in conjunction with Law No. 9/2015) on Regional Government that has removed regency’s forestry authority.
Locations of IUPHHK-MHA in Papua

- **KSU UMAR BAE**
  - Chief: Lambertus Mareku
  - Total Area: 5,000 Ha
  - Forestry Area: HPT

- **KSU NAFA AROA INDAH**
  - Daud Wopari
  - 5,000 Ha
  - HP, HPT, HPK

- **KSU JETA MOORENA**
  - Viktor W, Senandi
  - 5,000 Ha
  - HPT

- **KSU WIGAHAIDAWI**
  - Osea Petege
  - 5,000 Ha
  - HPT

- **KSU NOWOA BARU**
  - Margaretha Rumawi
  - 3,000 Ha
  - HP

- **KSU KIROBBY HEGURE**
  - Saul Waiwowi
  - 5,000 Ha
  - HPK

**Locations of IUPHHK-MHA in Papua**

- **KSU SUP MASI**
  - Bernard Redjauw
  - 5,000 Ha
  - HP

**KSU:** Community cooperative

Kopermas: Community cooperative

HP: Production Forest Area

HPK: Convertible Forest Area

HPT: Restricted Production Forest Area

APL: Non Forest Area
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Mimika

Biak Numfor

Kep, Yappen

Sarmi

Kab, Jayapura

Marauke

Kopernas Tetom Jaya

Kopernas Sapusaniye

Kopernas Lwagubin Srem

Kopernas Jibogol

Kopernas Grasela

Kopernas Tapare Amako

Kopernas Mo Make Unaf

Kopernas Yera Asal
Glossary

**FAKO:** Transportation document for processed wood

**HPH:** Selective logging timber concession

**HTI:** Industrial forest plantation

**IHPHA:** License for customary forest management rights

**IPK-MA:** Licence for timber use from community forest

**IUPHHK-HA:** Commercial forest license for selective logging concession

**IUPHHK-HT:** Commercial license for industrial forest concession

**IUPHHK-MHA:** Community forest concession license

**KAT:** Customary community in remote area

**KLHK:** Ministry of Environment and Forestry

**Kopermas:** Community cooperative

**KSU:** Community cooperative

**LHP:** Log production report

**MK:** Constitutional Court

**NSPK:** Norms, standards, procedures, and criteria

**Otsus:** Special Autonomy

**Perdasus:** Regulation in special autonomy region

**RKT:** Forest Concession Annual Work Plan

**RKU:** Forest Concession Ten-year Management Plan

**RTRW:** Regional Spatial Plan

**TPK:** Log collection point

**UU:** Law
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BOOK, JOURNAL, ARTICLE:


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Law 21 of 2001 on Special Autonomy for the Province of Papua.

Law 12 of 2011 on Passing and Issuance of Laws and Regulations.

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Papua Spatial Autonomy Provincial Regulation No. 21/2008 Sustainable Forest Management in the Province of Papua

Papua Spatial Autonomy Provincial Regulation No. 22/2008 on Protection and Management of Natural Resources of Papuan Customary Law Community

Papua Spatial Autonomy Provincial Regulation No. 23/2008 on Customary Law Community’s Communal and Individual Customary Land Title.

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**COURT DECISION:**
Decision of Constitutional Court No. 45/PUU-IX/2011

Decision of Constitutional Court No. 35/PUU-X/2012

**OTHER SOURCES:**
Draft Regulation of Minister of Environment and Forestry on Norms, Standards, Procedures and Criteria of Issuance of Business Permit for Forest Timber – Natural Forest in Production Forest Area in the Province of Papua, version of 27 June 2016.
| NAMA KOOPERASI DAPUR MAHLU | LOKASI | SENTRAL | JUMLAH | LAPORAN PENANAMAN | HARI | ETA | LAMPIRAN
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- Location: Location A
- Notes: Note A

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- Location: Location B
- Notes: Note B

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- Date: 10 November 2013
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Jayapura, Oktober 2017
Mengetahui,
Kepala Sekol Rencana Pemanfaatan Hutan

[Signature]

ERNI UNENOR, S.Hut,
NIP. 19781221 20002 2 004
PERATURAN DEPARTEMEN KEHUJANPROVINSI PAPUA
NOMOR 21 TAHUN 2008
TENTANG
PENGELOLAAN HUTAN BERKELANJUTAN DI PROVINSI PAPUA
DENGAN RASMIAT TUHAN YANG MENGESAHKAN
GUBERNUR PROVINSI PAPUA,
MENINGAT:
1. bahwa pelaksanaan hutan di Provinsi Papua selama ini belum memliki kejelasan aturan yang kuat, khususnya masyarakat hukum adat, dan belum memperoleh kemanan hukum, baik pemerintah setempat maupun yang ada di daerah
2. bahwa aturan di Provinsi Papua dianggap mencipta dan keru di masyarakat, yang telah lama ada, termasuk dalam daftar hutan di Provinsi Papua,
3. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
4. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
5. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
6. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
7. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
8. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
9. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,
10. bahwa pelaksanaan hutan di Provinsi Papua telah dilakukan dengan kebijakan, peraturan dan kebijakan masyarakat adat hutan yang dapat merusak potensi hutan adat, dan tidak memenuhi ketentuan yang ada di Provinsi Papua,

DENGAN PERSETUJUAN BERSAMA
DEWARUMBAH RUMPELAKATAPAUA

DAN
GUBERNURPROVINSI PAPUA,

MEMUTUSKAN:

Monet peraturan daerah khusus ini yang dimaksud dengan:

BAB I
KEJELANJUTAN

Pasal 1

Dalam Peraturan Daerah Khusus ini yang dimaksud dengan:

1. Menteri adalah Menteri yang membidangi Kehutanan;

2. Dinas adalah Dinas yang membidangi Kehutanan;

3. Pemerintah Provinsi adalah Pemerintah Provinsi Papua;

4. Gubernur adalah Gubernur Provinsi Papua;

5. Pemerintah Kabupaten/Kota adalah Pemerintah Kabupaten/Kota di Provinsi Papua;

6. Bapak/Wakil adalah Bapak/Wakil di Provinsi Papua;

7. Dinas adalah Dinas yang membidangi Kehutanan;

8. Dinas adalah Dinas yang membidangi Kehutanan;

9. Kapolda adalah Kapolda Provinsi Papua;

10. Masyarakat hukum adat adalah warga masyarakat adat yang dihimpun dalam suatu kelompok hukum adat atau kelompok hukum adat tertentu dengan rasa solidaritas yang tinggi antara para anggotanya

HALF-HEARTED RECOGNITION

- -

1. Masyarakat hukum adat adalah warga masyarakat adat yang dihimpun dalam suatu kelompok hukum adat atau kelompok hukum adat tertentu dengan rasa solidaritas yang tinggi antara para anggotanya

2. Gubernur adalah Gubernur Provinsi Papua;

3. Pemerintah Kabupaten/Kota adalah Pemerintah Kabupaten/Kota di Provinsi Papua;

4. Pemerintah Kabupaten/Kota adalah Pemerintah Kabupaten/Kota di Provinsi Papua;

5. Pemerintah Kabupaten/Kota adalah Pemerintah Kabupaten/Kota di Provinsi Papua;

6. Bapak/Wakil adalah Bapak/Wakil di Provinsi Papua;

7. Dinas adalah Dinas yang membidangi Kehutanan;

8. Dinas adalah Dinas yang membidangi Kehutanan;

9. Kapolda adalah Kapolda Provinsi Papua;

10. Masyarakat hukum adat adalah warga masyarakat adat yang dihimpun dalam suatu kelompok hukum adat atau kelompok hukum adat tertentu dengan rasa solidaritas yang tinggi antara para anggotanya

11. Analisis Mengenai Dampak Lingkungan yang selanjutnya disingkat AMDAL adalah analisis mengenai dampak lingkungan yang akan terjadi dalam suatu program atau kegiatan

12. Hasil hutan adalah benda-benda hayati, non hayati dan turunannya, serta jasa yang akan terjadi dalam suatu program atau kegiatan

13. Hutan masyarakat hukum adat adalah hutan yang berada dalam wilayah masyarakat adat

14. Hutan produksi adalah kawasan hutan yang mempunyai fungsi pokok memproduksi hasil hutan

15. Hutan lindung adalah kawasan hutan yang mempunyai fungsi pokok sebagai penjagaan dan konservasi keanekaragaman hayati

16. Hutan terbuka adalah kawasan hutan yang mempunyai fungsi pokok sebagai penjagaan dan konservasi keanekaragaman hayati

17. Tata ruang Provinsi adalah wujud struktural dan pola pemanfaatan ruang baik fisik maupun suatu wilayah di Provinsi Papua

18. Pemanfaatan hasil hutan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

19. Hasil hutan adalah benda-benda hayati, non hayati dan turunannya, serta jasa yang berasal dari hutan

20. Pemanfaatan hutan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

21. Pemanfaatan jasa lingkungan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

22. Pemanfaatan jasa lingkungan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

23. Pemanfaatan jasa lingkungan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

24. Pemanfaatan jasa lingkungan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

25. Pemanfaatan jasa lingkungan adalah kegiatan yang dilakukan oleh masyarakat hukum adat dalam suatu kelompok hukum adat tertentu dalam suatu kelompok hukum adat tertentu

26. Kesatuan Pengelolaan Hutan yang selanjutnya disingkat KPH adalah satu kesatuan badan usaha yang mempunyai fungsi pokok sebagai penjagaan dan konservasi keanekaragaman hayati

27. Kesatuan Pengelolaan Hutan yang selanjutnya disingkat KPH adalah satu kesatuan badan usaha yang mempunyai fungsi pokok sebagai penjagaan dan konservasi keanekaragaman hayati

28. Kayu olahan adalah kayu hasil pengolahan kayu bulat dan atau bahan baku serpih

29. Analisis Mengenai Dampak Lingkungan yang selanjutnya disingkat AMDAL adalah analisis mengenai dampak lingkungan yang akan terjadi dalam suatu program atau kegiatan
Pengelolaan hutan berasaskan:
- a. multifungsi dan kelembagaan;
- b. pengukuran dan penghormatan terhadap hak masyarakat hukum adat;
- c. peningkatan ekonomi masyarakat dan pemenuhan kebutuhan;
- d. penghormatan HAM;
- e. keadilan dan demokrasi;
- f. keseimbangan dan kelestarian ekologi.

Peralihan ini mengatur tentang:
- a. kebhi; pengembangan masyarakat hukum adat;
- b. pembentukan kebhi pengelolaan hutan;
- c. keadilan dan keadilan; pembentukan kebhi pengelolaan hutan;
- d. pengelolaan kebhi pengelolaan hutan yang benar dengan kebijakan dan kebijakan pengelolaan hijau; hal的关键在于不直接使用任何不可信任的源代码。
Penggunaan kawasan hutan dan atau pemanfaatan hasil hutan oleh pemrakarsa usaha

Dalam hal kehutanan nasional, kehutanan provinsi dan kehutanan kabupaten/kota bertujuan untuk memenuhi kebutuhan manfaat dan fungsi kawasan hutan, meliputi kebutuhan sosial budaya, ekonomi, lingkungan, nilainilai budaya, dan kelestarian alam. 

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 18

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 19

Pemberian ijin penggunaan kawasan hutan dan atau pemanfaatan hasil hutan untuk tujuan komersial, pembangunan kawasan, penataan kawasan, pengamatan kawasan, pemanfaatan hutan, yang mencakup kegiatan pelaksanaan peran kunci, pelaksanaan peran kunci, pelaksanaan peran kunci, pelaksanaan peran kunci, pelaksanaan peran kunci.

Dalam hal kehutanan nasional, kehutanan provinsi dan kehutanan kabupaten/kota bertujuan untuk memenuhi kebutuhan manfaat dan fungsi kawasan hutan, meliputi kebutuhan sosial budaya, ekonomi, lingkungan, nilainilai budaya, dan kelestarian alam. 

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 20

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 21

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 22

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 23

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 24

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 25

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 26

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 27

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 28

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 29

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 30

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 31

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.

Pasal 32

Pembentukan wilayah KPH dilakukan atas dasar:
- a. daerah aliran sungai;
- b. wilayah masyarakat adat yang tetap berdiam;
- c. wilayah pemanfaatan ekologis dan karakteristik, tipe dan fungsi hutan;
- d. pemetaan partisipatif;
- e. perlindungan dan konservasi;
- f. pembinaan;
- g. audit internal;
- h. pengendalian.
(1) Pemerintah Provinsi menetapkan pedoman penatausahaan hasil hutan, peredaran dan pengolahan hasil hutan, serta pemilikan hutan kayu.

(2) Pedoman penatausahaan dimaksud pada ayat (1) diulas dalam Peraturan Gubernur.

Bagian Kesembilan

Rehabilitasi dan Reklamasi Kawasan Hutan

(1) Badan usaha milik masyarakat adat dan badan usaha lainnya dapat melakukan kegiatan usaha pemantauan hutan dan penggalian kawasan hutan.

(2) Untuk melakukan kegiatan usaha sebagaimana dimaksud pada ayat (1) badan usaha milik masyarakat adat dan badan usaha lainnya harus memiliki ijin.

(3) Kegiatan usaha pemantauan hasil hutan meliputi:
   a. pemantauan kawasan;
   b. pemantauan hasil hutan Kayu dan bukan Kayu;
   c. pemantauan hasil hutan kayu dan bukan Kayu;
   d. pemantauan hasil hutan kayu dan bukan Kayu.

(4) Penggalian kawasan hutan untuk kepentingan ekonomi dan pembangunan untuk kepentingan umum dapat dilakukan pada kawasan hutan produksi, hutan lingkungan dan kawasan konservasi.

Bagian Kedelapan

Peningkatan Sumber Daya Manusia

(1) Pemerintah Provinsi menetapkan pedoman penatausahaan hasil hutan, peredaran dan pengolahan hasil hutan, serta pemilikan hutan kayu.

(2) Pedoman penatausahaan dimaksud pada ayat (1) diulas dalam Peraturan Gubernur.

(1) Pemerintah Provinsi menetapkan pedoman penatausahaan hasil hutan, peredaran dan pengolahan hasil hutan, serta pemilikan hutan kayu.

(2) Pedoman penatausahaan dimaksud pada ayat (1) diulas dalam Peraturan Gubernur.

SARPI

PEREDARAN DAN PENGOLAHAN HASIL HUTAN

Pasal 51

(1) Pemerintah Provinsi secara aktif menentukan pedoman penatausahaan hasil hutan, peredaran dan pengolahan hasil hutan, serta pemilikan hutan kayu.

(2) Pedoman penatausahaan dimaksud pada ayat (1) ditetapkan dengan Peraturan Gubernur.
Bagian Ketiga
Dana Bagi Hasil Kehutanan
Pasal 56
(1) Penutupan bagi hasil Provinsi sumber daya hutan terbagi 16 % untuk Provinsi, 32 % untuk kabupaten penghasil dan 32 % untuk kabupaten lainnya.
(2) Dana bagi hasil dari kabupaten penghasil diprioritaskan bagi distrik penghasil dari provinsi sumber daya hutan.
(3) Dana bagi hasil sebesar maksimal 10 % dapat diperuntukan untuk menanggulangi kinerja pembangunan kehutanan.
(4) Ketentuan lebih lanjut pada ayat (2) dan (3) dituangkan dengan Peraturan Daerah Provinsi.

Bagian Kompitat
Badan Usaha Milik Daerah
Pasal 57
(1) Dalam rangka meningkatkan pendapatan daerah melalui sektor kehutanan, pemerintah daerah dapat membentuk Badan Usaha Milik Daerah (BUMD).
(2) BUMD sebagaimana dimaksud pada ayat (1) 1 dituangkan dengan Peraturan Daerah Provinsi.

BAB VIII
PERUBAHAN STATUS HUTAN
Pasal 58
Pengelolaan dan penggantian hutan secara lestar dapat dilakukan untuk melindungi hak-hak masyarakat hakum adat dan kelestarian sumber daya hutan.

Pasal 59
Dalam pelaksanaan pengelolaan hutan, pemerintah daerah dan masyarakat adat terlibat.

Pasal 60
Dalam penegakan hukum dibidang kehutanan pemerintah daerah menyiapkan tim pemberdayaan adat yang terdiri dari petugas polisi kehutanan sesuai luas kawasan hutan di Provinsi Papua.

Kelima
PENGAWASAN DAN PENGENDALIAN
Pasal 65
(1) Dalam rangka pengelolaan hutan secara lestar wajib dilakukan sertifikasi terhadap pemanfaatan hutan.
(2) Dalam pelaksanaan sertifikasi sebagaimana dimaksud pada ayat (1) pemerintah Provinsi dapat bekerja sama dengan lembaga sertifikasi.
(3) Ketentuan dan tata cara sertifikasi pemanfaatan hutan ditetapkan dengan Peraturan Pemerintah.

Pasal 66
(1) Kerjasama pembangunan kehutanan dengan pihak ketiga bersifat sosial dan berkepentingan.
(2) Kerjasama sebagaimana dimaksud pada ayat (1) wajib terjadi dan mendapat izin dari pemerintah.

Pasal 67
Kegiatan pembangunan kehutanan oleh unit pelaksana teknis pemerintah wajib dilaporkan kepada Gubernur Melalui Kepala Dinas Provinsi.

Pasal 68
Dalam pelaksanaan pengawasan, pemerintah daerah dan masyarakat adat dapat melakukan tindakan untuk melindungi hak-hak masyarakat.
Pasal 77
(1) Penyidikan atas tindak pidana dibidang kehutanan dilakukan oleh Pejabat Penyidik Pegawai Negeri Sipil di lingkungan Dinas Provinsi dan atau Kabupaten/Kota sesuai ketentuan peraturan perundang-undangan.
(2) Dalam melaksanakan tugas penyidikan, Pejabat Penyidik Pegawai Negeri Sipil sebagaimana dimaksud pada ayat (1) berwenang
a. menerima laporan atau pengaduan dari seorang atau lebih atas tindak pidana;
b. melakukan tindakan pertama pada saat itu ditempat kejadian dan melakukannya pemeriksaan;
c. menyita berharga seorang tersangka dan memerintah tanda pengenal diri tersangka;
d. melakukan penyitaan benda atau surat;
e. mengambil tanda cetak dari orang yang diperintah untuk diperiksa;
f. memerintahkan tanda cetak dari orang yang diperintah untuk diperiksa;
g. meminta bantuan dari pegawai yang berwenang untuk membantu dalam penyidikan;
h. membuat laporan kejadian, atau membantu penyidikan;
i. merencanakan tindakan lain yang dapat dipertanggunggajikan.
(3) Pejabat Penyidik Pegawai Negeri Sipil membuat Berita Acara setiap tindakan tentang :
a. pemeriksaan tersangka;
b. pemusnahan barang;
c. penyitaan barang;
d. pemeriksaan surat;
e. pemeriksaan saksi;
f. pemeriksaan ditempat kejadian;
g. menyerahkan berkas perkara, barang bukti dan tersangka kepada Penuntut Umum.

BAB XIII
KETENTUAN PIDANA
Pasal 78
(1) Setiap orang yang melanggar ketentuan Pasal 29 ayat (1), Pasal 36 ayat (2), Pasal 39 ayat (1), Pasal 43, Pasal 50 ayat (1), Pasal 52 ayat (1), Pasal 53 ayat (1), Pasal 58 ayat (1) diluncurkan dengan denda paling tinggi 6 (enam) bulan atau denda paling tinggi Rp. 50.000.000,- ( Lima Puluh Juta Rupiah).
(2) Tindak pidana sebagaimana dimaksud pada ayat (1) adalah pelanggaran.

BAB XIV
KETENTUAN PERALIHAN
Pasal 79
Dengan ditetapkannya Peraturan Daerah Khusus ini, maka :

BAB XV
KETENTUAN PENUTUP
Pasal 80
Hal-hal teknis yang belum diatur pelaksanaannya dalam Peraturan Daerah Khusus ini akan diatur dengan Peraturan Daerah.
Pasal 81
Peraturan Daerah Khusus ini mulai berlaku pada tanggal ditandatangani.

Untuk salinan yang sah wajib diserahkan kepada Sekretaris Daerah Provinsi Papua

Ditetapkan di Jayapura
pada tanggal 22 Desember 2008

GUBERNUR PROVINSI PAPUA
CAP/TTD
BARNABAS SUEBU, SH

Diundangkan di Jayapura
pada tanggal 23 Desember 2008

SEKRETARIS DAERAH PROVINSI PAPUA
TTD
TEDJO SOEPRAPTO

LEMBARAN DAERAH PROVINSI PAPUA
TAHUN 2008 NOMOR 21

Untuk salinan yang sah wajib diserahkan kepada Sekretaris Daerah Provinsi Papua

Drs. TEDJO SOEPRAPTO, MM
2. Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan

Mengingat:
1. Undang-Undang Nomor 12 Tahun 1969 tentang Pembentukan

2. Undang-Undang Nomor 41 Tahun 1999 tentang Kehutanan

3. Undang-Undang Nomor 21 Tahun 2001 tentang Otonomi Khusus

4. Undang-Undang Nomor 10 Tahun 2004 tentang Pemberlakuan Peraturan Perundang-undangan

5. Undang-Undang Nomor 12 Tahun 1982 tentang Dasar Hukum Peredaran Hasil Hutan


b. bahwa berdasarkan pertimbangan tersebut huruf a, parlu menetapkan Peraturan Gubernur Provinsi Papua tentang Izin Usaha Pemanfaatan Hasil Hutan Kayu Masihada Hukum Adat di Provinsi Papua;

Mengingat: 1. Undang-Undang Nomor 12 Tahun 1982 tentang Dasar Hukum Peredaran Hasil Hutan kayu adalah bagian batang atau cabang dari pohon yang telah dipotong sesuai dengan ukuran tertentu;

2. Usaha bersama guna memperoleh pendapatan;

3. Penanaman, pemeliharaan, pengamanan dan pemasaran hasil hutan kayu yang kelahirannya hidup dalam wilayah tertentu dan terikat serta tunduk kepada hukum koperasi dengan melandaskan kegiatannya berdasarkan prinsip koperasi

4. Koperasi adalah badan usaha yang beranggotakan orang seorang atau badan warganya, yang meliputi hak untuk memanfaatkan tanah, hutan, dan air serta warganya yang berdasarkan peraturan perundang-undangan

5. Faktor Angkat Kayi Olahan Rakyat selanjutnya disebut FAKO Rakyat adalah dokumen yang dikeluarkan oleh Organisasi Penanganan Kekuatan Hukum Adat di Provinsi Papua yang dikeluarkan oleh Pemerintah Daerah untuk kepentingan orang pribadi atau Badan yang berwenang;

6. Surat Keterangan Sahnya Kayu Bulat, selanjutnya disebut SKSKB adalah dokumen legal yang dikeluarkan oleh Dinas Keutusan Provinsi Papua yang dikeluarkan oleh Pemerintah Daerah untuk kepentingan orang pribadi atau Badan yang berwenang.

HALF-HEARTED RECOGNITION — 61
Pemegang IUPHHK-MHA terdiri dari:

a. melakukan penanaman areal kerja (blok/petak/pelatihan)
   b. melakukan inventarisasi Tegakan Sebelum Penambangan (TSP)

(2) Pemohon mengajukan permohonan IUPHHK-MHA kepada Gubernur dengan tendangan kepada Bupati/Walikota, Kepala Dinas Provinsi, Kepala Dinas Kabupaten/Kota, Pemprov Kabupaten/Kota, dan pihak ketiga yang bersangkutan yang dilakukan dengan:
   a. surat permohonan
   b. akta biai usaha, SUG dan SITU,
   c. hasil inventarisasi gawang
   d. rekomendasi Bupati/Walikota
   e. struktur organisasi dan copy KTP pengusul/kepala
   f. peta kerja yang ditahap oleh keadaan lahan ada, kepala distrik dan Kepala Dinas Kabupaten/Kota
   g. daftar peralatan yang dipergunakan
   h. surat keterangan dan persetujuan ketua kepala lahan asal setempat
   i. pernyataan teknis Kepala Dinas Kapulauan/Kota
   j. Kep锤da Provinsi melaksanakan penelitian kajian dan penyempurnaan dokumen permohonan sebagaimana dimaksud pada ayat (1).

(3) Pemohon yang tidak memenuhi kelengkapan persyaratan sebagaimana dimaksud pada ayat (1) diterima surat penolakan oleh Gubernur selambat-lambatnya 14 (empat belas) hari kerja sejak penerimaan diterima.

(4) Apabila permohonan telah memenuhi kelengkapan persyaratan administrasi, Kepala Dinas Kabupaten/Kota bersama pemohon dan Kepala Dinas Kabupaten melaksanakan:
   a. pemeriksaan areal hutan yang dimohon untuk mengetahui keadaan fisik lahan
   b. melihat lahan untuk mengetahui potensi lahan intensitas 10 %, dalam jangka waktu 5 (lima) hari sejak lahan diterima.
   c. Pemeriksaan areal hutan dan timbangan masing-masing disalurkan dalam bentuk berita acara.
   e. Pemohon yang memenuhi kelengkapan persyaratan administrasi pada ayat (1) diserahkan Gubernur menerima IUPHHK-MHA kepada pemohon selambat-lambatnya 14 (empat belas) hari kerja setelah diterima permohonan teknis Kepala Dinas Kabupaten/Kota. Apabila permohonan sebagaimana dimaksud pada ayat (1) diterima, Gubernur menerima IUPHHK-MHA kepada pemohon selambat-lambatnya 14 (empat belas) hari kerja setelah diterima permohonan teknis Kepala Dinas Kabupaten/Kota.

(5) Pemohon yang memenuhi kelengkapan persyaratan administrasi, Kepala Dinas Kabupaten/Kota bersama pemohon, Kepala Dinas Kabupaten/Kota dan pihak ketiga yang bersangkutan melakukan:
   a. pemeriksaan areal hutan yang dimohon untuk mengetahui keadaan fisik lahan
   b. melihat lahan untuk mengetahui potensi lahan intensitas 10 %, dalam jangka waktu 5 (lima) hari sejak lahan diterima.
   c. Pemeriksaan areal hutan dan timbangan masing-masing disalurkan dalam bentuk berita acara.
   e. Pemohon yang memenuhi kelengkapan persyaratan administrasi pada ayat (1) diserahkan Gubernur menerima IUPHHK-MHA kepada pemohon selambat-lambatnya 14 (empat belas) hari kerja setelah diterima permohonan teknis Kepala Dinas Kabupaten/Kota. Apabila permohonan sebagaimana dimaksud pada ayat (1) diterima, Gubernur menerima IUPHHK-MHA kepada pemohon selambat-lambatnya 14 (empat belas) hari kerja setelah diterima permohonan teknis Kepala Dinas Kabupaten/Kota.

(6) Pemohon yang memenuhi kelengkapan persyaratan administrasi, Kepala Dinas Kabupaten/Kota bersama pemohon, Kepala Dinas Kabupaten/Kota dan pihak ketiga yang bersangkutan melakukan:
   a. pemeriksaan areal hutan yang dimohon untuk mengetahui keadaan fisik lahan
   b. melihat lahan untuk mengetahui potensi lahan intensitas 10 %, dalam jangka waktu 5 (lima) hari sejak lahan diterima.
   c. Pemeriksaan areal hutan dan timbangan masing-masing disalurkan dalam bentuk berita acara.

(7) Pemohon yang memenuhi kelengkapan persyaratan administrasi, Kepala Dinas Kabupaten/Kota bersama pemohon, Kepala Dinas Kabupaten/Kota dan pihak ketiga yang bersangkutan melakukan:
   a. pemeriksaan areal hutan yang dimohon untuk mengetahui keadaan fisik lahan
   b. melihat lahan untuk mengetahui potensi lahan intensitas 10 %, dalam jangka waktu 5 (lima) hari sejak lahan diterima.
   c. Pemeriksaan areal hutan dan timbangan masing-masing disalurkan dalam bentuk berita acara.
Bagian Kesepakatan
Pemanganan dan Pengendalian Hutan Pasal 28

Untuk membentuk kerusaan hutan akiat kegiatan usaha pemanfaatan hutan, pemegang IUPHHK-MHA tidak dibenarkan menggunakan peralatan yang tidak sesuai dengan kondisi lahan dan tanaman atau melakukkan perbuatan lain yang dapat membebani kerusaan hutan dan lahan.

Bagian Kesepakat
Larangan Pasal 27

Pemegang IUPHHK-MHA dibaring
a. merusak, memindahkan atau menghancurkan tanda batas atau merusak sarana dan prasarana perimbangan hutan;

b. menggunakan peralatan berbadan pengusaha hutan seperti traktor, logor, truck, bulldozer, loader, skidder, grader, wheel loader, excavator untuk kegiatan usaha di luar area ijin, pengukuran, penggantian;

c. melakukan penimbunan sebelum dieksekusi IUPHHK-MHA;

d. memindahkan/merubah peraturan pembuatan hutan dari hak istimewa;

e. melakukan pembakaran atau bahan atau material yang ada di dalam hutan atau melakukan kegiatan yang dapat menyebabkan kebakaran hutan;

f. melakukan penimbunan pohon di dalam kawasan hutan dengan radius atau jarak sempadang dengan:

1) 500 (lima ratus) meter dari tepi waduk atau danau;

2) 200 (dua ratus) meter dari tepi mata air dan kiri kanan sungai di daerah rawa;

3) 100 (seratus) meter dari kiri kanan tepi sungai;

4) 50 (lima puluh) meter dari kiri kanan tepi anak sungai;

5) 3 (tiga) kali keluarnya jangkar dari tepi sungai, dan;

6) 130 (seratus tiga puluh) kali selisih pasang tertinggi dan pasang terendah dari tepi pantai.

BAB III....../12

Pasal 19

a. LHP-XE yang telah diakui dijadikan dasar perhitungan pembayaran PSDH dan DR oleh Pejabat Penagih.

b. Pembayaran SPP, PSDH dan DR oleh pemegang IUPHHK-MHA melakukan pembayaran menggunakan rekening referensi 15 digit pada Bank yang telah ditentukan sesuai ketentuan peraturan perundangan-undangannya.

Pasal 20

(1) Pengolahan hasil hutan kayu dilakukan langsung di dalam areal kerja dengan menggunakan peralatan portable sawmill.

(2) Pemegang IUPHHK-MHA wajib memiliki IUPHHK yang diterbitkan oleh Gubernur atau pihak yang ditugaskan.

Pasal 21

(1) Pengangkutan kayu olahan dari TPK industri dari areal IUPHHK-MHA dilengkapi dengan dokumen angkutan hasil hutan yang berupa faktur angkutan kayu olahan (FAKO-Ryak) yang dieluksasi secara official assessment oleh petugas pemberi FAKO dari Dinas Kabupaten/Kota yang ditunjuk dan disetujui oleh Kapala Dinas Provinsi.

(2) Blanko FAKO-Ryak diterbitkan oleh Dinas Provinsi.

Pasal 22

(1) Untuk pengangkutan hasil hutan kayu, pemegang IUPHHK-MHA mengajukan permohonan penerbitan FAKO-Ryak kepada Pejabat Pemberi FAKO-Ryak dengan tembusan kepada Kepala Dinas Provinsi/Kota.

(2) Berdasarkan permohonan sebagaimana dimaksud pada ayat (1) pemberi pemberitahuan FAKO-Ryak melaksanakan pemeriksaan administrasi dan fasilitas hasil hutan kayu yang akan diangkut.

(3) Dokumen FAKO-Ryak wajib dipenuhi Dailar Kayu Olahan (DKO).

(4) Pemeriksaan administrasi meliputi kegiatan pemeliharaan terhadap kebantuan perizinan IUPHHK-MHA serta kewajiban pembayaran PPSH yang dibuktikan dengan bukti setor pembayaran PPSH.

(5) Masa berlaku dokumen FAKO-Ryak disesuaikan dengan tempat waktu normal.

(6) Dokumen FAKO-Ryak diterima, diperiksa dan dinyatakan habis masa berlaku dan diberikan cap "telah digunakan" oleh petugas kehutanan pada pos pengawasan peralihan hasil hutan yang diangkut dan disampaikan kepada Dinas Provinsi berdasarkan asalus asal blanja Dinas Daerah.

(7) Pejabat pemberi FAKO-Ryak wajib membuat laporan penerbitan FAKO-Ryak secara periodik (bulan) kepada Kepala Dinas Kabupaten dengan tembusan kepada Kepala Dinas Provinsi, Kepala BPPH dan Kepala UPTD.

Bagian Kesepakat
Perimbangan dan Pengendalian Hutan

(1) IUPHHK-MHA dikenakan luran izin Usaha Pemanfaatan Hasil Hutan. Untuk proses kegiatan usaha pemanfaatan hasil hutan, Kepala Dinas Provinsi, Kepala BP2HP, dan Kepala UPTD.

(2) Dengan berakhirnya IUPHHK-MHA sebagaimana dimaksud pada ayat (1), tidak dibenarkan pemegang izin untuk melunasi iuran kehutanan.

(3) Kepala Dinas Daerah yang diterbitkan secara official atas petugas kehutanan pada pos pengawasan peralihan hasil hutan yang dirujuk dan disampaikan kepada Dinas Provinsi berdasarkan asalus asal blanja Dinas Daerah.

(4) IUPHHK-MHA yang terhadap kegiatan usaha pemanfaatan hasil hutan, Kepala Daerah Daerah yang diterbitkan secara official atas petugas kehutanan pada pos pengawasan peralihan hasil hutan yang dirujuk dan disampaikan kepada Dinas Provinsi berdasarkan asalus asal blanja Dinas Daerah.

(5) Pelanggaran terhadap ketentuan Pasal 26 dan 27 dikenakan sanksi pidana dengan keterlaluan peraturan perundangan-undangannya.

(6) Pelanggaran selain tindak pidana disanksi administratif berupa:

a. pencabutan izin;

b. penghentian kegiatan;

c. penghentian pelayanan; dan
d. pengenaan denda.

(7) Pengenaan sanksi administratif sebagaimana dimaksud pada ayat (2) oleh:

a. Gubernur untuk pencabutan izin;

b. Kapala Dinas Provinsi untuk penghentian kegiatan dan pengenaan denda;

c. Kapala Dinas Kabupaten/Kota untuk penghentian pelayanan.
HALF-HEARTED RECOGNITION

64 —

Peraturan Gubernur ini mutlak berlaku pada tanggal dundangan.

Agar setiap orang mengetahui, memerintahkan pangundangan Peraturan Gubernur ini dengan penempatannya dalam Berita Daerah Provinsi Papua.

Ditetapkan di Jayapura
pada tanggal 18 November 2010

GUlbNUR PAPUA
CAPITTO
BARNARAS SUBLI, SH

Dr. Constant Karma

Lampiran : Peraturan Gubernur Papua Nomor : 13 Tahun 2010
Tanggal : 18 November 2010

Contoh Formulir Permohonan Izin Usaha Pemanfaatan Hasil Hutan Kayu Masyarakat

Kop Surat

Nomor Lampion : 1 (satu) berkas
Perihal : Permohonan IUPHHK-MHA

Kepada Yth. : Kepala Dinas Kehutanan Provinsi Papua

Bapak Gubernur Papua

di-

Dengan hormat,

Yang bertanda tangan di bawah ini
Nama
Pekerjaan :
Alamat :

Mengajukan permohonan kepada Bapak untuk mendapatkan Izin Usaha Pemanfaatan Hasil Hutan Kayu Masyarakat Hukum Adat dengan rincian sebagai berikut :

1. Lokasi
2. Luas
3. Jenis Produk
4. Alat yang digunakan
5. Lambanya Izin
6. Jumlah Tanaga Kerja :

Sebagai bahan pertimbangan Bapak, bersama ini kami lampirkan :
1. Copy KTP/ Akta Pendirian Koperasi, SIUP dan SITU;
2. Peta Lokasi Skala 1 : 50.000;
3. Bagian Kerja IUPHHK-MHA;
4. Rekomendasi Bupati/Walikota;
5. Daftar peralatan yang digunakan;
6. Surat keterangan dan persetujuan Ketua lembaga adat tempat;
7. Surat Persetujuan Kepala Distrik setempat;
8. Surat Pernyataan tidak keberatan dari Direksi pemegang IUPHHK.

Demikian disampaikan dan atas perkenan serta persetujuan Bapak Gubernur, dicantumkan surat kasih.

Hormat Kami,

MATERAI

Sumbangan: 13 Tahun 2010

HALF-HEARTED RECOGNITION
MENETAPKAN PERATURAN MENTERI DINGINAN HIJUH DAN KESIHATAN
REPUBLIC INDONESIA

BERKESULUHAN

PROSEDUR DAN KEBIJAKAN DENGAN USAHA
PENANGANAN KELUARAN KULIT NAKU – KULIT ALAM PADA KAWASAN
KULIT PRODUKSI POPUL

BAGIAN KEPATUHAN TAHUN YANG MENERIMA 2015

MENETAPKAN KURANGAN HIJUH DAN KESIHATAN REPUBLIK INDONESIA.

Menunjuk

1. kahar bukanlah Undang Undang Nomor 21 Tahun
2001 tentang Organisasi Kesehatan Negara Republik Indonesia
3. Undang Undang Nomor 41 Tahun 1999 tentang Kebijakan
4. Undang Undang Nomor 21 Tahun 2001 tentang Kebijakan
5. Undang Undang Nomor 18 Tahun 2013 tentang
6. Peraturan Pemerintah Nomor 35 Tahun 2003 tentang
7. Peraturan Pemerintah Nomor 44 Tahun 2004 tentang
8. Peraturan Pemerintah Nomor 44 Tahun 2004 tentang
9. Peraturan Pemerintah Nomor 6 Tahun 2007 tentang
10. Peraturan Pemerintah Nomor 27 Tahun 2012 tentang
11. Peraturan Pemerintah Nomor 12 Tahun 2014 tentang
12. Peraturan Pemerintah Nomor 10 Tahun 2015 tentang
13. Peraturan Pemerintah Nomor 48 Tahun 2016 tentang
14. Peraturan Pemerintah Nomor 121/P.7 Tahun 2014
15. Ketentuan Pemerintah Nomor 121/P.7 Tahun 2014
17. Peraturan Menteri Lingkungan Hijau dan Kehutanan Nomor P.M.03/U/2015

HALF-HEARTED RECOGNITION — 65
PERANAN MENTERI KESKERNIATAN TENAGA NORMA, STANDARD, PRODUKSI DAN KETERIKA PEMBINAAN ENY JABAPA PEMBINAAN BISNIS JATAN KAYU - HUTAN ARAB PADA KAWASAN HUTAN PRODUKSI DI PROVINSI PAPUA.

BAB I
KEPUTUSAN UMUM

Paragraf 1
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 2
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 3
Norma, standar, prosedur dan kriteria pembinaan HUPHRA di Kawasan Hutan Produk di Provinsi Papua, sertajenawala data ini Paragraf 2 (3).pembukaan

Paragraf 4
Bab II
NORMA, STANDAR, PROSEDUR DAN KETERIKA

Paragraf 5
Pembinaan HUPHRA di Kawasan Hutan Produk di Provinsi Papua, dalam hal pembinaan

Paragraf 6
Bab III
PERANAN MENTERI KESKERNIATAN TENAGA NORMA, STANDARD, PRODUKSI DAN KETERIKA PEMBINAAN ENY JABAPA PEMBINAAN BISNIS JATAN KAYU - HUTAN ARAB PADA KAWASAN HUTAN PRODUKSI DI PROVINSI PAPUA.

Paragraf 7
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 8
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 9
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 10
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 11
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 12
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 13
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 14
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 15
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 16
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
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Paragraf 17
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 18
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.

Paragraf 19
Pemerintah HUPHRA di Kawasan Hutan Produk di Provinsi Papua.

Paragraf 20
Dalam Peraturan Menteri ini yang dimaksud dengan:

1. Hutan produk adalah kawasan hutan yang merupakan uang pengeluaran hasil hutan.
2. Pemanfaatan hasil hutan adalah kegiatan untuk memanfaatkan dan mengambil keuntungan dari hasil hutan berupa kekayaan dengan nilai ekonomi tinggi dan tidak mengurangi fungsi pokoknya.
3. Lahan pembuatan hasil hutan atau “Lahan Hut” yang sebelum hiburan atau pembebasan HUPHRA adalah landasan untuk memanfaatkan hutan dalam hutan produk, yang kekayaan hutan tersebar dalam perumahan atau perkebunan, pekarangan, pemukiman, perumahan, dll, pemakaian hasil hutan untuk.
HALF-HEARTED RECOGNITION — 67
b. melakukan pengajuan dan pengujian hasil hutun sesuai dengan ketentuan peraturan perundang-undangan;

1. melakukan kerja kerja dengan koperasi mengakui mestepat paling lambat 3 bulan tetapi selalu diawal tahun,

2. menunjukkan penanda kerja, suara keuangan (PK) paling minimum 2 (dua) bulan sebelum RKI berjalan,

3. melakukan kegiatan yang menghasilkan hutun sesuai dengan ketentuan paling lambat 3 (tiga) bulan setelah selesai bepergian,

4. menjawab tuntutan dari pemerintah daerah hutan kerja kerja sesuai dengan ketentuan paling lambat 3 (tiga) bulan setelah setelah bepergian,

5. memberikan akses dan prasarana perkebunan susu dengan memperhatikan aspek konservasi dan perdagangan hutun sesuai kebutuhan sesuai dan prasarana perkebunan hutun;

6. menghindari kerja kerja dari berbagai aspek gangguan kekayaan dan kelebihan hutun sesuai kebutuhan kegalian komunal dan kelebihan hutun;

7. melakukan kegiatan kerja kerja paling lambat 1 (satu) bulan sebelum diterbitkan IUPHK-RA.

Pada 12

Dalam mengacu pada UU Perkebunan, bagi kerja kerja yang patut disertai

hukum hutan aman yaitu penggunaan

hutan sesuai peraturan IUPHK-RA dengan zona berdasarkan yang disepakati oleh :

Pada 13

BAG I

UUTENTUAN KELOMU

Pada 15

Peraturan Menteri ini telah benar-benar pada tanda
diterbitkan.

Agar setiap orang mengetahuinya, memperhatikan

peraturan Menteri ini dengan

peraturan terkaitnya dalam Buku Saku Republik Indonesia.

Di Jakarta,

pada tanggal

MENYERTAkan HUKUM DAN
KEHUTANAN REPUBLIK INDONESIA,

SIET RUSBYA

Ditetapkan di Jakarta,

pada tanggal

DIRECTOR-JENDERAL
PERBANAS, PENGANGGANG LAMPIRAN
KEMENTERIAN HUKUM DAN HAM, ADIR MAHJZA
REPUBLIC INDONESIA,

WARGO KETJARUMIA

DEKRIK NATGKA REPUBLIK INDONESIA YAKN
NAMOR

HALF-HEARTED RECOGNITION