

**Civil Society's Critical Response to Phase Approach Certification of 75,640 hectare Industrial Timber Plantation (HTI) of PT. RIAU ANDALAN PULP AND PAPER (PT. RAPP) - Pelalawan Sector in Pelalawan and Siak districts, Riau Province**

**CONTROVERSIES OVER PT. RAPP'HTI - PELALAWAN SECTOR'S PERMIT**

The 75,640 hectares of PT. RAPP's HTI - Pelalawan Sector were definitively endorsed by the Minister of Forestry (MoF) through MoF's Decree No. 356/Menhut-II/2004 on Changes to MoF's Decree No. 130/Kpts-II/1993 dated 27 February 1993 Jo. MoF's Decree No. 137/Kpts-II/1997 dated 10 March 1997 on Industrial timber plantation Permit in Riau Province to PT. Riau Andalan Pulp And Paper, dated 1 October 2004. With the endorsement, PT RAPP's HTI area that previously stood at 159,500 hectares grew to ±235,140 (two hundred thirty-five thousand one hundred and forty) hectares.

PT. RAPP's HTI - Pelalawan Sector was among the areas proposed by PT. RAPP in 1996, which had been principally approved by the Minister of Forestry through MoF's Decree No. 1547/Menhut-IV/1996 dated 5 November 1996 on Additional Work Site of PT. RAPP's HTI.

Based on MoF's Decree No. 1547/Menhut-IV/1996 dated 5 November 1996, for PT. RAPP to obtain definitive permit for the proposed area, including the 75,640 hectares of Pelalawan Sector, it should:

- 1) Complete HTI feasible study with the Directorate General of Forest Utilisation (*Direktorat Jenderal Pengusahaan Hutan*)
- 2) Complete environmental impact assessment (EIA) with the Directorate General of Forest Protection and Natural Preservation (*Direktorat Jenderal Perlindungan Hutan dan Pelestarian Alam*)
- 3) Consult the Directorate General of Forest Use and Inventory (*Direktorat Jenderal Inventarisasi dan Tata Guna Hutan*) to talk about function change and HTI's reserved areas map

Looking at the MoF's Decree No. 356/Menhut-II/2004 on Changes to MoF's Decree No. 130/Kpts-II/1993 dated 27 February 1993 Jo. MoF's Decree No. 137/Kpts-II/1997 dated 10 March 1997 on Industrial timber plantation Permit in Riau Province to PT. Riau Andalan Pulp And Paper, one can see that the rationales behind the issue of the decree are just:

- 1) Letter of the Head of *Badan Planologi Kehutanan* No. S.161/VII-KP/Rhs/2004 dated 16 September 2004;
- 2) Letter of Riau Governor No. 522.2/EK/3752 dated 24 December 1997 on recommendations for additional reserved areas for PT RAPP's HTI;
- 3) Letter of Riau Governor No. 660.1/BAPEDAL Prop/2981 dated 19 December 2001 on Approval of PT RAPP's EIA, Five-Year Work Plan (RKL)/Environmental Management Plan (RPL);
- 4) Letter of the Head of Center for Environmental Impact Analysis (*Komisi Pusat Analisis Mengenai Dampak Lingkungan*) No. 171/D-VI/AMDAL/1997 dated 19 December 1997 on Approval of PT RAPP's EIA, Five-Year Work Plan (RKL)/Environmental Management Plan (RPL).

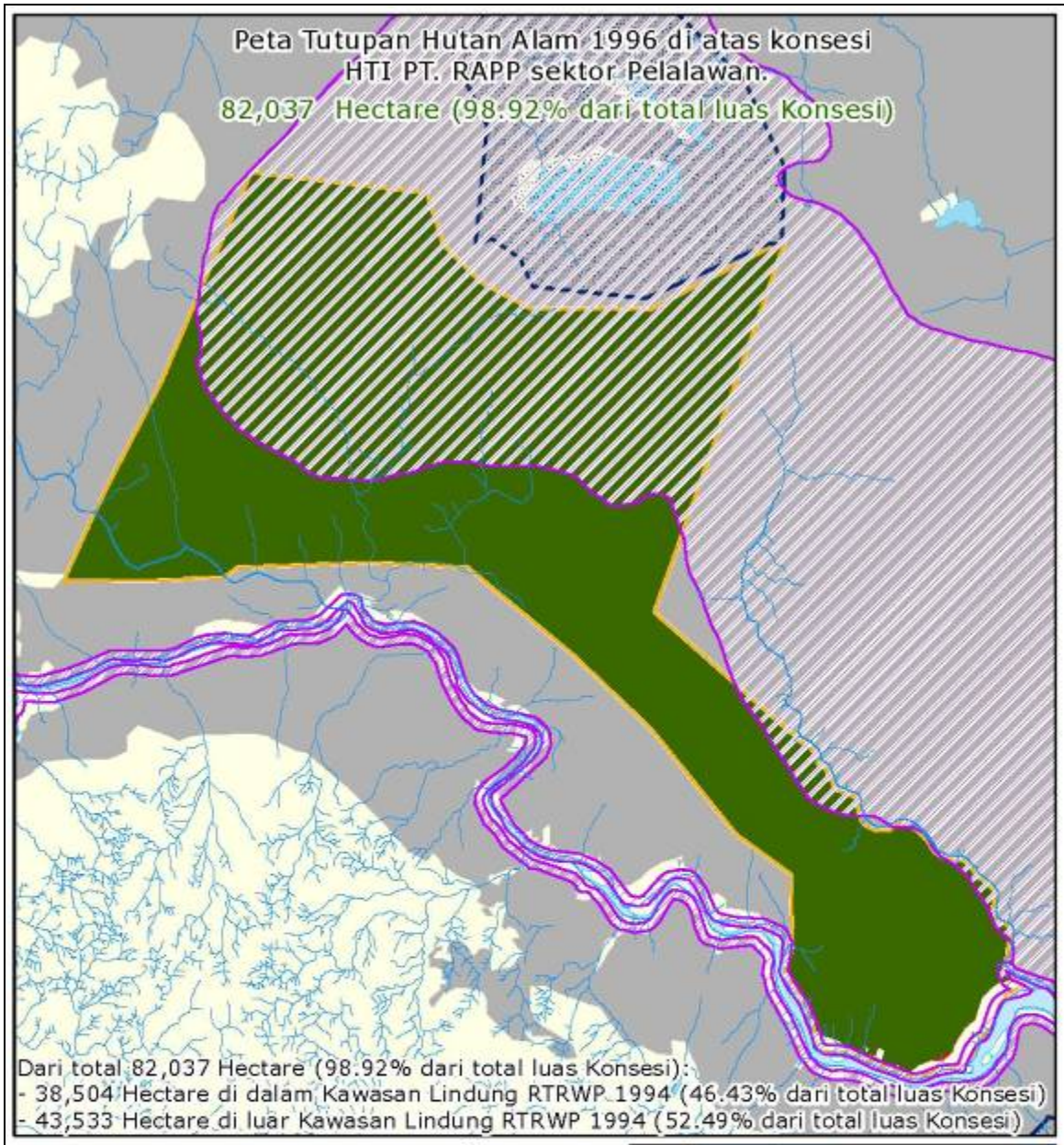
Therefore, it is obvious that PT. RAPP has violated MoF's Letter No. 1547/Menhut-IV/1996 dated 5 November 1996. The letter is in fact based on MoF's Letter No. 358/Kpts-II/93, dated 13 July 1993.

**PT. RAPP'S HTI - PELALAWAN SECTOR LIES WITHIN PROTECTED FOREST DESIGNATED UNDER 1994 RIAU PROVINCE'S SPATIAL PLAN (BYLAW NO. 10/1994)**

Part of PT RAPP's HTI (38,877 hectares) lies within Protected Forest designated under the 1994 Riau Province's Spatial Plan (RTRWP Riau). This is in direct violation of MoF's Decree No. 21/Kpts-II/2001 on Criteria and Standard of Plantation Forest Timber Utilization Permit on Production Forest dated 31 January 2001, and Criteria and Standards of Plantation Forest Timber Utilization Permit in Production Forest under Provincial Spatial Plan.

It is clear from the criteria and standards that HTI is only allowed in Production Forests in accordance with Forest Land Use and RTRWP, whereas PT. RAPP's HTI - Pelalawan Sector partly lies in Protected Forest.

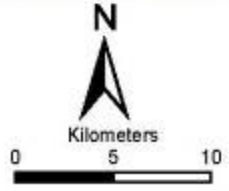
Peta Tutupan Hutan Alam 1996 di atas konsesi HTI PT. RAPP sektor Pelalawan.  
 82,037 Hectare (98.92% dari total luas Konsesi)



Dari total 82,037 Hectare (98.92% dari total luas Konsesi):  
 - 38,504 Hectare di dalam Kawasan Lindung RTRWP 1994 (46.43% dari total luas Konsesi)  
 - 43,533 Hectare di luar Kawasan Lindung RTRWP 1994 (52.49% dari total luas Konsesi)

**Legenda**

- Sungai
- Kawasan Lindung RTRWP 1994
- Kawasan Dilindungi
- HTI PT. RAPP - Sektor Pelalawan
- Danau
- Tutupan Hutan Alam 1996**
- di dalam HTI RAPP-Pelalawan
- Hilang 1988-1996
- di luar HTI RAPP-Pelalawan

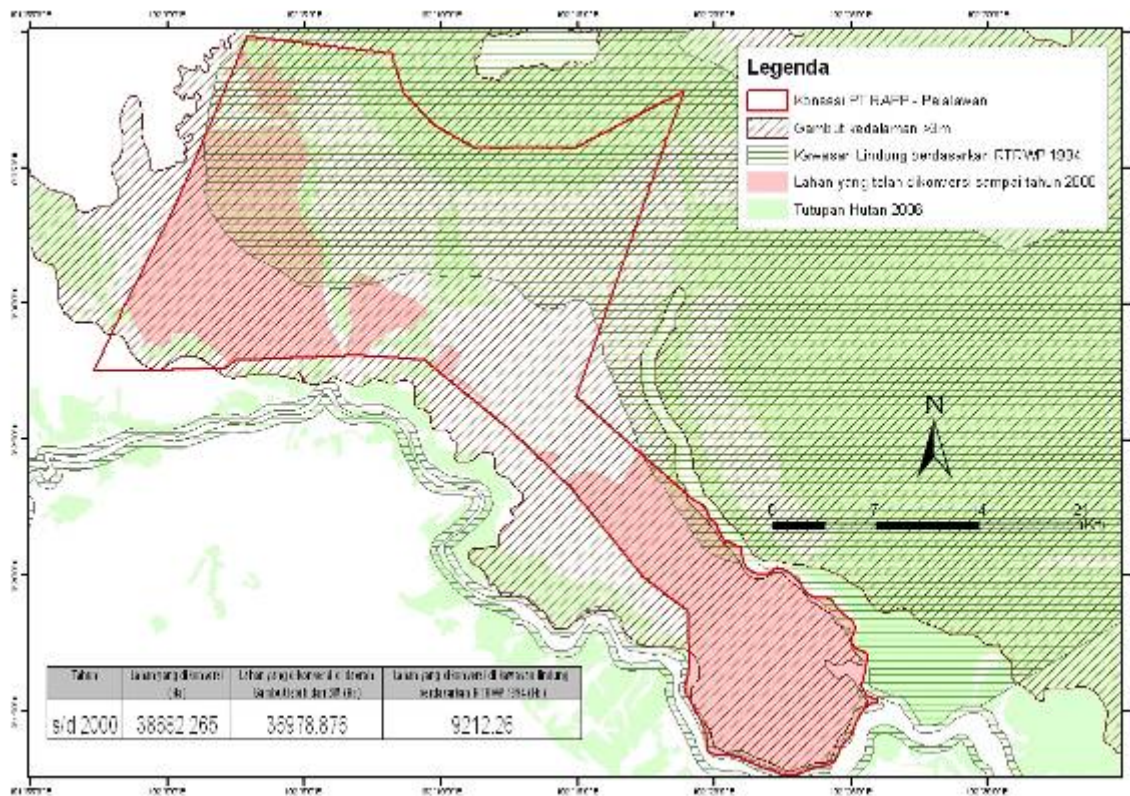


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### PT. RAPP'S HTI - PELALAWAN SECTOR LIES IN 3-METER DEEP PEATLAND

The entire area of PT. RAPP's HTI - Pelalawan Sector lies in 3-meter deep peatland. This is in direct violation of Presidential Decree No. 32 Year 1990 on Protected Forest Management, and Law No. 23 Year 1997 on Environmental Management, CHAPTER IV, BASIC PRINCIPLES OF PROTECTED FOREST POLICY, First Part of Areas Providing Protection For Downstream Areas, Article 10, sets a criteria of peatland, that is an area with a naturally accumulated peat layer with the depth of 3 meters or more lying in headstreams and swamps.



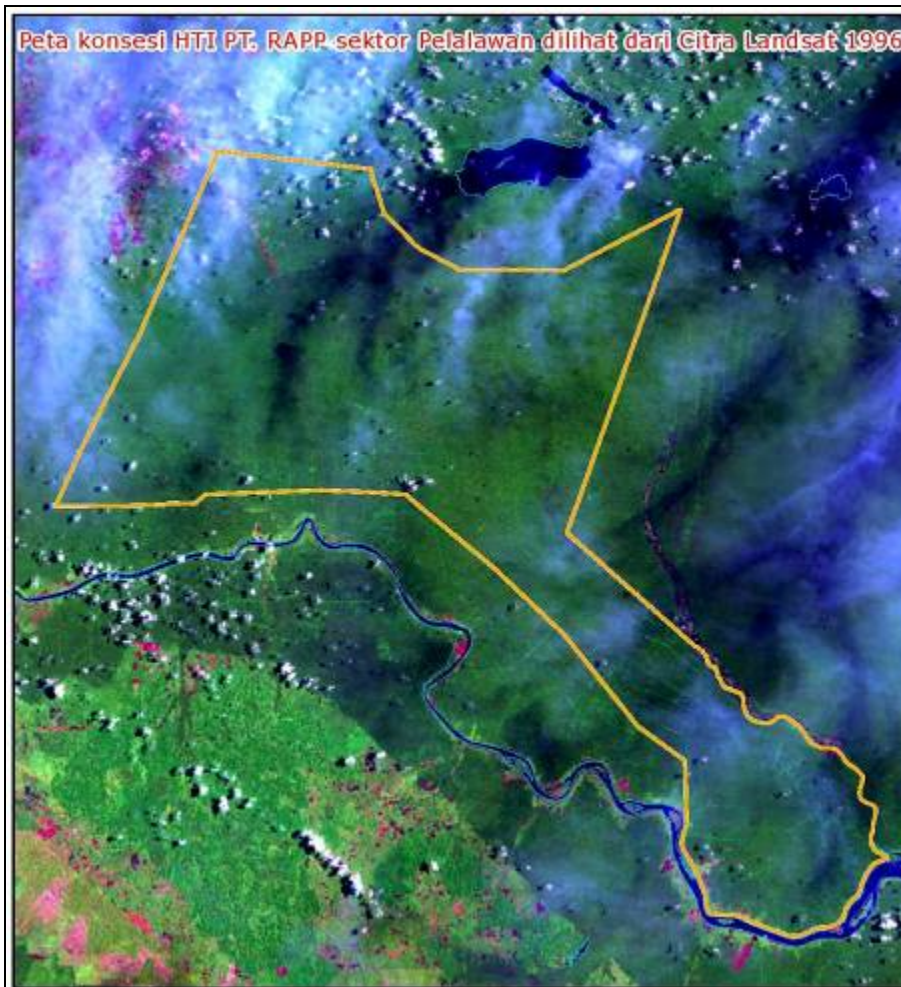
### PT. RAPP'S HTI - PELALAWAN SECTOR LIES WITHIN NATURAL FOREST

Explanation of Forestry Law No. 41 Year 1999, Article 28, stipulates that plantation timber utilization is prioritized in non-productive forests to preserve natural forests. Similarly, Governmental Regulation No. 34 Year 2002 on Forest Management and Forest Management, Utilisation and Use Planning, dated 8 June 2002, Article 30 paragraph (3) stipulates that forest product utilisation in plantation forests is applied in the bare land, the grassland and or the scrubland of production forests.

In addition, a number of regulations reinforce where HTI should be applied, among others MoF's Decree No. 10.1/Kpts-II/2000 On Guideline on Granting Plantation Timber Forest Permit, dated 6 November 2000, and MoF's Decree No. 21/Kpts-II/2001

On Criteria and Standard of Plantation Forest Timber Utilization Permit in Production Forest dated 31 January 2001.

The image below, captured by Landsat in 1996, shows that PT. RAPP's HTI - Pelalawan Sector contains pristine natural forests.



With respect to criteria for forest areas that can be applied to be converted into HTI, PT. RAPP's HTI - Pelalawan Sector has violated a number of regulations, namely:

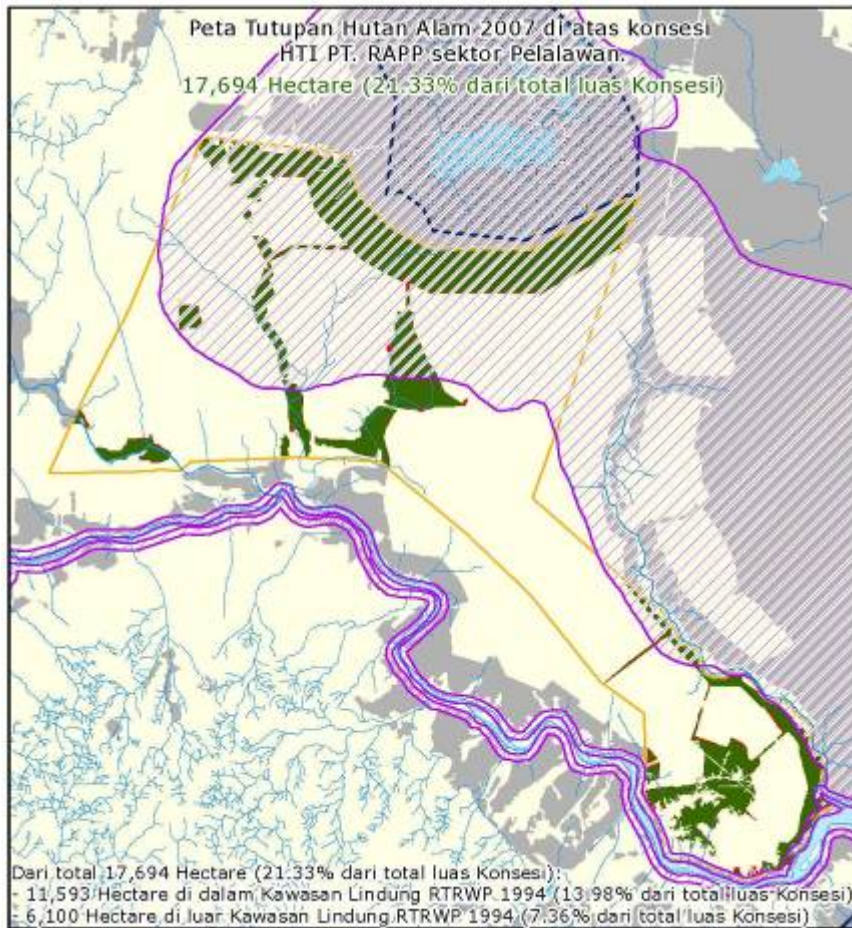
- **Law No. 41 year 1999 on Forestry.** Explanation of Forestry Law No. 41 Year 1999, Article 28, stipulates that plantation timber utilization is prioritized in non-productive forests in order to preserve natural forests.
- **Governmental Regulation No. 34 Year 2002 on Forest Management and Forest Management, Utilisation and Use Planning,** dated 8 June 2002, Article 30 paragraph (3) stipulates that forest product utilisation in plantation forests is applied in the bare land, the grassland and or the scrubland of production forests.

- MoF's Decree No. 10.1/Kpts-II/2000 On Guideline on Granting Plantation Timber Forest Permit, dated 6 November 2000, Article 3 paragraph stipulates that forest areas that can be applied to be converted into HTI are bare land within production forests and or non-titled forest areas to be converted into production forests. **Article 3 paragraph (4)** stipulates that the permit can granted on forest areas with non-forest vegetation cover (scrubland, grassland and bare land) or logged areas with poor condition containing potentially extracted logs (of any species) of 10-cm diameter with volume not exceeding 5 m<sup>3</sup> per hectare.
- MoF's No. 21/Kpts-II/2001 on Criteria and Standard of Plantation Forest Timber Utilization Permit on Production Forest dated 31 January 2001 stipulates that such a permit can be granted on logged forest areas or natural forests areas that have turned into bare land, grassland and or scrubland, or forest vegetation that does not contain trees (of any species) exceeding 10 cms in diameter with volume less than 5 m<sup>3</sup> per hectare, or containing dominant species less than 200. And Criteria and Standards of Plantation Forest Timber Utilization Permit in Production Forest under Provincial Spatial Plan.

#### **PT. RAPP'S HTI - PELALAWAN SECTOR HAD BEEN CONVERTED BEFORE THE ISSUE OF MOF'S DEFINITIVE PERMIT**

Long before the issue of MoF's Decree No. 356/Menhut-II/2004 on Changes to MoF's Decree No. 130/Kpts-II/1993 dated 27 February 1993 Jo. MoF's Decree No. 137/Kpts-II/1997 dated 10 March 1997 on Granting HTI Right in Riau Province to PT. Riau Andalan Pulp And Paper, dated 1 October 2004, PT. RAPP had logged the natural forest where PT. RAPP's HTI - Pelalawan Sector lies.

Based on the 2007 Landsat image, the converted area fetched 65,218 hectares or 80% of the total. 6,458 hectares were first converted in 2000; during 2001-2002 the company converted 54,218 hectares, with another 3,924 hectares being converted during 2003-2007.



The question is on what ground did the company apply for Timber Use Permit (IPK) or Annual Work Plan (RKT) on its concession (Pelalawan Sector)? The HTI even had not obtained a definitive permit until 1 October 2004.

Minister of Forestry and Estate Crops' Decree No. 538/Kpts-II/1999, dated 12 July 1999 on Timber Use Permit, Article 1 stipulates that "timber use permit (IPK) is granted for logging operations on **designated forest areas** or areas for other purposes for plantation forest development or non-forestry purposes."

MoF's Decree No. 151/Kpts-II/2003 on Work Plan, Five-Year Plan, Annual Work Plan and Work Chart of Timber Utilisation on Plantation Forests, Article 17 stipulates that "IUPHHK (plantation forest permit) holders are obliged to prepare Five-Year Work Plan (RKTUPHHK) for the first year as late as three months after RKLUPHHK is endorsed." Article 9 stipulates that Five-Year Work Plan (RKTUPHHK) must be prepared by IUPHHK holders based on the endorsed RKUPHHK.

In the light of the fact that PT. RAPP had yet been granted the definitive permit until 1 October 2004, logging the area should have been prohibited. Law No. 41 year 1999 on Forestry Article 50 paragraph Article 3 letter (e) stipulates that no one is allowed to cut trees or harvest or collect any forest products within the forest area without

holding any rights or license issued by authorised officials, and (f) junto Article 78 paragraph (4) that prohibits anyone to receive, buy or sell, receive as an exchange, receive as an entrusted goods, keep or possess any forest products which were allegedly harvested from a forest area through an illegal way.

**So, what do these have to do with the Phase Approach Certification of 75,640 hectare Industrial Timber Plantation (HTI) of PT. RIAU ANDALAN PULP AND PAPER (PT. RAPP) - Pelalawan Sector?**

Below is how the understanding of Sustainable Forest Management Certification indicators is compared with the facts.

### **1. Land certainty (to be used as plantation forest)**

According to LEI's Technical Document No. 04 on the values (intensity scale) of SFM Certification, what is meant by land certainty is the conformity between the status of the forest management unit and Forest Land Use (i.e. TGH, RTRWP)

The fact is that PT. RAPP's HTI - Pelalawan Sector lies within Protected Forest designated by the 1994 Riau RTRWP, whereas according to MoF's Decree No. 21/Kpts-II/2001 on On Criteria and Standard of Plantation Forest Timber Utilization Permit in Production Forest dated 31 January 2001, exploitation of production forest should comply with forest land use and or RTRWP

According to LEI's Technical Document No. 04 on the values (intensity scale) of SFM Certification, the land certainty gives a judicial guarantee and reduces future conflicts on land use. Therefore, any form of changes to forest function, in this case because of changes to land use, must be re-gazetted. *Pal batas* (demarcation) is one of the signs telling that the land within bears certain ownership right and function.

The fact is that PT. RAPP's HTI - Pelalawan Sector was definitively designated as HTI on 1 October 2004 through MoF's Decree No. 356/Menhut-II/2004 on Changes to MoF's Decree No. 130/Kpts-II/1993 dated 27 February 1993 Jo. MoF's Decree No. 137/Kpts-II/1997 dated 10 March 1997 on Granting HTI Right in Riau Province to PT. Riau Andalan Pulp And Paper, dated 1 October 2004.

The fact is that PT. RAPP had converted the said land before the definitive permit was granted.

The fact is that PT. RAPP's HTI - Pelalawan Sector obtained the definitive permit in violation of or non-compliance with MoF's guidelines through MoF's Decree No. 1547/Menhut-IV/1996 dated 5 November 1996. The decree was in fact based on MoF's Decree No. 358/Kpts-II/93, dated 13 July 1993

### **2. Ratio of the size of the designated protected forest to the ideal size**

According to LEI's Technical Document No. 04 on the values (intensity scale) of SFM Certification, protected forest that has been designated and or acknowledged by

related parties and has met the biophysical considerations will ensure the preservation of the land quality and continuity of water system function within the management unit.

The fact is that the entire area of PT. RAPP's HTI - Pelalawan Sector lies on >3 meter deep peatland, which is in direct violation of Presidential Decree No. 32 year 1990 on Protected Forest Management.

The fact is that part of PT. RAPP's HTI - Pelalawan Sector (38,504 hectares) lies within Protected Forest designated by the 1994 Riau RTRWP.

### **3. Effective management of production area is planned in accordance with the land suitability and capacity, and the continuity of the water system functions**

According to LEI's Technical Document No. 04 on the values (intensity scale) of SFM Certification, effective production area is an area within plantation forest that can effectively be planted with species selected in accordance with ecological suitability and company's goals. To ensure long term productivity, effective production areas should be managed in accordance with the land suitability and capacity, and the continuity of water system functions.

The fact is that, according to 2000 Landsat image, PT. RAPP's HTI - Pelalawan Sector contains pristine forest.

The fact is that in light of the fact that PT. RAPP's HTI - Pelalawan Sector was designated as HTI on 1 October 2004 through MoF's Decree No. 356/Menhut-II/2004 on Changes to MoF's Decree No. 130/Kpts-II/1993 dated 27 February 1993 Jo. MoF's Decree No. 137/Kpts-II/1997 dated 10 March 1997 on Granting HTI Right in Riau Province to PT. Riau Andalan Pulp And Paper; it would mean that up to 1 October 2004 PT. RAPP's HTI - Pelalawan Sector had by no means prepared Annual Work Plan (RKT) and Five-Year Work Plan (RKL). Whereas, MoF's Decree No. 151/Kpts-II/2003 on Work Plan, Five-Year Plan, Annual Work Plan and Work Chart of Timber Utilisation on Plantation Forests, Article 17 stipulates that "IUPHHK (plantation forest permit) holders are obliged to prepare Five-Year Work Plan (RKTUPHHK) for the first year as late as three months after RKLUPHHK is endorsed." Article 9 stipulates that Five-Year Work Plan (RKTUPHHK) must be prepared by IUPHHK holders based on the endorsed RKUPHHK.

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