

ANNEX to the Joint Letter of Concern on the Government of the Netherlands Support on 17 Artificial Islands Reclamation and NCICD Project in Jakarta Bay.

The economic situation in Indonesia's capital city Jakarta shows some alarming developments. Jakarta has the most pronounced levels of inequality in the country, reflected in the city's Gini ratio of 0.43 compared to the national ratio of 0.397 (March 2016). Poverty in the capital is increasing. In only six months' time, the number of people living below Indonesia's standard poverty line increased by 3.75 percent, from 368,670 people in September 2015 to 384,300 people in March 2016 (Central Bureau of Statistics, 2016). This worsening economic situation should serve as a warning sign for the Indonesian government, which should do its utmost to ensure that any development efforts protect the people of Indonesia instead of hurting them. Development efforts should especially protect a noble profession like small-scale fishery, which provides food for the people of Jakarta and a livelihood for the local fisherfolk. However, the Jakarta Bay reclamation project does the opposite: it has and will continue to affect traditional fishing communities around the reclamation site, which spans the entire Jakarta Bay. Data from 2011 showed that out of the 4,109 fishing boats in Jakarta Bay 3,231 (or 80%) were small boats for small-scale fishing. The Ministry of Maritime Affairs and Fisheries recorded that 24,028 people in Jakarta work in the fishery industry in 2016. The estimated number of people working in pre-production and post-production of the fishery industry reaches more than 50,000 people.

In November 2013, during your last trade mission to Indonesia, you launched the idea of a combined flood protection-land development plan for Jakarta Bay that will take the shape of Indonesia's national symbol, the Great Garuda. With financial support from your government and in cooperation with our government, a Dutch consortium (including consultancy firms Grontmij, Witteveen+Bos, architecture firm KuiperCompagnons, Dutch research center Deltares and consultancy firm Ecorys) designed a Masterplan for National Capital Integrated Coastal Development (NCICD). Minister Melanie Schultz van Haegen presented the draft version of the masterplan, which had been worked on since 2008, in Jakarta in April 2014. A joint venture of Dutch dredging companies has been awarded a contract by property developer PT Muara Wisesa Samudra to design and construct the artificial island for Pluit City off the coast of Jakarta. The contract carries a value of approximately 250 million euro, each partner sharing 50%. Based on this information, we understand that your government is very interested in and supportive of the NCICD project.

At the same time, we also know that your government considers the UN Guiding Principles on Business and Human Rights (UNGPs) and OECD Guidelines for Multinational Enterprises as integral to its foreign and human rights policy. The Dutch government is an OECD member and has made a binding commitment to implement the OECD Guidelines. The Dutch government has publicly stated that it expects Dutch companies operating abroad to respect the UNGPs and OECD Guidelines, and that they should conduct due diligence to identify, prevent, and mitigate any potential adverse impacts of their operations. In 2012, the Dutch government became the second government worldwide (after the United Kingdom) to make good on its commitment to develop a national action plan (NAP) on business and human rights to implement the UNGPs.

We are writing you this letter on behalf of Save Jakarta Bay Coalition for the second time after April 2016 through Jakarta Legal Aid Institute. Because we believe that your support for the NCICD, including the reclamation project, raises questions of a potential conflict with your commitment to the UNGPs and OECD Guidelines. We are deeply concerned about the livelihood loss and infringement of human rights as well as irreparable environmental damage caused by the project. We would also like to bring to your attention a bribery and corruption case related to the NCICD.

Bribery and corruption

On 31 March 2016, the Indonesian Corruption Eradication Commission (KPK) caught a Jakarta councilor red-handed receiving a bribe from property developer Agung Podomore Land (APL). Councilor Muhammad Sanusi and APL's former CEO Ariesman Widjaja stood trial and were found guilty by the Jakarta Corruption Court in September 2016. The bribe was related to two bylaws on reclamation zoning and a detailed plan of the 17 islets. Under the Coastal and Small Island Law, before this two bylaw establish the reclamation project cannot go through.

Tempo magazine has reported on a data leak from KPK, which shows that APL gave IDR 6 billion of non-budgetary money to finance the forced eviction of more than 3,000 people in Kalijodo – West and North Jakarta. Ariesman told the KPK that the money was meant for paying the national police, the military and the Jakarta public order officers to oversee the demolition of the former red-light district, part of which included an ordinary neighborhood. Data from legal aid organization LBH Jakarta in 2015 recorded 113 cases of forced evictions that occurred in Jakarta, which affected 8.145 families and 6.283 micro/small business enterprises. Just recently, the administration evicted communities on Ciliwung riverbanks on Bukit Duri, disrespecting a class action lawsuit by about 100 families.

Ariesman stated the IDR 6 billion was part of the “barter” for the issuance of Islet G permits. In addition to the IDR 6 billion paid for the forced evictions, some more funds were received from APL by the city administration in exchange for the permits. These funds, called ‘additional contributions’, have no legal basis. We suspect these funds are in effect a bribe to speed up the issuance of the permits. This violates Indonesia's Government Regulation No. 58/2005 on regional budget management, which obliges all income to go through the official city budget.

Human rights violations

The reclamation project has affected and will continue to affect the rights and livelihoods of traditional coastal communities along the entire Jakarta Bay. The reclamation will pollute coastal areas (see below). Moreover, the distance to fishing grounds will increase because the fishing boats must circle and avoid the artificial islets, while some fishing grounds become unreachable. Already, the cost of fishing has increased while the fish catch has declined significantly. **This is a violation of the right to work (Article 6, International Covenant on Economic, Social and Cultural Rights (ICESCR)).**

Secondly, the Food and Agriculture Organization (FAO) explicitly states that small-scale fisheries, encompassing all activities along the value chain, play an important role in food security and nutrition, poverty eradication, equitable development and sustainable resource utilization. Small-scale fisheries provide nutritious food for local, national and international markets. They contribute about half of global fish catches. When considering catches destined for direct human consumption, the share contributed by small-scale fisheries even increases to two-thirds (Voluntary Guidelines for Securing Sustainable Small-Scale Fisheries, FAO 2015). Declining fish catches by small-scale fisherfolk in the Jakarta Bay will certainly **threaten the right to food of the Indonesian people, particularly in Jakarta (Article 10, ICESCR).**

Thirdly, on the recent statement from the Jakarta Governor, in order to continue the islet G reclamation, that he will resettle fisherpeople on behalf of policing slum areas without proper process under General Comment on the Forced Eviction as recent forced evictions happen in Jakarta. In fact, the genuine interest of the reclamation project will be a new settlement for upper economy class. This is **a potential violation of the right to housing (Article 10, ICESCR)**. Lastly, the Great Garuda project was designed and is implemented without involving the people whose livelihoods are affected by it, especially the local fisherfolk. **This is a violation of the right to take part in the conduct of public affairs (Article 25 of the International Covenant on Civil and**

Political Rights (ICCPR). There has been no public participation in the process of the Environmental Impact Assessment (EIA) and people's right to information on the potential threats of environmental damages and losses has not been fulfilled. This was clearly mentioned by the judges on the Jakarta State Administrative on their consideration on the decision of fisherfolk lawsuit against the permit of islet G reclamation project. The other important fact that the women who live in the local fishing communities have not been involved in any decision-making process, constitutes a further violation of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which guarantees women's equality and equal participation in political and public life (**Article 7 of CEDAW**).

The Indonesian organization Women's Solidarity for Human Rights (Solidaritas Perempuan) has recorded the specific impacts of the reclamation project on women in coastal areas around Jakarta. The decreasing economic opportunities of fisher families have a profound and disproportionate impact on women. Gender roles dictate that women are the financial managers of the family. The pressure on them to meet their families' needs (in terms of income and sufficient food) will further increase. This will force them to work ever more in odd jobs, as scavengers on trash dumps and landfills or as informal laundry workers. At the same time, women carry the double burden of also being the primary caretakers in terms of domestic responsibilities such as cooking, raising the children and serving their husbands. As a result, women work up to as much as 18 hours a day (even if the nurturing work is not counted as productive work).

Environmental damage

This reclamation project has been declared inappropriate and damages the environment by Minister of the Environment through the Decree of the Minister of Environment No. 14 Year 2003 regarding the ineligibility of reclamation and revitalization plan of Jakarta Bay.

The reclamation project will cause environmental damages throughout Jakarta and far beyond. Damage to the water system will occur in a radius of at least 8-10 miles. The rivers' flow will be slowed down, resulting in an increase in the surface water, while reclamation eliminates functions that enlarge the catchment area runoff. By increasing the burden on and hindering the outlet of the 13 rivers discharging in Jakarta Bay, the project will exacerbate, rather than solve, the floods which occur yearly during the rainy season. This flooding is compounded by land subsidence in North Jakarta¹ and by sedimentation and river siltation due to indiscriminate pollution of Jakarta's rivers, factors which are not taken into consideration in the current plans. The reclamation and the proposed sea dike will also limit the natural flushing capacity of Jakarta Bay, leading to a significant decline of the water quality and possibly turning it into a vast cesspit. Already mass fish death has occurred in Jakarta Bay due to oxygen depletion caused by an explosion of algae (boom phytoplankton). The planned sea dike will cause further damage to the wildlife refuges. The community-based organization Jakarta Green Monster noted that a total of 91 species of birds (28 species of water birds and 63 species of forest birds) live in this region. About 17 of these are protected bird species, whose existence is threatened by the project.

Further environmental damage is done because the reclamation project will need more than 600 million cubic meter of sand. This will be sourced from existing islands, destroying their ecosystems in the process. Traditional fisherfolk in Lontar village, Serang regency in Banten province have already protested against sand mining operations and demanded that the sand-dredging vessels (i.e. the Queen of the Netherlands and Vox Maxima, contracted by Dutch companies Boskalis and Van Oord) leave the area.

¹ In the period 1985 - 2010 subsidence reached -2.65 meters in Cilincing and -4.866 meters in Penjaringan (Nicco Plamonia & Prof. Arwin Sabar).

Lastly, the reclamation and construction activities will also destroy coral reefs and mangrove forests in the Jakarta Bay. The coral growth in Kepulauan Seribu will be disrupted due to the pressure of pollutants and sediments. This coupled with the changes in the current means that the small islands in the Thousand Island will be eroded or even completely disappear. The project will also damage the mangrove habitat on Muara Angke. Mangrove forests play an important role as breeding ground and habitat for small fish and as wildlife refuge for birds. The mangrove forests, which function as an abrasion antidote, will be replaced by a pile of sand and cement. In 1992, Jakarta converted an area of 1.140,13 ha of mangrove forest and swamps into one of Jakarta's most prestigious areas called Pantai Indah Kapuk, consisting of elite housing estates, a golf course, condominiums and business center. The remaining mangrove forest in Jakarta Bay (decreasing into only 25.02 ha) will slowly break down due to the circulation and currents change caused by the reclamation project.

The Dutch are well known for their flood mitigation measures. These measures adopt a complex approach, which follows the principles of environmental and social protection and good governance. What is happening in Indonesia is entirely the opposite. The above information shows that the Jakarta Bay reclamation project disrespects sustainable policy and good governance. The Jakarta administration and central government have a poor track record when it comes to respecting international legal obligations. We strongly support and highly appreciate the Dutch government's commitment to business and human rights issues. We therefore stress that, if your government and the Indonesian government insist on building the NCICD, tens of thousands of people connected to small-scale fisheries will lose their livelihood because the Jakarta Bay will in effect be privatized. In the Netherlands, reclamation and flood mitigation projects are not driven by private sector interests or controlled by private companies. In Indonesia, the entire process of the NCICD has been a private sector affair and has excluded the people who are most severely affected, that is, fisherfolk communities and particularly women. This goes against the stated fact that equality between women and men is a guiding principle of Dutch foreign policy and development efforts, knowing that gender equality provides a basis for stability and economic prosperity (see speech by Prime Minister Mark Rutte at the breakfast session of the Global Leaders Meeting on Gender Equality and Women's Empowerment organized by UN Women and the People's Republic of China).

Given that you will be visiting Indonesia on 21 – 23 November 2016, we request to meet with you to have a deep conversation on these issues and to discuss a more participatory model of development for the Jakarta Bay, a model for which the Dutch are well known. Once again, we support your commitment to business and human rights issues and invite you to honour these commitments for the case of the Jakarta Bay.