



JABATAN PEGUAM BESAR NEGERI
(STATE ATTORNEY GENERAL'S CHAMBERS)
Tingkat 22 & 23, Blok A,
Pusat Pentadbiran Negeri Sabah,
Jalan Sulaman, Teluk Likas,
88400 Kota Kinabalu,
Sabah, Malaysia.

TELEFON: 088-369600/369572/369687/369681
NO. FAKS: 088-268878
E-MAIL: sagchambers@sabah.gov.my
(Only For General Correspondence)
SABAH LOWNET: www.lawnet.sabah.gov.my
LITIGASI: Sabahagoffice@gmail.com
(Sila Sebutkan Bil. Fail Kami)

Our Ref : JPBN.600-1/8/6 Klt.8
Date : 9th February 2022

Sila Rujuk Senarai Edaran

By Hand and Email

Dear Sir/Sirs/Madam/Madams,

**PRESS STATEMENT OF THE STATE ATTORNEY-GENERAL'S CHAMBERS OF
SABAH REGARDING THE PROPOSED NATURE CONSERVATION
AGREEMENT ('NCA')**

We kindly refer to the above-matter.

2. Kindly attached herewith the Press Statement by our Chambers regarding the proposed Nature Conservation Agreement for your kind attention.

Thank you.

"BERKHIDMAT UNTUK NEGARA"

(DATUK NOR ASIAH BINTI MOHD YUSOF)
State Attorney-General of Sabah

"SABAH MAJU JAYA"



**PRESS STATEMENT
STATE ATTORNEY-GENERAL'S CHAMBERS
OF SABAH**

9THFEBRUARY 2022

The proposed Nature Conservation Agreement ('NCA') has been widely reported on by both the domestic and international press. In particular, recent reporting by AlJazeera and The Sarawak Report have raised a number of issues and concerns. The State Government of Sabah now states as follows.

The State Government's Policy on Carbon Trading

1. The State Government will not permit any land to be leased, transferred or otherwise 'handed over' as part of any carbon trading or carbon monetisation program. This includes the proposed NCA.
2. The purpose of implementing a carbon trading program is to monetise carbon assets currently stored in trees and in doing so, to ensure that Sabah's forests are protected and conserved. The proposed NCA seeks to monetise carbon assets within certain forest reserves which are classified as Totally Protected Areas ('TPAs'). These areas have not been identified, ascertained or designated.
3. No carbon trading program will be agreed to nor implemented without the free prior informed consent of Native Communities whose customary rights may be impacted by such programs.
4. The State Government promotes carbon sovereignty as its core policy. Any agreement, scheme, device or arrangement that is contrary to Sabah's carbon sovereignty, including the proposed NCA, will not be permitted to proceed.
5. Sabah has a right to carbon sovereignty and will harness and build its own expertise under the Sabah Climate Change Committee (SCAC), to manage a carbon future in alignment with recognised global standards, safeguards and processes that prioritise equity, inclusion, transparency and multilateralism.

The Status of the NCA

6. The State Government signed the NCA in October 2021 on the condition that it was a non-binding framework agreement that was subject to:-
 - (i) Further due diligence to the satisfaction of the State Attorney-General and the Cabinet;
 - (ii) An Addendum to the NCA by which all unfair and absurd contract terms are removed;
 - (iii) the identification and obtaining of free prior informed consent from all affected Native Communities;
 - (iv) the identification and ascertained of suitable and available TPAs (the 'Designated Area').
7. The NCA is therefore not finalised nor is it binding because, among others, the Designated Area – which is the subject matter of the NCA – has not been ascertained nor identified. Until the Designated Area is ascertained and incorporated, each and every term, condition and penalty in the proposed NCA is rendered non-binding and unenforceable. In short, the NCA in its present form is *legally impotent*.
8. Reporting by the Sarawak Report (9 February 2022) is not accurate. As the proposed NCA is not in force, it follows that its so-called penalty clauses are also not binding. Moreover, the State Government will not permit such inequitable and one-sided penalty clauses to be incorporated in the event that the NCA is finalised.
9. Similarly, it shall be observed any clause in the proposed NCA that seeks to bind the Sabah Legislature in any form is void for illegality under Malaysia's Contracts Act 1950.
10. The State Government will also require that an addendum to the NCA be executed where absurd and / or unfair contract terms are removed. The addendum will also put in place clear safeguards and protections for the State. Unless the addendum is executed, the NCA will not be finalised.
11. The proposed NCA and its promoters are now being scrutinised by the State Attorney General's Chambers as part of a wide-ranging and on-going due diligence exercise. Unless and until Hoch Standard Pte Ltd, its promoters and affiliates, meet the requirements of the State Government, the proposed NCA will not proceed.
12. Therefore, the statement released by Datuk Frederick Kugan, the Chief Conservator of Forests previously is accurate. The signed NCA is indeed incomplete and hence non-binding, until Hoch Standard satisfactorily meets

the State Government's requirements outlined in the addendum. Datuk Fred's statement was correct and was not misleading as alleged by an NGO recently.

13. Amongst issues that remained unresolved are the Designated Area, Pilot Area and map; development of a Nature Conservation Management Plan (NCMP); consent from affected Native communities (where necessary); Carbon Pricing and Price Discovery mechanisms agreeable to the State; Independent oversight of the implementation of the NCA and an objective performance assessment in meeting the intended goals; safeguards to mitigate/avoid negative impact to current key economic sectors of the State; safeguards to ensure that revenue gained from carbon trading are leveraged for the long-term benefit for the people of Sabah; and a satisfactory due diligence report on and confirmation of the truth and reliability of Hoch Standard's representations and capability.
14. Notwithstanding the several representations made by Hoch Standard - that they have access to financial networks and are capable of funding and realising the objectives of the NCA - the State Government calls for a more in-depth due diligence process which was initiated by the State Attorney General.
15. The State Cabinet has approved the concept on carbon trading in principle. As it relates to the proposed NCA, finalisation is subject to strict deliverables and the execution of the addendum. The Sabah Climate Change Committee ('SCAC') and its advisory committee will assess and advise the Cabinet on all matters related to the NCA. The Cabinet reserves its right not to finalise the NCA.
16. SCAC will lead a multi-party dialogue with all stakeholders where representations from across all political factions in Sabah will be called upon.
17. The State Government in respect AlJazeera's reporting on the NCA (2nd February 2022) has no comment on the allegations made against certain individuals or individual members of the government.



Datuk Nor Asiah Binti Mohd Yusof
State Attorney-General
Sabah State Attorney-General's Chambers

SENARAI EDARAN

1.	Sandakan FM (RTM SANDAKAN) u/p: Mohamad Kunorhidzwah Ahmat (Berita Hal Ehwal Semasa).	Faks: 089-667202 Tel : 0145641979 Email: beritasandakan@gmail.com
2.	Sabah Bureau Chief/Journalist Pertubuhan Berita Nasional Malaysia (BERNAMA) Aras 3, Kompleks Bersepadu Kementerian Komunikasi dan Multimedia, Off Jalan Lintas Kepayan 88200 KOTA KINABALU	Faks: 088-215886 Tel: 088-211546/219498/211071 Email: editorsb@bernama.com Email: nashir_bah@yahoo.com.my Faks: 089-672117 Tel: 089-673207 Hp: 0138738381
3.	The Editor Daily Express Sabah Publishing House Sdn Bhd 16, Jalan Pasar Baru, Kampung Air 88801 KOTA KINABALU	Faks: 088-238420 Tel: 088-256422 Email: ykin86@gmail.com Email: sph@tm.net.my Email: sph_dailyexpress@yahoo.com
4.	Astro AWANI Sandakan	Hp: 0146657453 Email: hazsyahabdulrahman@gmail.com .
5.	Daliy Express Sandakan. u/p: Mardinah Jikur (Journalist)	Email: j.mardinah@yahoo.com Tel : 013-8562077
6.	The Star	Email: borneojim65@yahoo.com H/P: 017-8188991 (James Leong)
7.	Bulletin TV3 Sandakan	Email: nfmedia94@gmail.com
8.	New Straits Times KK Jalan Pintas Penampang, 89500 Penampang, Sabah	Tel: 088-738 976 Email: ersieanjumin@gmail.com
9.	Borneo Post Sdn.Bhd 1 st Floor, Block 44, Lot 4 Lebuah Tiga 90000 SANDAKAN	Faks: 089-274187 Email: borneopostkk@yahoo.com
10.	The Editor See Hua Daily News Wisma KTS, 4 th Floor, Jalan Pantai P.O.Box 14210 88848 KOTA KINABALU	Faks: 088-218991 Tel: 088-318991/318811 Email: seehuasbh@yahoo.com

11.	<p>Ketua Biro Berita Harian Sdn Bhd Lot 65, 1st Floor, Block G, Asia City 88000 KOTA KINABALU</p>	<p>Faks: 088-487523 Tel: 088-487 521 Hp: 014-6749065 Email: rafiqahdahali@gmail.com</p>
12.	<p>Ketua Editor Sin Chew Daily Mulu Press Sdn Bhd 3rd Floor, No.3, Lorong Kilang F Kolombong 88450 KOTA KINABALU</p> <p>Sin Chew Daily Sandakan u/p: Encik Lee Nyuk Lin</p>	<p>Faks: 088-393213 Tel: 088-393222 Email: news_kk@sinchew.com.my Email: lyyong@sinchew.com.my (Yong Ling Yi) Reporter: Ng Jia Xiang (h/p: 019-8809052) Email: angai95@hotmail.com</p>
13.	<p>The Editor Merdeka Daily News Unit 724, 7th Floor, Wisma Merdeka P.O.Box 11586 88817 KOTA KINABALU</p>	<p>Faks: 088-234286 Tel: 088-218702 Email: monica28283@yahoo.com</p>
14.	<p>Utusan Borneo Tingkat 6, Wisma KTS Peti Surat 14210, Jln Pantai, 88000 KOTA KINABALU</p>	<p>No.Tel: 088-318991 No.Faks: 088-315991 Email: UtusanBorneokk@gmail.com</p>
15.	<p>Editor Overseas Chinese Daily News 2nd Floor, Block 16 Jalan Pryer, Bandar Kim Fung SANDAKAN</p> <p>Chief Editor Overseas Chinese Daily News P. O. Box No. 10139 88801 KOTA KINABALU</p>	<p>Faks: 089-215262 Tel: 089-217204 Email: ykin86@gmail.com</p> <p>No. Fax: 088-241003 No.Tel: 088-256422 Email: bongocdn@yahoo.com (H/P: 019-8206960)</p>
16.	<p>Sinar Harian Sabah</p>	<p>Hp: 017-4020879 (Puan Norasikin Daineh) Email: norasikindaineh@gmail.com</p>
17.	<p>Utusan Malaysia Sabah</p>	<p>Hp: 014-5744222 (Puan Suraidah) Email: hadieydah18@yahoo.com</p>

18.	The Vibes	Hp: 010-5668290 (Puan Rebecca) Email: rebecca@thevibes.com
19.	Sabah360 Online	Hp: 014-5521816 (En Yusof) Email: armie_bp@yahoo.co.uk
20.	The Malay Mail Sabah	Hp: 012-8380800 Email: julianchan@themalaymailonline.com
21.	MalaysiaKini	Hp: 012-2842328 (En. Steven Gan) Email: editor@malaysiakini.com & steven@malaysiakini.com