



ARMA Update: 28 October 2022

(English Version)

ESG Update: Key takeaways of Minister of Environment and Forestry Regulation No. 21 of 2022 on the Guidelines of Carbon Economic Value Implementation

Last year, the Presidential Regulation No. 98 of 2021 concerning the Implementation of Carbon Economic Value for Achieving Nationally Determined Contribution (“NDC”) Targets and Control of Greenhouse Gas (“GHG”) Emissions in National Development (“PR 98/2021”) was issued, which we have highlighted the critical points of PR 98/2021 in this [ARMA Update](#). PR 98/2021 introduced the Carbon Economic Value (*Nilai Ekonomi Karbon* or “NEK”) mechanisms that needed further regulation in the implementing regulation, which we discussed in this [ARMA Update](#).

Recently, the Minister of Environment and Forestry (“MOEF”) Regulation No. 21 of 2022 regarding the Guidelines of Carbon Economic Value Implementation (“MOEF Reg 21/2022”) was issued to provide detailed provisions for the execution of NEK. This ARMA Update will cover the crucial aspects stipulated in MOEF Reg 21/2022, including the mechanism for domestic carbon trading, international carbon trading, buffer obligation, voluntary carbon market, and mutual recognition.

Certification of GHG Emission Reductions

MOEF Reg 21/2022 has further regulated the certification of GHG emission reductions, which generates GHG Emission Reduction Certificates (*Sertifikat Pengurangan Emisi GRK* or “SPE-GRK”) that is issued to represent a reduction of GHG emission or increase of GHG absorption which is equivalent to 1 (one) ton of carbon dioxide equivalent (CO₂e). SPE-GRK can be issued for performances from leftovers of a business actor’s upper limit and GHG emission reductions. The application to be issued an SPE-GRK, also known as Indonesia Certified Emission Reduction (ICER), is submitted to the Directorate General of Climate Change Control of the MOEF through the National Registry System for Climate Change Control (*Sistem Registri Nasional Pengendalian Perubahan Iklim* or “SRN PPI”).¹ The GHG emission reduction that is applied to its SPE-GRK cannot be registered as carbon credit in any other schemes.²

Mutual Recognition

Emission reduction certificates issued by other certification agencies may be deemed equivalent to SPE-GRK after mutual recognition by the MOEF for international carbon trading.³ Foreign

¹ Article 62 of MOEF Reg 21/2022

² Article 60 (1) of MOEF Reg 21/2022

³ Article 68 (1) of MOEF Reg 21/2022



implementors of NEK must register their SPE-GRK, which will be included in the mutual recognition scheme and supporting data in SRN PPI. A foreign emission reduction certificate that has been recognized can be used for domestic carbon trading. Both parties of mutual recognition will upload the cooperation documents in their respective registries for accountability and public information disclosure.⁴

Emission Upper Limit Technical Approvals

Emissions Upper Limit Technical Approval (*Persetujuan Teknis Batas Atas Emisi* or “**PTBAE**”) is the limit for sectors and sub-sectors determined by the relevant sectoral Minister. Under the PTBAE, there is another determination of upper limit, which is the Business Actor’s Emission Upper Limit Technical Approval (*Persetujuan Teknis Batas Atas Emisi Pelaku Usaha* or “**PTBAE-PU**”) is the upper limit and/or emission quota for each business actor for a certain period. PTBAE-PU is determined following the sector’s PTBAE for a certain period to track the business actor’s compliance with their emission reduction obligations (“**Compliance Period**”). The PTBAE-PU determination is carried out based on the business actor’s proposal through application to the relevant sectoral Minister or determined directly by such Minister.⁵

Carbon Trading and its Buffer Obligations

MOEF Reg 21/2022 provides key provisions for further regulation on Carbon Trading. Generally, it is regulated that Carbon Trading shall fulfill the requirement as follows:⁶

- (i) Being in line with the Carbon Trading roadmap;
This roadmap is determined by the authorized Minister of a sector and will be used for a propriety test for Emission Trading and reference for GHG Emission Offsets.⁷
- (ii) Provides emission reduction reserves (buffer);
Buffer is a reserve of carbon units as a risk control in achieving the NDC target due to Carbon Trading carried out before 2030, with the following conditions:⁸

Scheme	Buffer Obligation
Domestic GHG Emission Offset	0-5% of the SPE-GRK
International GHG Emission Offset	At least 10% and the highest 20% of the SPE-GRK
International GHG Emission Offset outside of the NDC	At least 20% of the SPE-GRK

- (iii) In the form of SPE-GRK for cross-sector trading.

Carbon Trading may be in the form of Emission Trading and GHG Emission Offset. MOEF Reg 21/2022 provides further provisions on the mechanisms, which we have summarized below.

⁴ Article 71 of MOEF Reg 21/2022

⁵ Article 10 of MOEF Reg 21/2022

⁶ Article 4 (2) of MOEF Reg 21/2022

⁷ Article 6 of MOEF Reg 21/2022

⁸ Article 7 of MOEF Reg 21/2022



❖ **Emission Trading (Cap and Trade)**

Emission trading (also known as cap and trade) is implemented for businesses and/or activities with a GHG emission upper limit determined by the PTBAE.⁹ PTBAE-PU can be traded at the start of the Compliance Period through domestic Emission Trading and/or between PTBAE-PU holders.¹⁰ At the end of the Compliance Period, the business actor will measure their actual emission to be verified with the following outcomes:¹¹

- (i) If the emission is found to be under the upper limit, the remaining GHG emission limit and/or unused emission quota can be domestically traded, traded with other PTBAE-PU holders, or reserved for up to 2 (two) years before its expiry. Business actors may submit an application to be issued SPE-GRK to be used in domestic, international, or cross-sector trading; and
- (ii) If over the limit, the business actor must balance by purchasing carbon units from other business actors.

❖ **GHG Emission Offset (Carbon Offset)**

A carbon offset is carried out by businesses and/or activities that do not possess a GHG emission upper limit that had a surplus of emission under the determined target and baseline, or have a deficit of emission over the target and under the baseline. Business actors can sell their emission surplus to other parties. Meanwhile, business actors with a deficit emission must offset the difference in emission by buying an emission surplus.¹²

For the carbon offset mechanism, business actors must arrange a Climate Change Mitigation Action Plan Document (*Dokumen Rancangan Aksi Mitigasi Perubahan Iklim* or “**DRAM**”). DRAM is a document produced by business actors which will be validated and reported to the SRN PPI as a requirement to obtain SPE-GRK used in the carbon offset mechanism.¹³ Another requirement worth noting for the issuance of SPE-GRK for carbon offset mechanism is that it has to be located in Indonesia, as well as being in accordance with the provisions of the latest intergovernmental panel on climate change, international standards or the Indonesian national standard, and the relevant laws and regulations.¹⁴

International Carbon Trading Cooperations

MOEF Reg 21/2022 elaborated on the international carbon cooperations that have been hinted at in PR 98/2021. Under the international carbon trading scheme, the relevant sectoral Minister can conduct international carbon trading through government-to-government (“**G2G**”)

⁹ Article 9 of MOEF Reg 21/2022

¹⁰ Article 11 of MOEF Reg 21/2022

¹¹ Article 13 of MOEF Reg 21/2022

¹² Article 14 of MOEF Reg 21/2022

¹³ Article 15, Article 16, and Article 17 of MOEF Reg 21/2022

¹⁴ Article 60 of MOEF Reg 21/2022



cooperation after coordinating with the MOEF. Based on this G2G cooperation, partial results of emission reduction from climate change mitigation actions can be transferred to partnered countries, with the following requirements:¹⁵

- (i) Approved and authorized by the MOEF;
- (ii) Reported in the SRN PPI;
- (iii) The corresponding adjustment is used for the first transfer in the international registry under UNFCCC and reported to the SRN PPI;
- (iv) The sector or sub-sector as the cooperation object is determined by the partnering countries;
- (v) Only done using GHG in tons of carbon dioxide equivalent (CO₂e) and in line with NDC;
- (vi) Pay all the costs and fees based on the international decisions under the Paris Agreement;
- (vii) Both parties can allocate costs and activities to climate change adaptation activities based on the agreement;
- (viii) Prepare initial reports, annual information, and regular information on the cooperation results;
- (ix) Emission reduction performance is calculated based on the GHG Emission Baseline and NDC achievement targets in the sub-sector per year and has been assessed by a team of experts appointed by the UNFCCC secretariat; and
- (x) Comply with other requirements decided by the Paris Agreement conference and Climate Change conference.

It is worth mentioning that international carbon trading cooperations are not only limited in the form of the G2G scheme, but private entities can also carry out cooperations with foreign entities after obtaining approval from the MOEF in which the foreign partner can use the results to achieve their NDC after being authorized by the MOEF.¹⁶ Another point that needs to be considered is that additional requirements shall be fulfilled to conduct international carbon trading, such as the sector's NDC target has been achieved to allow international trading.¹⁷

MOEF Approval and Authorization

In order to obtain approval from the MOEF to conduct international Carbon Trading, the proposal and draft cooperation agreement must be submitted to the MOEF. On the other hand, to obtain authorization for the international transfer of emission reduction results or carbon rights, the SPE-GRK or emission reduction certificates issued by different certification agencies that have been mutually recognized must be submitted to the MOEF to be authorized.¹⁸

Designated National Authority

The MOEF will establish a **designated national authority** that shall review foreign cooperations proposals from relevant sectoral Ministers, review reports of foreign cooperations to be issued

¹⁵ Article 19 of MOEF Reg 21/2022

¹⁶ Article 20 of MOEF Reg 21/2022

¹⁷ Article 4 (3) of MOEF Reg 21/2022

¹⁸ Article 24 and Article 25 of MOEF Reg 21/2022



SPE-GRK and provide recommendations to the MOEF for issuing approvals and authorizations.¹⁹

Voluntary Carbon Mechanism (VCM)

It is important to note that under the MOEF Reg 21/2022, there is a mechanism of international Carbon Trading that does not affect the NDC target, commonly known as the voluntary carbon mechanism (VCM). For this mechanism, special arrangements are made in the form of investment cooperation with the following requirements:²⁰

- (i) Registered in the SRN PPI;
- (ii) Does not include carbon unit transfers to other countries NDC;
- (iii) Does not include any claims of emission reductions from climate change mitigation actions; and
- (iv) Not associated with the emission reduction target of foreign cooperation partners.

Thus, under the voluntary carbon mechanism, foreign countries and entities cannot claim any outcomes to go toward their NDC or emission reduction targets. This mechanism may need further elaboration as the MOEF will issue a protocol for this voluntary carbon mechanism.²¹

Cross-Sector Carbon Trading

Carbon trading can be carried out cross-sector, whether it be domestically or internationally. However, it is important to note that domestic cross-sector carbon trading will be carried out based on a quota that the relevant sectoral Minister determines.²²

Carbon Exchange

Carbon trading can be implemented through the Carbon Exchange (*Bursa Karbon*), a stock exchange for the integrated supervision and tracking of Carbon Trading and/or carbon unit ownership, which can be connected to the international Carbon Exchange.²³

Result Based Payment

Result-based payment is based on verification results of emission reduction and/or conservation or achievement of carbon stock from businesses and/or activities that do not result in carbon rights transfers.²⁴

¹⁹ Article 21 of MOEF Reg 21/2022

²⁰ Article 18 (3) of MOEF Reg 21/2022

²¹ Article 18 (4) of MOEF Reg 21/2022

²² Article 23 of MOEF Reg 21/2022

²³ Article 27 of MOEF Reg 21/2022

²⁴ Article 29 and Article 30 of MOEF Reg 21/2022



Result-based payment can be done from the national or provincial government to business actors and/or community. The payment is done through the Environmental Fund Agency (*Badan Pengelola Dana Lingkungan Hidup* or “**BPDLH**”).²⁵

The benefit sharing from Result Based Payment is stipulated in the MOEF Reg 21/2022 as follows:²⁶

- (i) The benefit receiver includes ministries/agencies, local government, business actors, and communities. Benefit receivers can utilize Result Based Payment for emission reduction activities and/or supporting activities such as institutional capacity building, human resources development, policy strengthening, research and development, and/or creation of enabling conditions;
- (ii) The benefit-sharing mechanism is based on a proposal submitted by the benefit receiver to the BPDLH.

Carbon Levy

Carbon levies include central and regional taxes, customs, and other state levies based on carbon content, potential carbon emissions, amount of carbon emission, and/or climate change mitigation action performance. **This will be further regulated by the Ministry of Finance.**

There is also a levy on Carbon Trading transactions, which includes transactions using SPE-GRK, transactions from PTBAE-PU holders, and SPE-GRK issuance service, which will be paid to the BPDLH.

SRN PPI

PR 98/2021 has introduced the obligation of recording and reporting any and all NEK activities in the SRN PPI. MOEF Reg 21/2022 has provided the details of such records and reports to be carried out by business actors, which are as follows:

- (i) For Emission Trading, the following components are recorded in the SRN PPI:²⁷
 - a. Data on the actor or activity's description, identity, and proposal for PTBAE-PU;
 - b. The PTBAE-PU;
 - c. PTBAE-PU transaction results;
 - d. Monitoring plan and implementing evaluations of climate change mitigation actions;
 - e. Results of emission reduction achievements in the PTBAE-PU's Compliance Period;
 - f. Verification results;
 - g. SPE-GRK;
 - h. Domestic or international transfers of SPE-GRK; and
 - i. Transfer of emission reduction results among PTBAE-PU holders.

²⁵ Article 32 of MOEF Reg 21/2022

²⁶ Article 34 of MOEF Reg 21/2022

²⁷ Article 44 of MOEF Reg 21/2022



- (ii) For GHG Emission Offset, the following components are recorded in the SRN PPI:²⁸
 - a. Data on the actor or activity's description, identity, and proposal for PTBAE-PU;
 - b. GHG emission reduction achievement report;
 - c. Validation results;
 - d. Verification results;
 - e. Amount of SPE-GRK than can be traded through GHG Emission Offset;
 - f. Domestic SPE-GRK transfers;
 - g. First transfer of international SPE-GRK transfers; and
 - h. Direct trading results of SPE-GRK.
- (iii) For Result Based Payment, the planning, implementation, and outcomes of Result Based Payment are reported in the SRN PPI, which includes the GHG emission baseline, emission reduction target, planning document and final report of the climate change mitigation action, validation and verification reports, and the Result Based Payment's outcomes.²⁹

What's Next?

MOEF Reg 21/2022 is undoubtedly one of the milestones for developing the carbon market in Indonesia. However, there is a lot to unpack from MOEF Reg 21/2022, including the following matters:

1. International carbon trading mechanisms in which the transfer of emission reduction from climate change mitigation actions to partnered countries will need to comply with the financing and fees terms decided in the Conference of Parties under the Paris Agreement. Thus, the relevant financing mechanism will need to be accounted for in G2G carbon trading cooperations, resulting in the transfer of outcomes to the other country's NDC.
2. Mutual Recognition for international carbon trading: certificates such as Plan Vivo Certificates (PVCs) issued by Plan Vivo and Verified Carbon Units (VCUs) issued by Verra could be recognized to be traded domestically. In order to do this, a mutual recognition between the MOEF and Verra, Plan Vivo, or any other certification scheme must be carried out by disclosing their standards to each other to reach conformity. Thus, we need these certification schemes to be willing to undergo cooperation with Indonesia's own standards for the diversification of certificates used in the domestic carbon trading market.
3. We have noted that MOEF also recognizes international carbon trading that does not affect the NDC target (through voluntary carbon mechanism); this mechanism will not include any claims of emission reductions and will not be associated with the emission reduction target of the foreign cooperation partners. Thus, it may raise a question would this provision hinder the growth of demand from foreign entities to invest in carbon projects in Indonesia, considering that they will not be able to claim or associate its outcomes for themselves? This provision may potentially interfere with the current market's executions, considering that

²⁸ Article 46 of MOEF Reg 21/2022

²⁹ Article 48 of MOEF Reg 21/2022



plenty of projects construct emission reduction outcomes to be the feedback of foreign investment in carbon reduction projects in Indonesia.

Further, there is also the obligation in the voluntary mechanism to reserve at least 20% from the SPE-GRK for international offsets outside the scope of NDC. This obligation also raises the question, would mutual recognition be mandatory in voluntary mechanisms so that the relevant party, can conclusively calculate the amount that has to be reserved based on the MOEF Reg 21/2022?

4. For the carbon trading mechanism, we will have to anticipate several matters to be further regulated or clarified. First, it would have to be the international carbon trading protocol which will provide further insight into its mechanism. Secondly, we shall need to also anticipate the quota for cross-sector carbon trading is that the relevant sectoral Ministers will determine, would the allocation show any leniency to cross-sector carbon trading or prioritization of trading in the same sector.
5. Another critical point that needs to be taken is related to the result-based payment that needs to be pipelined through the BPD LH. Further, it must be noted that business actors may only participate in national and provincial Result Based Payment schemes, as the international projects are only limited to the participation of the national and local governments. Thus, the benefits from international parties would only be disbursed to the government and cannot be disbursed directly to other actors that contribute to the achievement of the requisite result for the payment, such as companies, communities, and smallholders.
6. Lastly, MOEF Reg 21/2022 has cemented the initial step of the Indonesian carbon exchange development that has been discussed these last few months. However, the MOEF Reg 21/2022 still leaves room for further regulation on such carbon exchange, as the lead for its development will be bestowed on the financial sector. Thus, future regulations on carbon exchange are anticipated to be issued in the future. We note in some discussions with the relevant authorities that the carbon market through carbon exchange will be commenced at least in 2025; thus, certain regulations in financial sectors need to be issued prior to the implementation of carbon trading through carbon exchange.

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