



ARMA Update: 06 December 2021

(English Version)

ESG Update: Indonesia has Passed a Long-Awaited Regulation regarding Carbon Emission and Carbon Trading Mechanism

The President of Indonesia has issued Presidential Regulation No. 98 of 2021 regarding the Implementation of Carbon Economic Value for Achieving Nationally Determined Contribution Targets and Control of Greenhouse Gas Emissions in National Development (“**PR 98/2021**”) on 29 October 2021. PR 98/2021 was signed by President Joko Widodo before he left for Glasgow to attend the 2021 United Nations Climate Change Conference (COP 26).

PR 98/2021 has become the game-changer for climate change policies in Indonesia, especially in the Government’s effort to manage carbon trading mechanisms and create a sustainable green economy. PR 98/2021 is one of the critical legal bases for the Government’s effort to achieve Indonesia’s Nationally Determined Contribution (“**NDC**”), which is 29% independently and 41% with international cooperation by 2030.

The regulation also stipulates the implementation of carbon economic value (*nilai ekonomi karbon* or “**NEK**”), which is defined as the value for each unit of greenhouse gasses (“**GHG**”) emission that is produced from human activities and economic activities. PR 98/2021 introduces certain mechanisms to implement NEK in order to achieve NDC through (i) carbon trading, (ii) result-based payment, (iii) carbon levies, and/or (iv) other mechanisms that is determined by the Minister of Environment and Forestry (“**MOEF**”).

GHG Emission Limit

The GHG Emission Limit is the maximum GHG emission level for a certain period¹ determined by arranging and determining the GHG emission level in the sub-sectors and businesses and/or activities by the relevant minister.² The GHG emission limit is determined based on several components, including (i) the sectorial GHG emission baseline, (ii) the sectorial NDC target, (iii) the GHG inventory results, and/or (iv) the time period of the target achievement.³ The GHG Emission Limit is used in the emission trading mechanism through the emission trading mechanism.

¹ Article 1 (13) of PR 98/2021

² Article 25 (5) of PR 98/2021

³ Article 25 (6) of PR 98/2021



Carbon Trading

PR 98/2021 regulates carbon trading, which is a market-based mechanism to reduce GHG emission through the sale and purchase of carbon units that can be carried out through domestic and foreign trade.⁴ Carbon trading is conducted under the following provisions (i) based on the relevant Indonesia National Registry System for Climate Change Control (*Sistem Registri Nasional Pengendalian Perubahan Iklim* or “**SRN PPI**”)⁵; or (ii) by prioritizing the use of GHG Emission Reduction Certificates issued from the national emission reduction.⁶

The carbon trading can be carried out through the following mechanism:

A. Emission Trading

An emission trading is a transaction mechanism between business actors whose emissions exceed the specified GHG Emission Limit.⁷ An emission trading is carried out by businesses and/or activities with a GHG Emission Limit.⁸ Such emission trading can be carried out if it is found that there are businesses and/or activities with mitigation actions are carried out with emissions being above or below the stipulated GHG Emission Limit and Emission trading, there is a transfer of carbon units.⁹

B. GHG Emission Offset

GHG emission offsets are GHG emission reductions that are carried out by businesses and/or activities as compensation for emissions that occur elsewhere.¹⁰ GHG emission offset is carried out if a business and/or activity does not have a GHG Emission Limit.

Result-Based Payment (*Pembayaran Berbasis Kinerja*)

Result-based payment is an incentive of payment that is acquired from the verified and/or certified GHG emission reduction results and validated non-carbon benefits.¹¹ Result-based payment is carried out for the performance/benefit of GHG emission reduction that ministries/institutions, local government, or business actors based on the verification results of the GHG emission reduction and/or conservation/increment of carbon stock that is conducted by particular business and/or activity.¹² However, result-based payment does not lead to the transfer of carbon ownership.¹³

⁴ Article 48 (1) *Jo.* Article 1 (17) of PR 98/2021

⁵ Article 1 (14) of PR 98/2021

⁶ Article 48 (3) of PR 98/2021

⁷ Article 1 (18) of PR 98/2021

⁸ Article 50 (2) of PR 98/2021

⁹ Article 51 (1)(2) of PR 98/2021

¹⁰ Article 1 (19) of PR 98/2021

¹¹ Article 1 (2) of PR 98/2021

¹² Article 55 (1) (2) of PR 98/2021

¹³ Article 55 (4) of PR 98/2021



The procedure for implementing carbon trading and performance-based payments will be further regulated in a MOEF Regulation.

Carbon Levies

Carbon levies may be in the form of tax, custom, duties, or other government charges. These levies are based on carbon content, potential carbon emissions, total carbon emissions, and/or performance of climate change mitigation actions.¹⁴ In connection with the carbon tax, the Government of Indonesia recently issued Law No. 7 of 2021 regarding Harmonization of Tax Regulations (Harmonisasi Peraturan Perpajakan or “**HPP Law**”) which stipulates that the tax rate on carbon sales to be Rp30 per kilogram of CO₂ equivalent (Co₂e). The implementation of the carbon tax based on the HPP Law will take effect on 1 April 2022.¹⁵

Measurement, Reporting, and Verification

In PR 98/2021, there is an integrated measurement, reporting, and verification mechanism for NEK. The NEK implementer carries out such measurement to obtain (i) technical approval for the GHG Emission Limit; (ii) the actual amount of GHG emissions or removals; and (iii) the amount of GHG emission reduction or GHG emission increase.¹⁶

Furthermore, business actors report climate change mitigation actions in their business units/areas listed in the SRN PPI to be the basis of the verification.¹⁷ The report is conducted at least once in 1 (one) year.¹⁸

Further, the MOEF will validate and verify the reports that are registered in the SRN PPI.¹⁹ Specifically for carbon trading and result-based payment, it is mandatory to include the results of the validation and verification done by an independent validator and verifier.²⁰

Business actors are required to register and report the NEK implementation to the SRN PPI. If this requirement is not carried out, there shall be administrative sanctions in the form of written warning; (ii) government coercion; (iii) administrative fines; (iv) suspension of GHG Emission Reduction Certificate; and (v) revocation of GHG Emission Reduction Certificate.²¹

Regarding SRN PPI, procedures for reporting, validation, verification, and competency standards of validators and independent verifiers will be further regulated in a MOEF Regulation.

¹⁴ Article 58 (1) of PR 98/2021

¹⁵ Article 13 of HPP Law

¹⁶ Article 65 of PR 98/2021

¹⁷ Article 66 (5) of PR 98/2021

¹⁸ Article 67 (2) of PR 98/2021

¹⁹ Article 68 (2) (3) of PR 98/2021

²⁰ Article 86 (4) of PR 98/2021

²¹ Article 70 (2) of PR 98/2021



GHG Emission Reduction Certification (*Sertifikasi Pengurangan Emisi GRK*)

In NEK implementation, the GHG Emission Reduction is used as a tool for (i) evidence of GHG emission reduction performance; (ii) carbon trading; (iii) result-based payments of climate change mitigation actions; (iv) GHG emission compensation; (v) evidence of the performance of environmentally friendly business and/or activities to obtain financing from bond schemes.²² GHG Emission Reduction Certificates can be obtained by (i) registering on the SRN PPI; (ii) verification by an independent verifier; and (iii) the verification results to be reported to the MOEF and be the basis for the certificate issuance.²³

The usage of GHG emission certification schemes other than GHG Emission Reduction Certificate must meet the requirements of (i) following the principles, procedures, and provisions in international standards and/or Indonesian National Standards in accordance with ISO 14064 and ISO 14065; and (ii) providers of certification schemes are accredited by the National Accreditation Committee.²⁴

The certificate holders can use the GHG Emission Reduction Certificate for (i) to take part in carbon trading and result-based payment; (ii) serve as a basis for an organization or product-related carbon label; (iii) serve as the basis for providing information to consumers, supply chains as well as sustainability reports and information instruments; and (iv) serve as a basis for applying for access to environmentally friendly financing, or financing the sustainability of financing instruments.²⁵

GHG Emission Reduction Certification will be further regulated in a MOEF Regulation.

International NEK Implementation

PR 98/2021 stipulates that GHG Emission Reduction Certificates are prohibited from being used in contracts with other parties containing the transfer of rights to the value of GHG emission reduction certification in international trade without the authorization of the MOEF.²⁶ Violations are subject to 3 (three) warnings and/or written warnings until the GHG Emission Reduction Certificate is revoked.²⁷

Furthermore, the MOEF will manage mutual recognition cooperation in foreign carbon trading.²⁸ The MOEF will further issue regarding the implementation of this matter.

²² Article 71 (2) of PR 98/2021

²³ Article 71 (3) of PR 98/2021

²⁴ Article 72 (1) of PR 98/2021

²⁵ Article 73 (1) of PR 98/2021

²⁶ Article 73 (3) of PR 98/2021

²⁷ Article 73 (4) (5) of PR 98/2021

²⁸ Article 77 (1) of PR 98/2021



Transition Provision

PR 98/2021 also stipulates the transition provision regarding any carbon trading or result-based payment that is carried out before the issuance of the regulation.

Any party that already implemented carbon trading or performance-based payments before PR 98/2021 comes into effect must register and report their implementation through the SRN PPI a maximum of 1 (one) year after PR 98/2021 is enacted. If this obligation is not fulfilled, the sale of the remaining carbon units owned cannot be sold. Furthermore, carbon units that have been recorded and reported can only be sold for domestic carbon trading.²⁹

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²⁹ Article 86 of PR 98/2021