

# Implementation of the International Agreement on Climate Change Especially in the Lulucf Sector by the Regional Government of the Riau Province

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**Abstract**—The state is responsible for implementing every international agreement it ratifies up to the regional level. The international agreement on Climate Change, especially the LULUCF sector, requires Indonesia to carry out land use, land-use change, and forestry obligations that support climate change mitigation. Local government policies that are not in favor of environmental conservation and the existence of unlicensed plantation businesses in Riau Province are obstacles to the implementation of the LULUCF sector in Riau Province. This paper aims to explain how the implementation of international agreements on climate change, especially the LULUCF sector by the Riau Province region in the context of realizing sustainable forest resource management. This study uses a normative juridical research method, analyzed qualitatively, and presented analytically descriptive, with deductive conclusions drawn.

**Keywords**—*climate change, LULUCF, riau province*

## I. INTRODUCTION

International treaties implemented by countries in the world are the bookkeeping of international customs that have long been practiced by countries in the world. These *jus cogens* customs are enshrined in the 1969 Vienna Convention on International Treaties. So that in practice countries that do not ratify the 1969 Vienna Convention, remain bound to the provisions of international treaties as *jus cogens*.

According to John McCormick, from a series of revolutions that have occurred in the political, economic, and social fields in several countries, none has been able to provide a major change in human values and behavior in carrying out life, as much as the contribution of the environmental revolution [1]. Climate change is present as a phenomenon of environmental damage that has an impact on almost every field of life that threatens the existence of human life, both at the local, national, and global levels [2]. Therefore, countries under the auspices of the United Nations are very serious about discussing the issue of climate change through agencies and organizations within the scope of the United Nations.

The Intergovernmental Panel on Climate Change (IPCC) report describes that the earth's temperature has increased by about 0.8°C over the last century. In the last three decades in a row, the conditions are warmer than the previous decade. Based on the modeling scenario, it is estimated that by the end of 2100, global temperatures will be 1.8-4°C warmer than the average temperature in 1980-1999. When compared to the pre-industrial period (1750), this global temperature increase is equivalent to 2.5-4.7°C [3].

Indonesia is very interested in implementing agreements on sustainable development and climate change. Because Indonesia is one of the archipelagic countries in the world that is very vulnerable to the direct impacts of climate change, such as rising sea levels. If we take the projections for 2010, 2050, and 2100, the land area lost is 7,408 km<sup>2</sup>, 30,120 km<sup>2</sup>, and 90,260 km<sup>2</sup>, respectively [4].

Land Use, Land Use Change, and Forestry (LULUCF) is one of the key issues in climate change issues. The reason is that the LULUCF sector has great potential in emitting emissions as well as absorbing and storing carbon. According to IPCC (2007), LULUCF (agriculture and forestry combined) contributes to emissions of 31 percent, and this is greater than energy and fossil fuel supply which is only 26%. Emissions from LULUCF are mostly contributed by developing countries that still require forest clearing and conversion for development, facilities and infrastructure, settlements, expansion of agricultural land, plantations, regional expansion, and others [5].

Based on the background of the problem that has been described, the focus of this research is to formulate how to implement international agreements on climate change, especially the LULUCF sector by the Riau Provincial Government.

## II. METHODS

This study uses a normative juridical research method, analyzed qualitatively, and presented analytically descriptive, with deductive conclusions drawn. Normative juridical research is carried out by reviewing library materials or secondary data. This research uses a literature approach with a legal approach (statute approach) conceptual approach and is supported by in-depth interviews with key informants from Government Agencies relevant to the research. This study collects facts, explores, and analyzes the principles of implementing international agreements on climate change, especially the LULUCF sector by the Riau Province.

## III. RESULTS AND DISCUSSION

### A. *Implementation of International Agreements by Local Governments According to the 1969 Vienna Convention on International Treaties*

The objectives for LULUCF are to conserve, restore, enhance, and manage the carbon stocks in forest and non-forest lands, and to prevent emissions of the carbon stocks to the atmosphere through the reduction of the pressure on these lands [6]. Indonesia has ratified the United Nations Framework Convention on Climate Change 1992 with Law Number 6 of 1994 concerning Ratification of the United Nations Framework Convention on Climate Change, and ratified the Kyoto Protocol with Law Number 17 2004 concerning Ratification of the Kyoto Protocol to the United Nations Framework Convention on Climate Change (Kyoto Protocol to the United Nations Framework Convention on Climate Change), and has also ratified the Paris Agreement to the United Nations Framework Convention on Climate Change, namely by Law Law Number 16 of 2016 concerning Ratification of the Paris Agreement to the United Nations Framework Convention on Climate Change.

The legal consequence of the ratification of these three main international agreements on climate change is that Indonesia must implement the international agreements on climate change, by implementing them in national policies to regional policies. The ratification of an international agreement by a country signifies the binding of the ratifying country to the commitments in the form of rights and obligations stipulated in the international agreement.

The implementation of international agreements by a country, formulated in article 26 on *Pacta sunt servanda*, states that "Every treaty in force is binding upon the parties to it and must be performed by them in good faith." According to Boer Mauna, this principle is the main basis of contract law and has been universally recognized and is part of the general principle of law. International Courts and Arbitrations in their decisions always mention the principle of good faith. Furthermore, according to Boer Mauna, Article 2 of the United Nations Charter also states in paragraph (2) which reads: All States must carry out in good faith all obligations by the Charter [7].

The rights and obligations of the parties to an international agreement are regulated in the contents of the international agreement. In addition, the procedures for achieving the objectives of an international agreement are regulated by legal instruments and organs of the government concerned. The 1969 Vienna Convention provides guidelines for states that are bound by an international agreement, not to use or use their national legal instruments as a justification for their failure to implement international agreements. Article 27 stipulates that "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. This rule is without prejudice to article 46. Article 46 Provisions of internal law regarding competence to conclude treaties. "1. A State may not invoke the fact that its consent to be bound by a treaty has been expressed in violation of a provision of its internal law regarding competence to conclude treaties as invalidating its consent unless that violation was manifest and concerned a rule of its internal law of fundamental importance; 2. A violation is manifest if it would be objectively evident to any State conducting itself in the matter by normal practice and in good faith.

According to Damos Dumoli Agusman, Indonesian law, doctrine, and practice regarding the status of international treaties in the national law of the Republic of Indonesia has not yet developed, and often creates practical problems, at the level of implementation of international treaties within the framework of the national legal system. This ambiguity is part of the absence of law or doctrine in the Indonesian legal system regarding the relationship between international law and national law.

- A line of thought that places ratified international treaties (ratifications) as part of national law.
- The line of thought requires the existence of separate national legislation to implement an international agreement that has been ratified [8].

### B. *Implementasi Perjanjian Internasional tentang Perubahan Iklim Khususnya Sektor LULUCF oleh Pemerintah Daerah Provinsi Riau*

A review of climate policy in non-EU countries demonstrates that different countries are considering or implementing different approaches to LULUCF mitigation. Some are considering how LULUCF activities can contribute offsets within a market-based trading scheme, while others are developing national action programs to directly support LULUCF mitigation measures. Some cases involve a mix of both approaches [9]. Resource constraints, as well as socioeconomic and political inequalities, are common at local administrative levels. Therefore, efforts to measure and enhance adaptation capacity must aim to address climate change impacts and development needs in synergy [10] The implementation of the LULUCF sector in Riau Province has significantly affected Indonesia's Report in the Nationally Determined Contribution (NDC) because Riau province is an

area that has extensive forest land, plantations, peatlands, and frequent occurrences of forest fires and illegal forest encroachment.

Each state party to an international treaty is obliged to implement the provisions agreed upon in the international treaty which binds it to the local government level and every government organ. The reporting mechanism in the international climate change agreement is conveyed through the emission reduction contribution document as outlined in the NDC. The contribution of these declines must increase every period, and developing countries need to get support to increase these ambitions. The NDC is an integral part of the Paris Agreement ratification document. The NDC setup is based on the principle of Common but differentiated responsibilities and respective capabilities.

According to Deni Bram [11]. This principle recognizes that there are differences in capacities and contributions between member countries, so that in the application of the rules in this convention, both in the context of protecting current and future interests. Based on the differences in capacities and contributions, the application of CBDR in mitigation efforts is formulated in Article 3 of the UNFCCC by stating that "... Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof." Thus, the CBDR Principles as formulated by the UNFCCC have indirectly distinguished UNFCCC members in the developed country group and the developing country group.

About the LULUCF sector, the main points of the 2015 Paris Agreement that Indonesia must implement, especially in this sector, are:

1. Indonesia should implement the Paris Agreement which aims to limit global temperature rise to below 2°C from pre-industrial levels and make efforts to limit it to below 1.5°C.
2. Indonesia must implement policy approaches and positive incentives for activities to reduce emissions from deforestation and forest degradation as well as sustainable forest management, conservation, and enhancement of forest carbon stocks (REDD+);
3. Establish a stronger transparency framework, which includes both action and support, with flexibility for developing countries.

The commitment to international agreements on climate change which is Indonesia's obligation has been implemented in the Indonesian government's policies, especially policies related to environmental management and protection. UUPPLH stipulates that climate change is one of the assessment indicators for the instrument for preventing pollution and/or environmental damage. Regarding the standard criteria for environmental damage, Article 21 paragraph (2) UUPPLH asserts that "standard criteria for environmental damage include standard criteria for damage to ecosystems and standard criteria for damage due to climate

change. In Article 21 paragraph (4) it is also emphasized that: "standard criteria for damage due to climate change are based on parameters including;

- Temperature rise;
- Sea level rise;
- Storm; and/or
- Drought.

According to the IPCC, Sectors, and categories Greenhouse gas emission and removal estimates are divided into main sectors, which are groupings of related processes, sources, and sinks:

- Energy
- Industrial Processes and Product Use (IPPU)
- Agriculture, Forestry and Other Land Use (AFOLU)
- Waste [12].

The implementation of international agreements by Indonesia to local governments is stipulated in Article 5 paragraph (4) of Law Number 23 of 2014 concerning Regional Government, which states that "The implementation of Government Affairs in the Regions is carried out based on the principles of Decentralization, Deconcentration, and Co-Administration." Decentralization is the handover of Government Affairs by the Central Government to autonomous regions based on the Autonomy Principle. Deconcentration is the delegation of part of the Government Affairs which are under the authority of the Central Government to the governor as the representative of the Central Government, to vertical agencies in certain areas, and/or to the governor and regent/mayor in charge of general government affairs. Furthermore, Co-administration Tasks are assignments from the Central Government to autonomous regions to carry out part of the Government Affairs which are under the authority of the Central Government or from the Provincial Government to Regency/Municipal Regions to carry out part of the Government Affairs which are under the authority of the Provincial Regions. It is through these 3 (three) principles that the International Agreement on Climate Change is implemented at the local government level in Indonesia.

In essence, the placement and formulation of greenhouse gas sources are based on the conditions of the area concerned. In Riau Province, six sectors contribute to GHG emissions, namely: forestry and peatland, Agriculture (Plantation, Food Crops, and Livestock sub-sectors), Energy, Transportation, Industry, and Waste Management [13].

Based on the large area of forests and peatlands in Riau Province and the high potential for emissions from forests and peatlands, the forestry and peatland sectors make a large contribution to GHG emissions. The contribution of the forestry sector in GHG emissions is quite large, which is around 47.12%. The amount of these emissions mainly comes from deforestation, peatland fires, and peatland that is

processed. Several factors triggering deforestation and degradation are illegal logging; Forest fires; and conversion of forest land to other activities that result in land cover with lower carbon stocks such as plantations and agriculture, regional expansion, mining, and settlements. Besides CO<sub>2</sub>, forestry sector emission sources are N<sub>2</sub>O and CH<sub>4</sub>. These gases have a greater global warming potential than CO<sub>2</sub> [13].

The plantation sub-sector, especially oil palm plantations, is related to forestry and peatland, so the calculation of GHG emissions does not stand alone, including as a source of GHG. Recapitulation of forestry and peatland sector emissions in Riau Province. Business As Usual (BAU) GHG emissions from the forestry and peatland sectors are obtained by adding up BAU GHG emissions from the forestry subsector and the peatland subsector.

Each country that is a party to the Climate Change Convention is obliged to make every effort to implement its resources and capabilities to implement the contents of the agreement. The efforts that have been made are proven by national policies to the local government which is included in the reports submitted every certain period. From this, it is assessed that a country's good faith and honesty in implementing the international agreements it ratifies.

Until 2021, Indonesia has carried out its commitment to the Paris Convention by the *Pacta Sun Servanda* principle and by its commitment to the rights and obligations that are the responsibility of the Indonesian state to implement it. Riau Province is an organ of local government in Indonesia.

#### IV. CONCLUSION

The implementation of international agreements on climate change, especially the LULUCF sector by the Riau Provincial Government is guided by the International Covenant Law derived from international customs stipulated in the 1969 Vienna Convention on International Treaties, which is implemented by local governments based on the principles of decentralization, deconcentration, and co-administration. Each country that is a party to the Climate Change Convention is obliged to make every effort to implement its resources and capabilities to implement the contents of the agreement. The efforts that have been made are proven by national policies to the local government which is included in the reports submitted every certain period. From this, it is assessed that a country's good faith and honesty in implementing the international agreements it ratifies. The Bappeda of Riau Province is the implementer in the regions that carry out the tasks of preparing regional plans for climate change in all sectors that contribute to Greenhouse Gases, including the LULUCF sector.

#### REFERENCES

- [1] McCormick, John, "The Global Environment Movement", sebagaimana dikutip dalam, D. Bram, *Hukum Perubahan Iklim Perspektif Global dan Nasional*, Malang: Setara Press, 2016.
- [2] R. S. Avi-Yonah and D. M. Uhlmann, *Combating global climate change: Why a carbon tax is a better response to global warming than cap and trade*. *Stan. Envtl. LJ*, 28, 3, (2009).
- [3] Dida Migfar Ridha (et.al), *Perubahan Iklim, Perjanjian Paris, dan Nationally Determine Contribution*, Jakarta: Direktorat Jenderal Pengendalian Perubahan Iklim Kementerian Lingkungan Hidup dan Kehutanan, 2016.
- [4] J. D. Putuhena, "Perubahan Iklim dan Resiko Bencana Pada Wilayah Pesisir dan Pulau-Pulau Kecil", Seminar Nasional Pengembangan Pulau-pulau Kecil dari Aspek Perikanan Kelautan dan Pertanian. IPB International Convention Centre (IICC) 25 Juni 2011. [Dilaksanakan oleh Institut Pertanian Bogor, Persatuan Mahasiswa Maluku (PERMAMA) Bogor. *Prosiding PERMAMA 2011 Vol. 1 no. 1 - hal. 287-298*].
- [5] D. S. Sukadri, *Memahami Negosiasi Perubahan Iklim, REDD dan LULUCF*, Dewan Nasional Perubahan Iklim, 2013, quoted from [https://greening.id/wp-content/uploads/2019/02/Memahami-Negosiasi-Perubahan-Iklim\\_ver6\\_16082013\\_B-1.pdf](https://greening.id/wp-content/uploads/2019/02/Memahami-Negosiasi-Perubahan-Iklim_ver6_16082013_B-1.pdf)
- [6] The Global Environment Facility (GEF), *LAND USE, LAND-USE CHANGE, AND FORESTRY (LULUCF) ACTIVITIES*, quoted from [https://www.thegef.org/sites/default/files/publications/LULUCF\\_brochure\\_web\\_version\\_\(1\)\\_0.pdf](https://www.thegef.org/sites/default/files/publications/LULUCF_brochure_web_version_(1)_0.pdf)
- [7] B. Mauna, *Hukum Internasional Pengertian Peranan dan Fungsi dalam Era Dinamika Global (ed-2)*, Bandung:Alumni, 2008, p. 135.
- [8] D. D. Agusman, *Status Hukum Perjanjian Internasional dalam Hukum Nasional RI*, *Indonesian Journal of International Law*, Depok Vol. 5 No. 3, April 2008, hlm 488.
- [9] D. S. Sukadri, *Memahami Negosiasi Perubahan Iklim, REDD dan LULUCF*, Dewan Nasional Perubahan Iklim, 2013, quoted from [https://greening.id/wp-content/uploads/2019/02/Memahami-Negosiasi-Perubahan-Iklim\\_ver6\\_16082013\\_B-1.pdf](https://greening.id/wp-content/uploads/2019/02/Memahami-Negosiasi-Perubahan-Iklim_ver6_16082013_B-1.pdf)
- [10] D. S. Williams, L. Celliers, K. Unverzagt, N. Videira, M. Máñez Costa, and R. Giordano, *A Method for Enhancing Capacity of Local Governance for Climate Change Adaptation*, *RESEARCH ARTICLE 10.1029/2020EF001506*, *Earth's Future*, quoted from <https://agupubs.onlinelibrary.wiley.com/doi/epdf/10.1029/2020EF001506>
- [11] D. Bram, *Hukum Perubahan Iklim Persoektif Global dan Nasional*, Malang: Setara Press, 2016, page 99.
- [12] Intergovernmental Panel on Climate Change (IPCC), "National Greenhouse Gas Inventories Programme, 2006 IPCC, Guidelines For National Greenhouse Gas Inventories", 2008, page 7.
- [13] Badan Perencanaan Pembangunan Daerah Provinsi Riau dan Lembaga Penelitian Universitas Riau, "Laporan Akhir Rencana Aksi Daerah Penurunan Emisi Gas Rumah Kaca Provinsi Riau", Pekanbaru, 2012, page II-18.