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INFOBRIEF

RIGHTS TO CARBON AND FPIC PRELIMINARY ANALYSIS OF MINISTER OF FORESTRY REGULATION NO. 6 OF 2026

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SUMMARY

This analysis dissects Ministerial Regulation (Permenhut) 6/2026 through the lens of justice for Indigenous Peoples and the preservation of Indonesia's forest ecosystems. Amidst efforts to strengthen the carbon economy, this regulation is deemed to have not yet fully honored the historical rights of Indigenous Peoples as the primary guardians of the forest; furthermore, it continues to prioritize legal-formal aspects over the recognition of tangible contributions on the ground.

Additionally, the adoption of FPIC (Free, Prior, and Informed Consent) remains limited and requires a qualitative upgrade to ensure it does not become a mere administrative procedure. Instead, it must serve as a bridge for iterative and dignified dialogue. By strengthening the values of inclusivity and the protection of local community rights, carbon trading policies are expected to achieve globally recognized integrity while guaranteeing public welfare in harmony with the values of humanity and justice.

Where Dialogue Meets Actions for Climate Justice

Context

Minister of Forestry Regulation Number 6 of 2026 concerning Procedures for Carbon Trading through Greenhouse Gas (GHG) Emission Offsets in the Forestry Sector (Permenhut 6) is a revision of PermenLHK No. 7/2023. This regulation governs the carbon potential in more than 50% of Indonesia's territory, or 95.5 million hectares of forest area.

Despite its significant implications for forest management and the millions of people dependent on it, the revision process took place quietly. There was no public consultation, nor were there consultations with stakeholders and rights-holders.

The primary issues often highlighted in carbon regulatory regimes are Carbon Rights and Free, Prior, and Informed Consent (FPIC). As an initial consideration, the Aliansi Masyarakat Adat Nusantara (AMAN) has filed a judicial review against Presidential Regulation No. 98 of 2021 regarding the Carbon Economic Value (Perpres 98), which serves as the legal umbrella for PermenLHK 7/2023. In its decision, the Supreme Court stated that Indigenous Peoples hold rights over the management of Carbon Economic Value; they are not merely objects, but subjects of law. Consequently, I**ndigenous Peoples are the subjects of carbon rights** within their customary territories.

However, Presidential Regulation No. 110 of 2025, which revised Perpres 98, did not adopt the concept of "carbon rights". Instead, it introduced a new concept called **carbon allocation**, defined as the amount of carbon dioxide emissions allowed over a specific period based on national capacity. This allocation applies to all sectors to set an emission cap. Based on this cap, sectors can open opportunities for carbon trading.

The following notes provide a preliminary perspective for civil society groups, indigenous peoples, and local communities regarding the existence of Permenhut 6/2026.

Carbon Rights

Permenhut 6/2026 does not define carbon rights, nor does it further clarify the concept of "carbon allocation" as mandated by Perpres 110/2025. Nevertheless, Permenhut 6 defines several concepts relevant to carbon rights:

First, Carbon rights claims based on additionality. Additionality is a core concept in international emission reduction efforts, reinforced in the Paris Agreement (Michaelowa et.al., 2019) and emphasized in Indonesia's carbon regulations, including Permenhut 6. According to this regulation, additionality is the principle that emission reductions or removals from a carbon project are additional compared to what would have occurred without the project (Article 1, number 26).

However, Ministerial Regulation No. 6 does not strictly provide further clarification of the concept of additionality in the forestry sector based on business actors. Applying the principle of resource equity enshrined in the constitution (Arsil and Ayuni, 2021), distinctions are necessary for reasons of proportionality (Lailam and Anggia, 2023), namely that business actors who have previously engaged in deforestation suddenly enter the carbon business; thus, under the principle of proportionality in resource distribution, they cannot simply claim credit for their historical footprint. This type of business actor should be segregated so that their rights are strictly limited to the extra business activities they undertake during the project's duration, and compensation is accounted for regarding the deforestation they previously carried out. Therefore, the rights they claim are limited, while also serving as a historical correction implemented during the project.

Conversely, forest guardians possess two types of rights: those based on historical tenure and the additional efforts they undertake during the project's duration. Indigenous communities, for example, have lived in a particular area for thousands of years. Their presence has been crucial to the forest's survival to this day. Therefore, their historical rights are inseparable from the forests they protect. The extra efforts made based on this historical legacy serve as an addition to the achievements already validated in the history of land tenure.

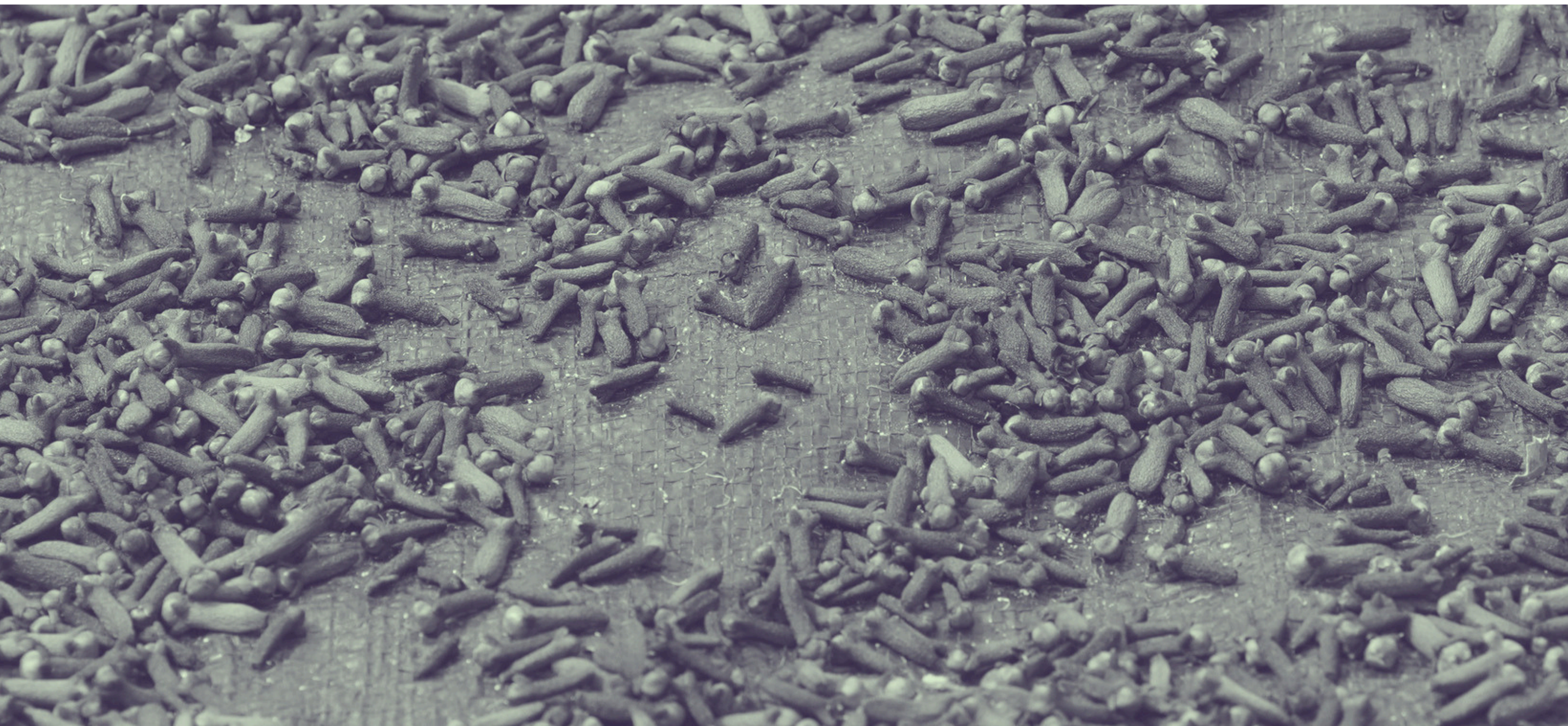
Unfortunately, the historical legacy of indigenous peoples and local communities that contribute to forest sustainability is not accommodated in this Ministerial Regulation. The term "track record" is indeed accepted in the review of proposal documents for obtaining a Greenhouse Gas Emission Reduction Certificate (SPE GRK), but with different parameters. The consideration of track record referred to in this Ministerial Regulation is aimed at legal compliance and the frequency of administrative sanctions imposed on carbon scheme proposers.

Subjects of Rights

Second, the subjects of rights. Indigenous communities holding a Decree on the Designation of Indigenous Forests and holders of a Decree on Social Forestry are business entities that may participate in carbon trading [Article 6, paragraph 1]. Based on the latest data, potential carbon trading actors from indigenous and local communities are located within 15.97 million hectares of social forestry areas, including 368,000 hectares of customary forests that already have legal status.

Restricting the scope of carbon trading business entities to legal status effectively limits carbon projects from capturing the actual additional carbon contributions made by numerous indigenous and local communities, even though they do not yet possess the legal basis required by this Regulation.

This scheme certainly provides greater opportunities for holders of large-scale business permits, known as PBPHs, whether for logging in natural forests or industrial timber plantations (HTI). PBPH holders can apply for carbon trading schemes based on the permits they already hold. Currently, the total area covered by PBPHs has reached 34 million hectares.



Carbon Units

Third, carbon units. Carbon units are the result of certified emission reductions and/or removals through domestic certification schemes or SPE, international certification, or GHG emission quotas, expressed in units of carbon dioxide equivalent. To obtain an Emission Reduction Certificate, businesses must take a number of required steps. In the context of social forestry and customary forests, these steps are as follows:

1. Legality in the form of a Social Forestry Decree
2. Registered work partner or facilitator. Communities wishing to apply for a carbon trading scheme must have a work partner or facilitator, as proven by a cooperation agreement
3. Preparation of the DRAM (Climate Change Mitigation Action Plan Document) supported by a work partner. DRAM consists of main information and supporting data. The main information includes:

   a. Climate Change Mitigation Action Plan;
   b. Proposed Climate Change Mitigation Action;
   c. Implementation of national methodology and standards, the United Nations Framework Convention on Climate Change, and other international standards;
   d. Environmental impact analysis;
   e. Sustainable development impact analysis;
   f. The role of public consultation.

Meanwhile, supporting data are data related to the person responsible for the activity. Additionally, plans for community involvement in the planning, implementation, monitoring, and evaluation of Climate Change Mitigation Actions, plans for the distribution of carbon benefits agreed upon with the community, identification and management plans for biodiversity and reverse action risks, and PADIATAPA plans and achievements.

4. Application for DRAM registration that includes DRAM validation by an independent team and attaches an implementation and verification report as well as DRAM results;

5. Application for technical recommendations for the issuance of SPE GRK carbon units;

6. Examination of documents and the applicant's performance history (legal compliance and administrative sanctions) by the Director General of PS;

7. Technical recommendations for the issuance of SPE GRK by the Minister of Forestry. Businesses involved in foreign carbon trade and requiring authorization and corresponding adjustment request other technical recommendations from the Minister of Forestry to issue the recommendation. Business actors involved in overseas carbon trading and requiring authorization and corresponding adjustment may request other technical recommendations from the Minister of Forestry to issue technical recommendations for the issuance of corresponding adjustment. The submission of a corresponding adjustment must include cooperation documents or a carbon offset emission trading contract, including the number of carbon units being traded. The Ministry will assess the proposed carbon trade based on the number of carbon units to be traded and the Nationally Determined Contribution (NDC) achievement needs. Based on considerations of NDC needs, Minister of Forestry Regulation 6 provides opportunities to reduce the carbon units to be traded;

8. Application for issuing Greenhouse Gas Emission Reduction Certificates (SPE GRK) or corresponding adjustment to the Ministry of Environment and Forestry.

9. Implementation of carbon trading, implementation of Cancun safeguards, and monitoring.

Based on these steps, the allocation of carbon for indigenous and local communities according to Minister of Forestry Regulation 6 is the number of carbon units approved in the corresponding adjustment for tradeable purposes. The amount differs from the potential carbon calculated in DRAM and may even differ from the SPE GHG.

The Concept of FPIC

Unlike the 2023 regulation, Permenhut 6 adopts the concept of FPIC, referred to as PADIATAPA (Persetujuan Atas Dasar Informasi Awal Tanpa Paksaan), as referred to in Box 1, follows :

Regulation Content (Article 1, number 26)
The process of conveying all information related to Climate Change Mitigation Actions openly and completely to the parties as a basis for approval or rejection without coercion.

Box 1. Regulation Content (Article 1, number 26)

However, PADIATAPA, as defined in this regulation, is slightly different from the FPIC concept commonly referred to by indigenous communities. In various global and national positions, indigenous groups assert FPIC as a derivative of the principle of the right to self-determination of the affected communities. This position is outlined in the UNDRIP. It is stated by UNDRIP (Article 32, paragraph 2) that:

"...States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions to obtain their free and informed consent before the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources..."

The position of these indigenous communities has also been adopted in several global standards, including VERRA and FSC (see Box 2). These standards are consistent in stating that FPIC is primarily and foremost directed at the rights holders, not at the parties as defined in this Ministry of Forestry Regulation 6.

FPIC on VERRA [SDVM002 version 1.0, October 2024]	FPIC on FSC [FSC-STD-01-001 V5-3 EN, March 2023]
FPIC is a safeguard to protect the rights of Indigenous Peoples and local communities, particularly relating to decision-making processes that affect their lands, territories, and resources. To satisfy the meaning of FPIC, the agreement of the affected community must be obtained: 1. Without coercion, 2. Before any irreversible action is taken, and 3. After the community is provided with accurate and culturally appropriate information about the nature, scope, and potential impacts of the proposal.	FPIC is a legal condition whereby a person or community can be said to have given consent to an action prior to its commencement, based upon a clear appreciation and understanding of the facts, implications and future consequences of that action, and the possession of all relevant facts at the time when consent is given. Free, prior and informed consent includes the right to grant, modify, withhold or withdraw approval.

Box 2. FPIC Standards of VERRA and FSC

Unlike the definition of FPIC in Ministerial Regulation No. 6, existing climate change policies have adopted the global definition of FPIC by referring to the Cancun Safeguards. This can be seen in the adoption of the Cancun Safeguards and the definition of FPIC in Ministerial Regulation No. 70 of 2017. Indonesia has also approved the UNDRIP, although it has made reservations regarding the concept of indigenous peoples. Ministerial Regulation No. 6 has adopted the Cancun Safeguards (Article 28, Paragraph 2) as principles of social, environmental, and governance protection. However, the mention of these principles is not accompanied by adequate explanations regarding their scope, nor does it provide operational guidelines to translate these principles into concrete actions

Apart from the definitional issues, PADIATAPA is mentioned only once, namely when the initiator drafts the DRAM (Climate Change Mitigation Action Plan Document). PADIATAPA "disappears" during the drafting of the DPP (Project Planning Document). In fact, it is during the DPP stage that the technical provisions regarding the implementation of carbon projects are formulated, a crucial point that should require PADIATAPA. In this regard, Ministerial Regulation No. 6 implicitly applies the PADIATAPA concept only once in the project cycle, rather than as an iterative process as required by FPIC standards (Toumbourou et al., 2025). This mode of FPIC is generally referred to as the "basket approach," which is typically applied arbitrarily in large-scale projects (Yuwono, 2024). Once conducted at the outset, the community or, as this Ministerial Regulation terms them, "the parties" is automatically deemed to have consented to the subsequent stages of the carbon project.

This Ministerial Regulation also does not provide for more detailed regulations regarding PADIATAPA, either as a national guideline or as a reference that carbon market actors can use when seeking to understand and apply PADIATAPA principles in carbon projects. This means that the PADIATAPA referred to in this Ministerial Regulation is limited solely to the definition provided in the box above. Unfortunately, that definition is far from sufficient to provide guidance for businesses. In fact, the definition cannot even be relied upon because it inherently contains several conceptual differences from the FPIC concept accepted by indigenous communities and referenced by various global standards today.

A fundamental challenge with this Ministerial Regulation is that carbon projects referencing it will need to align with international registration systems within the carbon trading process. The integrity of FPIC standards is at stake, raising the risk of standard incompatibilities that could diminish the acceptability of Indonesian carbon projects in the eyes of global carbon markets.

Conclusion and Recommendations

Ministerial Regulation No. 6 of 2026 deserves recognition as a breakthrough, particularly because the PADIATAPA principles have been incorporated. Nevertheless, this regulation does not yet provide a legal framework for acknowledging the historical contributions of indigenous and local communities in conserving forests, preventing deforestation, and consciously choosing development paths that prioritize forest conservation over deforestation. Regulation No. 6 tends to rely on a definition of carbon rights based on formal legal criteria and overlooks more tangible, actual efforts related to contributions to climate change mitigation.

Furthermore, the definition and operationalization of PADIATAPA make it difficult for the definition to align with existing market standards. The vague operationalization of PADIATAPA also further complicates the alignment between the FPIC standards used in carbon project phases and existing best practices.

Based on these two observations, to strengthen the substance of Ministry of Forestry Regulation No. 6/2026 regarding the presence of indigenous and local communities, the following operational steps are required:

1. It is necessary to consider the historical contribution of forest management as a parameter in approving proposals to obtain a Greenhouse Gas Emission Reduction Certificate (SPE GRK). A track record of forest management is a historical prerequisite for accepting project proposals, and should not be limited solely to the availability of legal documents. In this regard, evidence indicates that indigenous peoples and local communities effectively safeguard forests without needing to wait for the availability of legal recognition documents.

2. Guidelines for PADIATAPA regarding carbon projects should be developed to provide a more comprehensive operational definition, thereby serving as a reference to prevent conflicts and safeguard the reputation of carbon projects

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