

Carbon Projects and ASEAN: Opportunities and Challenges

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Carbon transactions are a multi-fold process encompassing in them offsets strategy, credit generation and purchase, monitoring and verifying credits, project finance, retirement of credits, and reporting. Carbon transactions include carbon trade which is the buying and selling of credits that permits a company or other entity to offset their greenhouse gases (GHG) emissions by investing in carbon sequestration projects, renewable energy projects or buying credits off an exchange/platform. One tradable carbon credit equals one tonne of carbon dioxide, or the equivalent amount of a different greenhouse gas reduced, sequestered or avoided. Carbon markets are trading systems in which carbon credits are sold and bought.

Even though carbon markets have been around for longer than a decade, they have come into massive focus since the Glasgow Conference of Parties (COP) in 2021. Parties to the Paris Agreement reached a landmark deal on Article 6 in Glasgow, which addresses international cooperation on carbon markets. Its rules and implementation will allow countries to use a variety of carbon crediting mechanisms to meet the emissions reduction targets set out in their Nationally Determined Contributions (NDCs) under the Paris Agreement. More specifically, Article 6.2 provides a framework for the bilateral and multilateral linking up of emissions trading schemes and states that:

Parties shall, where engaging on a voluntary basis in cooperative approaches that involve the use of internationally transferred mitigation outcomes towards nationally determined contributions, promote sustainable development and ensure environmental integrity and transparency, including in governance, and shall apply robust accounting to ensure, inter alia, the avoidance of double counting, consistent with guidance adopted by the Conference of the Parties serving as the meeting of the Parties to this Agreement.

In practice, Article 6 will determine the regulatory framework of carbon credits going forward. This becomes especially relevant in south and south-east Asia considering the vast peatlands, tropical forests, biodiversity hotspots, freshwater as well as marine ecosystems that serve as carbon sinks. Nature-based carbon transactions in the ASEAN region can generate top-quality carbon credits and are therefore attracting project developers and investors to fund conservation projects in the ASEAN region.

However, carbon markets are relatively new to the ASEAN region and therefore are currently facing regulatory and legal grey areas considering carbon credits are largely unregulated, and the existing agreements are bilateral between landowners/project developers and buyers of credits. Countries are therefore currently reviewing the legal status of carbon credits in order to determine how they will be regulated, how countries can use the credits generated in their own jurisdictions for their individual pledges (NDCs) and how the excess credits might be traded. Some countries like Thailand and Vietnam have plans to establish emissions trading markets whereas jurisdictions like Singapore have already developed sophisticated carbon trading platforms such as the CIX which facilitates the trade of high-quality carbon credits.

The table below is a snapshot of the overarching legal regime surrounding carbon credits in select jurisdictions in ASEAN.

Country	Does your jurisdiction have regulations governing carbon credits?	Are there any regulatory restrictions on trading carbon in your jurisdiction?	Does your country have a carbon pricing mechanism or a carbon tax?	What are some of the emerging legal areas in carbon credit governance in your country, including blockchain, MRV and transparency?
Singapore	Although carbon credits are not directly regulated, Singapore is the first country in Southeast Asia to have introduced a carbon price in 2019. The mandatory carbon price then links up to carbon markets (by allowable offsetting of emissions).	No, although Singapore is strict on the quality of credits to be used to offset emissions. From 2024, high emitting companies are allowed to utilise high quality international carbon credits to offset up to 5% of their taxable emissions from 2024. However, they would only be able to do so if the credits meet certain criteria.	The carbon tax, at S\$5 per tonne of greenhouse gas emissions (tCO ₂ e), was introduced in 2019 through the Carbon Pricing Act (CPA). Under the Carbon Pricing Act, any industrial facility that emits direct greenhouse gas (GHG) emissions equal to or above 2,000 tCO ₂ e annually has to register as a reportable facility and has to submit an Emissions Report annually.	<p>There is a lot of movement on MRV, blockchain and veracity of the quality of carbon credits.</p> <ol style="list-style-type: none"> 1. The Measurement, Reporting and Verification (MRV) requirements are specified in the Carbon Pricing (Measurement, Reporting and Verification) Regulations 2018 for taxable entities. 2. The Singapore Exchange (SGX), DBS Bank, Standard Chartered and Temasek have come together to establish Climate Impact X (CIX), which is a global exchange and marketplace for high-quality carbon credits. CIX aims to scale-up the voluntary carbon market by connecting partners, using satellite monitoring, machine learning and blockchain to enhance transparency, integrity and quality of carbon credits.

				<p>3. MetaVerse Green Exchange (MVGX) a digital green exchange licensed and regulated by the Monetary Authority of Singapore and is working with blockchain to boost carbon market integrity. In April 2022, OCBC Bank has partnered with MVGX to provide financing solutions to companies which includes tokenised carbon credits.</p>
Malaysia	<p>The recent passing of the Land Code (Amendment) Bill 2022 and Forests (Amendment) Bill 2022 (Sarawak Amendment Bills) introduces new mechanisms for carbon storage and trading of carbon credits respectively, in the state of Sarawak. There is also a proposal for a carbon exchange legislation in the state of Sabah.</p> <p>Note that as at the date of this response, Malaysia has yet to enact any federal regulations governing carbon credits. However, the Ministry of Environment and Water (MOEW) has indicated that a Climate Change Bill is being finalised and is expected to be tabled in the House of Representatives (Dewan Rakyat) in 2023.</p>	<p>We are not aware of any regulatory restrictions on carbon trading in Malaysia that are currently in force. However, once in effect, the Sarawak Amendment Bills will be the primary laws regulating carbon storage and trading activities in the state of Sarawak. We note that key provisions in the Forests (Amendment) Bill 2022 include:</p> <p>(a) the introduction of licensing requirements for participation in carbon trading, with such licences to contain further conditions¹; and</p>	<p>Whilst the introduction of enabling instruments for climate action, including carbon pricing, have been discussed as part of a wider five-year sustainability strategy for Malaysia under the 12th Malaysia Plan³, the Malaysian Government has yet to formally implement a nation-wide carbon pricing mechanism or carbon tax framework.</p>	<p>The emissions trading market in Malaysia is in its relative infancy and Bursa Malaysia Berhad, the stock exchange of Malaysia (Bursa), only expects to launch a voluntary carbon market exchange in late-2022.</p> <p>Bursa has nevertheless confirmed that it will adopt the Verified Carbon Standard, with its own VCS Program and Verra registry for the validation and verification of GHG projects and emission reductions.⁴ We further note that Verra is currently undergoing a public consultation process on its proposed approach to blockchain tokenisation, and will be preparing its policy on crypto instruments and tokens thereafter.</p>

¹ Please refer to Paragraph 27 of the Forests (Amendment) Bill 2022, wherein a new Chapter 6 on special provisions relation to carbon stocks have been proposed to be inserted.

³ <https://rmke12.epu.gov.my/en> - Kindly refer to Chapter 8-12, under the heading "Strategy A-1" for a brief discussion on the Government's proposed focus on developing enabling instruments for climate action, including carbon pricing, which act towards the fulfilment of the country's commitment to the Paris Agreement.

⁴ Please refer to Page 3 for a general overview of the VCS Program and Verra registry system: <https://verra.org/wp-content/uploads/2022/06/VCS-Program-Guide-v4.2.pdf>

	<p>Although little is known about the contents of the prospective bill, the emphasis placed on the development of a national emissions trading system by the MOEW and the Malaysian Climate Change Action Council implies that the bill may contain provisions on the same.</p>	<p>the empowerment of the State Government to make regulations on matters relating to carbon or GHG stocks, carbon credits units and carbon trading².</p>		
Indonesia	<p>Yes, Presidential Regulation No. 98 of 2021 on the Implementation of Carbon Economic Value to Achieve Nationally Determined Contribution Targets and Control over Greenhouse Gas Emissions in Relation to National Development (PR 98/2021). The regulation (which is part of Indonesia's implementation of the Paris Agreement) envisages a carbon economic value which includes but is not limited to carbon pricing and trading and is generated by both climate mitigation and adaptation measures.</p> <p>Business Actors must record and report of the implementation of Carbon Economic Value which includes carbon trading, in the National Registry System for the Control over Climate Change (Sistem Registri Nasional Pengendalian Perubahan Iklim/SRN-PPI).</p>	<p>Greenhouse Gases Emissions Reduction Certificate is a form of proof of emissions reduction by businesses and/or activities that have gone through MRV, as well as recorded in the SRN PPI in the form of numbers and/or registry codes. These certificates are prohibited to be used in contracts with other parties which contain the transfer of rights to the Greenhouse Gases Emissions reduction certification in foreign trading without authorization from the Minister of Environment and Forestry (Article 73 (3) PR 98/2021).</p>	<p>Yes, Law 7 of 2021 concerning Harmonization on Tax Regulations and PR 98/2021. The tax is set at 30,000 rupiah (\$2.02) per ton of CO2 equivalent and is currently on hold.</p>	<p>PR 98/2021 includes transparency framework with regard to carbon economic value, which will be implemented through MRV, SRN-PPI, and Greenhouse Gases Emissions reduction certification. More detail on its implementation will be further implemented in a separate regulation. (Article 60 and 61 PR 98/2021).</p>

² Please refer to Paragraph 31 of the Forests (Amendment) Bill 2022, wherein the powers of the Minister to (with the approval of the State Executive Council (Majlis Mesyuarat Kerajaan Negeri)) make rules generally for carrying out the provisions of the Forests Ordinance 2015 are expanded to provide for the above.

	Failure to do so will be subject to administrative sanctions. (Article 47, 48, 69 PR 98/2021)	In April 2022, the Indonesian Ministry of Environment and Forestry put the validation process of carbon projects in Sumatra and Kalimantan regions on hold claiming that their verification processes are not aligned with Indonesian law.		
Vietnam	Yes. The regulation is Decree No. 06/2022/ND-CP dated 07 January 2022 on mitigation of greenhouse gas (GHG) emissions and protection of ozone layer (Decree No. 06). The Decree includes a roadmap to GHG emissions reduction in Vietnam as well as provides the basis for the establishment of a domestic carbon trading market.	Under Decree No. 06, the legal framework for trading of carbon credit is still under development, and subject to future update. However, there will be a cap on tradable carbon units (under Decree No. 06), which will be decided by the Ministry of Natural Resources and Environment.	Referring to the column before, the legal framework is still under development. Currently, Decree No. 06 does not provide a clear pricing mechanism. There is no particular carbon tax but an environment protection tax applied to services and products that are classified as harmful to the environment. A list of such services and products are listed in Circular No. 152/2011/TT-BTC as amended from time to time.	Currently the Vietnamese legal framework and regulations on carbon credit governance, including blockchain, MRV and transparency are either very general or under development. For example, Decree No. 06 only provides the definition of MRV without details on how it will be implemented. In light of Decree No. 06, the Vietnamese regulatory authorities have provided inputs related to the management of carbon credits and the development of a carbon trading exchange (CTX). <ul style="list-style-type: none"> • 2025 – 2027: Establishing and organizing trial and operation of the CTX, and formulating carbon credit management regulations and operation rules of the CTX; • 2028 onwards: Organizing official operation of the CTX, and prescribing rules for carbon credit exchange between domestic, regional and global carbon markets.

				<p>The Government has shown significant interest in blockchain technology by including it in Decision No. 2117/QD-TTg dated 16 December 2020 as one of the technologies in priority for development. In practice, in Techfest Vietnam 2020, a CTX Project was introduced by a Vietnamese enterprise, aiming to build an CTX based on Blockchain 4.0 technology for special commodities: credits carbon, green certificates, green bonds.</p> <p>Therefore, it is expected that the specific regulations for those areas may be released in the future.</p>
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