

CHAPTER IV

**THE IMPLICATION OF KYOTO PROTOCOL ON INDONESIA'S
DOMESTIC POLICY**

This chapter investigates and elaborates several conditions which showed an actualization of Indonesia as one of developing countries in the world in implementing and realizing the continuation of the ratification on Kyoto Protocol. In the first part, the writer talks about the implementation of Indonesia toward Kyoto Protocol. This implementation could be defined into various constitutions, actions and programs or projects that applied as a part of Indonesia's domestic or national policy. Then, writer will jump on Clean Development Mechanism as main focus of Indonesia in implementing Kyoto Protocol and solving the international environmental issues.

A. The Implementation of Kyoto Protocol Ratification

Our earth has its own natural sunscreen as a shield to protect and safeguard all kind of organism including human life which formed by a blanket of gases that keeps the earth warm and able to sustain life. Lately, this shield is getting thinner as far as increasing the existences of greenhouse emission which released by the burning fuels for energy or transportation trapped in the heat, and the result is affecting the global condition of the earth, our climate is starting to

International community who had been passed several agreements in dealing with global environmental issues ended up with the commitment to realize the content of Kyoto Protocol. This protocol offered two Annex which the first annex control the Green House Effect and all sector or sources that involve inside it, while the second annex control the obligation of the parties to reduce the emission.²⁴ Regarding to this annex, the parties who ratified the protocol was also divided into two categories which are developed countries, and developing countries. This division was created in order to differentiate the level of emission that must be reduced by each country.

Indonesia as one of developing countries who ratified this protocol in 2004 needs to cooperate with the developed countries to stand together in maintaining and keep the sustainable development on the environmental issues in the world. Therefore, developed countries which also assumed as industrial countries who produced a high degree of emission rather than developing countries are definitely obligated to reduce the emission higher either. While the developed countries are trying to reduce the number of their emission target, then developing countries have a role to keep maintaining the sustainable development in the world with the help from the developed countries. Then Indonesia was responsible to participate in maintaining the sustainability and avoiding the bigger impact from this climate change which caused by the

²⁴ undang-undang republik indonesia nomor 17 tahun 2004 tentang pengesahan *kyoto protocol to the united nations framework convention on climate change*. <bphii.go.id/data/documents/08pr046.doc> (Accesed on October 9th, 2014)

overused of emissions through several planned that applied in the domestic policy of Indonesia as a form of implementation of the Kyoto Protocol that had been ratified.

Those implementations can be seen from several constitutions that are made by Indonesia in order to be applied and conducted by the whole sector in Indonesia whether it comes from the societies or the government itself. One of the constitutions in Indonesia that reflected in the implementation of Kyoto Protocol is a constitution number 23 in the year of 1997 (*UU No.23 Tahun 1997 tentang Pengelolaan Lingkungan Hidup*) which discussed about the management of ecology that had been changed and upgraded into the new one to become a constitution number 32 in the year of 2009 that discuss about the protection and management of ecology (*UU No.32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup/ Environmental Protection and Management Law, Law No. 32/2009*) which the content in article 3 mentioned:

Perlindungan dan Pengelolaan Lingkungan Hidup Bertujuan:

- a. *Melindungi wilayah Negara Kesatuan Republik Indonesia dari pencemaran dan/atau kerusakan lingkungan hidup./Protect the territory of the Republic of Indonesia of pollution and / or damage to the environment.*
- b. *Menjamin keselamatan, kesehatan dan kehidupan manusia./ Ensure the safety , health and human life.*
- c. *Menjamin kelangsungan kehidupan makhluk hidup dan kelestarian ekosistem / Ensure the continuity of life and the living creatures ecosystem*

- d. *Menjaga kelestarian fungsi lingkungan hidup./ Preserving the environmental functions.*
- e. *Mencapai keserasian, keselarasan, dan keseimbangan lingkungan hidup./ Achieving harmony, and balance environmental.*
- f. *Menjamin terpenuhi keadilan generasi masa kini dan generasi masa depan./ To guarantee the fulfillment of justice of the present generation and future generations.*
- g. *Menjamin pemenuhan dan perlindungan hak atas lingkungan hidup sebagai bagian dari hak asasi manusia./ Ensure the fulfillment of rights and environmental protection as part of human rights.*
- h. *Mengendalikan pemanfaatan sumber daya alam secara bijaksana./ Controlling the use of natural resources wisely*
- i. *Mewujudkan pembangunan berkelanjutan./ Sustainable development.*
- j. *Mengantisipasi isu lingkungan global./ Anticipating global environmental issues.*

In Article 3 alphabet J is clearly explaining about the way to anticipate the global environmental issues such as climate change become one of the aims of the ecology management.²⁵

Besides, another constitution that reflected the most on the implementation of Kyoto Protocol is in the constitution number 17 in the year of 2004 about the Ratification of Kyoto Protocol to the United Nation Framework Convention on climate change which definitely underline the commitment of

²⁵Peranan Indonesia dalam Mengimplementasikan Konvensi Perubahan Iklim 1992 dan Protokol Kyoto 1997 melalui Program *Land Use, Land Use Change and Forestry*
 <<http://pasca.unand.ac.id/id/wp-content/uploads/2011/09/peranan-indonesia-dalam-mengimplementasikan-konvensi-perubahan-iklim-1992-dan-protokol-kyoto-1997-melalui-program-land-use-land-use-change-and-forestry-uklf.pdf>> (Accessed on October 8th 2014)

Indonesia in continuing the agreement of Kyoto Protocol. The constitution mentioned:

Mengesahkan Protokol Kyoto atas Konvensi Kerangka Kerja Perserikatan Bangsa-Bangsa tentang Perubahan Iklim yang salinan aslinya dalam Bahasa Inggris dan terjemahannya dalam Bahasa Indonesia sebagaimana terlampir merupakan bagian yang tidak terpisahkan dari Undang-Undang ini.

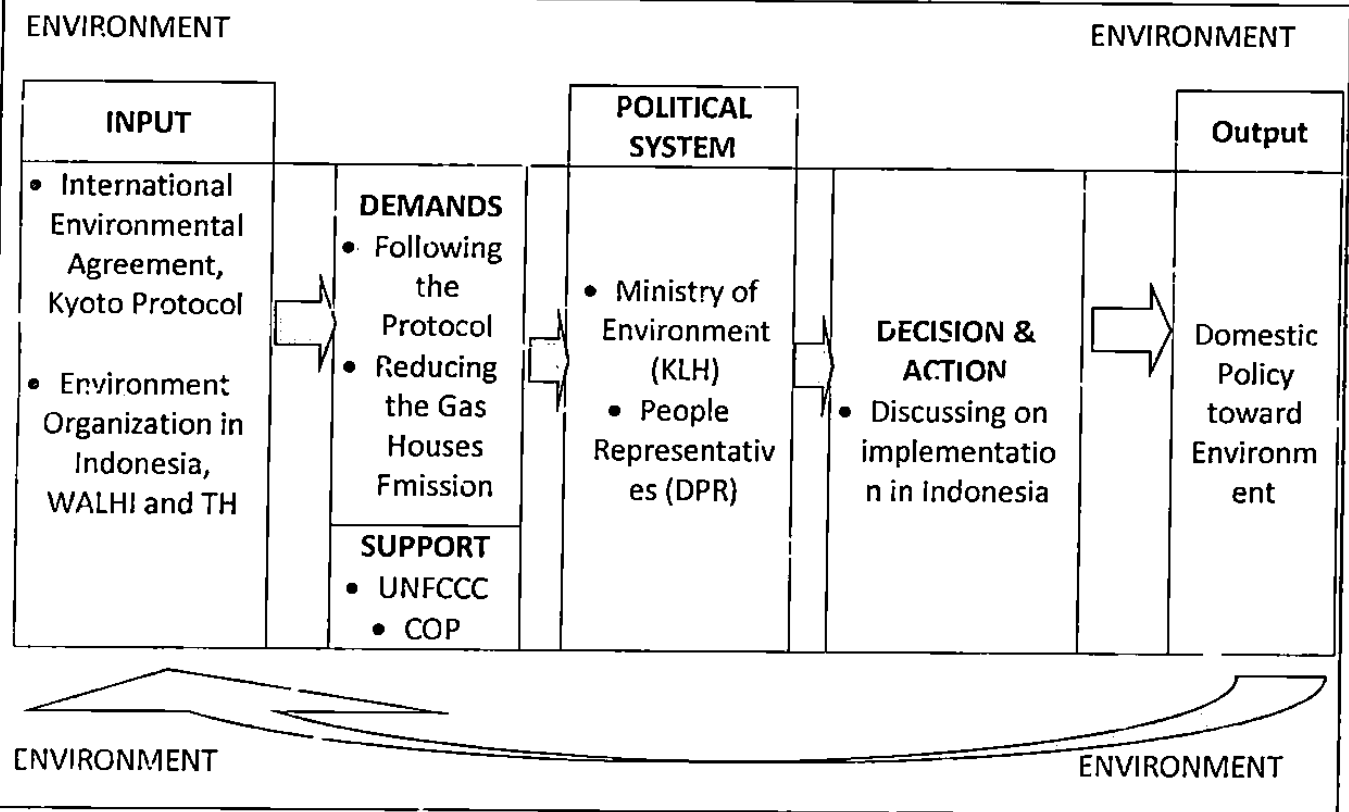
“Ratify the Kyoto Protocol on the Framework Convention of the United Nations on Climate Change that the original copy in English and translation in Indonesian as attached an integral part of this Act.”

According to this constitution, which resulted the ratification of Indonesia in Kyoto Protocol, this clearly stated that Indonesia has a commitment to solve the common problem, the international environmental problem, climate change. Even though Indonesia as developing country which at that time, developing country needed a lot of industrial factor to develop its country, which mean also will produce a lot of emission gases, but Indonesia still commit to ratify the Kyoto Protocol.

Then, in fact there are still and a lot of constitution that related to the environmental issues which established based on the environmental convention. The constitution number 6 in the year of 1994 that discuss about climate change which was form of ratification of Indonesia in one climate change convention namely United Nation Framework Convention On Climate Change

(UNFCCC).²⁶ Its application were run continuously until the formation of Kyoto Protocol that also strengthening an old convention which discussed about the best solution for solving the phenomenon, or global phenomenon that also will lead toward global destruction if the International community did not take a hand and mind together in maintaining the world. Indeed, this issues started came from every national interest of the countries which in the end lead to the international concern and become a common interest of the whole countries in the world.

Figure 1.2 Theory Application of David Easton of Indonesia toward Kyoto Protocol



By applying the case into the illustration of David Easton above on decision making process in Indonesia, we might see that there will be always an input which ran out through one process that in the end will lead to the creation of output. An input in the case of Indonesia and Kyoto Protocol could be defined into two factors, external and internal factor. An external factor explained by the international condition at that time that facing a common problem in the environmental issues which in the end met them up in several conventions such as Kyoto Protocol which foster and bind the countries in one agreement that must be obligated by all parties who ratified it. While from the internal condition, the factor explained by several movement in Indonesia or by the establishment of some Non-Governmental Organizations which concern to the environmental problem.

In Indonesia, there are a lot of movements that concern on environmental issues. We may see Tunas Hijau (TH), the non-profit movement for kids and young people of Indonesia to do actions for a better earth, which located in Surabaya. TH established in March 1999. They commit to maintain and keep the environment to be better. The evidence of TH's commitment could be seen when TH got Surabaya Academy Award in 2004 and Delta FM Surabaya Award in 2005.²⁷

TH also takes concern on the international environmental issues, climate change. On November 2007, TH organized International Children Conference on climate change (CCCC) which is joined by children from 8 countries, Russia,

²⁷ Tunas Hijau Profile <<http://tunashijau.org/profil/>> (Accessed on November 9th, 2014)

Haiti, Cameroon, Srilanka, Australia, South Korea, Malaysia, and Indonesia.²⁸

Further, on July 2008, TH held again a climate change event, Asia Pacific Inter Faith Youth Camp on climate change in Surabaya. This event collaborated among TH and Department of Affair of Indonesia and Government of Surabaya which is participated by 100 young people from 11 countries in Asia Pacific; Fiji, New Zealand, Australia, East Timor, Indonesia, Malaysia, Philippines, Thailand, Singapore, Vietnam, and Brunei Darussalam.²⁹

Figure 4.1 Member of APIFYC from 11 Asia Pacific Countries



Source: <http://tunashijau.org/wp-content/uploads/2011/08/apifyc.jpg>

Another environment movement in Indonesia is Wahana Lingkungan Hidup (WALHI)/Indonesia Environmental Forum which is the biggest non-profit and independent movement that takes concern on environment in Indonesia. WALHI spreads in 28 provinces in Indonesia which has 479 organization members and 156 individual members.³⁰ Internationally, WALHI through its link that is Friends of the Earth International spreads the value of environment, which

²⁸ *Ibid*

²⁹ *Ibid*

³⁰ *Ibid*

this recent year is supported by 2 million individual members all over the world.³¹

Those two movements that writer mentioned earlier became an input for domestic factor. Through them, the environmental issues came up, and became attention for the decision maker to find a solution regarding the issues.

Then, those inputs create demand and support in order to establish the new output as the willingness of input. We might see the demands and supports that created by input are following the protocol that already bind Indonesia to do so, which is the following the protocol has an aim to reduce the gas houses emission. Then, the support for the input is coming from the UNFCCC and COP which those international organizations are the one who are really concern on international environmental issues. Those international organizations support Indonesia to create a new output for the environment.

Facing those kinds of conditions, Indonesia tried to process those demands by making several output which involved important actors in Indonesia. The important actors in Indonesia which process it are House of Representative and Ministry of Environment, since the topic that is discussed by the input is about environment.

House of Representative (DPR) in Indonesia is a collective of a people which are chosen by Indonesian people itself. DPR in Indonesia has a legislative

³¹ *ibid*

function which is based on UUD 1945.³² The legislative function of DPR is clearly mentioned in Act No. 20 verses 1 “*Dewan Perwakilan Rakyat memegang kekuasaan membentuk Undang-Undang*”. If we can see it wider, the explanation of Act No. 20, could be understood that (1) In Indonesia, the institution of legislator is DPR, or not president; (2) President is an institution that acknowledged the bill which already discussed by DPR in *Paripurna* meeting, then became a law; (3) the bill that already agreed by the DPR member and has been acknowledged by President, must be applied as it is.

Meanwhile, Ministry of Environment is a minister that concern on environment issues. Since Indonesia has a diversity environment, the existence of Ministry of Environment is really needed in Indonesia. They have duties to: (a) formulate of national policy in the field of environment and control of environmental impact, (b) coordinate the implementation of policies in the field of environment and control of environmental impact, (c) manage of property/wealth country, (d) submit the evaluation report, suggestion, and consideration in tasks and functions to the President.

As explained above about the actor of political system, DPR and Ministry of Environment have task to formulate the policy, including in the environmental field. Then, the output is the domestic policy in which the policy is for the people of Indonesia.

³² Struktur Ketatanegaraan Indonesia setelah Perubahan Keempat UUD Tahun 1945.
<<http://www.lfip.org/english/pdf/bali-seminar/Struktur%20Ketatanegaraan%20R!%20->

An output that has been resulted by the decision maker in this case could be form of a project for Indonesia. Regarding to Kyoto Protocol that has provided some mechanisms to overcome the international environment issues, Indonesia tends to choose CDM as its mechanism. CDM is a proper mechanism to be applied in Indonesia, since Indonesia has a lot of potential opportunity to make an environment project.

B. Indonesia and Its Clean Development Mechanism Project

Indonesia as explained earlier, commit to solve the international environment problem, climate change. Through Kyoto Protocol which has provided some mechanisms to be applied by all countries that ratified the Kyoto Protocol, Indonesia takes a Clean Development Mechanism (CDM). Indonesia as developing country sees the opportunity that CDM is the proper mechanism for Indonesia. It reminds Indonesia has a huge land and diversity environment which is interesting for developed country to invest on Indonesia in CDM project.

Indonesia through Ministry of Energy and Mineral resources has optimism towards the Clean Development Mechanism (CDM) in Indonesia. Minister of Energy and Mineral Resources stated in opening of "Workshop on CDM Application in the Energy Sector, Challenges and Opportunities".

"Indonesia has a lot of CDM potential projects on offer between

These potentials must be optimized in order for Indonesia to join the ranks of China and India in becoming a key player in CDM”³³

The Minister of Energy and Mineral Resources hoped that Indonesia can compete with another country, especially China and India in offering the CDM projects to gain the funds from developed country. Chinese has 422 projects that already registered to the CDM Executive Board. Then, India has 395 projects of CDM that is ready to launch. Meanwhile, according to UNFCCC, Indonesia only has 23 projects; it is lower than two countries earlier.³⁴

Indonesia in concerning the CDM project made a committee through Minister of Environment decree No. 206 Year 2005 which takes full attention to the progress of CDM in Indonesia, National Committee on Clean Development Mechanism (KN-MPB). Mr. Rachmat Witoelar as Chairperson of the National Committee on CDM of the Republic of Indonesia explains that KN-MPB has two functions, Mandatory Function and Non-Mandatory Promotional Function.

The function of mandatory is approving proposed CDM projects based on the national sustainable development criteria and tracking the progress of CDM Executive Board. While, the Non-Mandatory Promotional Function is facilitating communication among investors and the proponent and other related parties, facilitating capacity building in proposing and implementing CDM projects, and

³³ Minister: Indonesia Must Optimize Its CDM Potential in The Energy Sector.
< <http://www.esdm.go.id/news-archives/general/49-general/2324-minister-indonesia-must-optimize-its-cdm-potential-in-the-encrgy-sector.html> > (Accessed on November 9th, 2014)

³⁴ *ibid*

providing information to support marketing CDM (Ministry of Environment of Indonesia, 2005).

Indonesia has applied the CDM projects. Through private sector, Bali International Consulting Group, Indonesia applied some projects. There are:³⁵

- a. **Micro-Hydro Project** – Renewable
- b. **Utilization of Plantation Waste and Forest Sequestration Project**
– Fuel Switching
- c. **East Kalimantan Plantation Project** – Sinks and Sequestration
- d. **Sarulla Geothermal Project** – Renewable
- e. **Yogyakarta Urban Bus Project** – Transport
- f. **Kansai Wood Waste Recycling Project** – Sink and Sequestration
- g. **Palm Oil Waste Power Plant** – Renewable
- h. **Renewable Agro-Processing Project** – Fuel Switching, Renewables
- i. **Indocement Project** – Energy Efficiency, Fuel Switching
- j. **Darajat III Geothermal Project** – Renewable
- k. **Biodiesel Project** – Renewable

Another project of CDM in Indonesia is The Indonesia Biogas Projects. This project is a small-scale CDM Program of Activities. This project has been developed by PT. GP Carbon Solutions Services Indonesia (PTGPCS). Through this project, PTGPCS has an aim to reduce gas emission from agro-industry

³⁵ Clean Development Mechanism (CDM) and Greenhouse Gas (GHG) in Indonesia < <http://www.>

waste water treatment system by capturing the biogas produced instead of allowing it to escape into the atmosphere. Besides, another aim of this project is to recover the biogas released from the anaerobic process of the wastewater treatment system by introducing or substituting the current ponds with a biogas recovery system (UNFCCC, 2012).

This project is collaboration between Indonesia, PT. GP Carbon Solutions Services Indonesia and United Kingdom of Great Britain and Northern Ireland, Gen Power Carbon Solutions, L.P. The host of this project is Republic of Indonesia. It will be an individual agro-industry processing facility that will implement the project activity by installing new treatment system with biogas recovery for the existing anaerobic treatment system that currently emits biogas containing 60-65% methane to the atmosphere. The project will capture the biogas as renewable energy, for power or heat based on the necessities at each specific site.³⁶

³⁶ Clean Development Mechanism Small-Scale Programme of Activities Design Document Form (CDM-SSC-PoA-DD) Version 01 <http://cdm.unfccc.int/filestorage/x/f/EJNRXDZ6TOOUK7YV59QP28MBWLGF1S.pdf/Indonesia%20Bio_gas%20Projects%20CDM-SSC-PoA-DD%20Ver4.1_Clean.pdf?t=11>