

# Legal Certainty of Indonesia's Green Investment Regulations to Achieve Nationally Determined Contribution (NDC) Target

Muhammad Iqbal Wiranugraha<sup>1</sup> and Sang Ayu Putu Rahayu<sup>2</sup>

{iqbalwn20@students.unnes.ac.id, rahayufh@mail.unnes.ac.id}

Faculty of Law, Universitas Negeri Semarang  
St. Sekaran, Gunungpati, Semarang City 50229, Central Java, Indonesia  
Telephone / Fax: (024) 8507891

**Abstract.** Ratification of Paris Agreement in Law Number 16 of 2016, requires Indonesia to achieve the emission reduction based on the Nationally Determined Contribution (referred to as NDC) by 2030. Green investment itself is an investment that designed to preserve environment and decreasing state emissions through renewable energy and forest conservation. Basically, green investment is beneficial for Indonesia, especially to achieve the NDC targets. However, because green investment is associated with environmental conservation initiatives. Legal certainty regarding the protection of its implementation is relevant to be questioned. This paper aims to determine the legal certainty of green investment in Indonesia in order to support the acceleration of fulfilling the country's NDC. In fact, Indonesia's investment regulations don't yet reflect legal certainty in terms of protecting the implementation of green investment. Therefore, legal certainty over the protection of green investment must be carried out in order to accelerate the fulfilments of state NDCs.

**Keywords:** Green Investment, Legal Certainty, Nationally Determined Contribution, Paris Agreement.

## 1 Introduction

World climate change and pollution of carbon emission gases are some of the environmental problems that occur globally.<sup>1</sup> These environmental problems slowly provide an understanding of the importance of preventing environmental damage by carrying out sustainable development. To minimize environmental problems, the international community took the initiative to carry out an agreement to minimize human activities that have an impact on climate change and the emission of carbon emission gases by conducting a Paris Agreement. The Paris Agreement is an international treaty agreed upon by United Nations member states (referred to as UN) under the auspices of the United Nations Framework Convention on Climate Change (referred to as UNFCCC) council held to respond to the risks of world climate change. The Paris Agreement was adapted by 196 countries at the 21st Conference of Parties (COP) in 2015 in

---

<sup>1</sup> <https://binus.ac.id/character-building/2021/07/kerusakan-lingkungan-global/>

<sup>2</sup> <https://unfccc.int/process-and-meetings/the-paris-agreement/the-paris-agreement>

Paris.<sup>2</sup> Through the Paris Agreement, UNFCCC member states, both developed and developing countries, are jointly required to reduce the rise in global average temperatures below 2°C.

Article 2 of the Paris Agreement explains that efforts to minimize the risk of climate change in line with reducing global temperatures can be carried out by implementing low-carbon emission development as a form of implementation of sustainable development. In addition, in order to realize a decrease in the global average temperature, based on Articles 3 and 4 of the Paris Agreement, it is explained that each country is required to have Nationally Determined Contributions (referred to as NDCs) as emission reduction targets carried out based on each low carbon emission development activity. This is done in order to increase the effectiveness of the implementation of emission reduction activities organized by each country.

The establishment of the Paris Agreement in 2015 to reduce the global average temperature, in fact, has relevance in terms of preventing the risks of world climate change until now. Based on the Sixth Assessment Report of the Intergovernmental Panel on Climate Change (IPCC), it is explained that in the next 20 years (2021-2040) it is projected that there will be an increase in global average temperatures up to 1.5°C. This can directly have a global impact on increasing the risk of loss socially, economically, and environmentally [1]. For this reason, all forms of low-carbon emission development aimed at reducing emissions in order to realize a decrease in the global average temperature are increasingly relevant to be carried out as an effort to prevent increasingly severe environmental damage.

Based on the previous explanation, it can be concluded that low carbon emission development is the main way to achieve the NDC target as an effort to prevent climate change risks based on the Paris Agreement. Low carbon emission development is closely related to the implementation of green investment. Eyraud defines green investment as *'an investment beneficial to decrease greenhouse gas and air pollutant emissions without significantly harming nonenergy product output and consumption'* [2]. Typically, there are several forms of green investment made to reduce carbon emissions, including: (1) Investment in low-emission/energy efficiency energy supplies and (2) Investment in carbon sequestration efforts through forestry conservation [3]. Based on the orientation of the type of business, green investment has a correlation to environmental sustainability. Thus, green investment has the potential to contribute to reducing carbon emissions as an effort to achieve the NDC target based on a country's Paris Agreement.

Among the 196 countries that adapted the Paris Agreement, Indonesia is one of the countries that has agreed and ratified the Paris Agreement through Law Number 16 of 2016 concerning ratification of the Paris Agreement to The United Nations Framework Convention on Climate Change. Based on the explanation of the law, Indonesia is committed to participate in suppressing the increase in global average temperatures below 2°C by setting an NDC of 29% with independent efforts and 41% with international cooperation by 2030. In order to achieve the NDC target, Indonesia has set several renewable business sectors as a step to reduce the country's carbon emissions, including the energy sector and the forestry sector. Both business sectors are considered to be able to reduce Indonesia's emissions very well, considering Indonesia's abundant ownership of renewable energy and carbon forests. Based on a press release from the Information and Documentation Management Officer of the Ministry of Environment and Forestry (referred to as KLHK), Indonesia's renewable energy ownership in

this case geothermal energy amounts to 30 Giga Watts spread across 330 potential points.<sup>3</sup> Then, related to the potential of the forestry sector in this case the use of carbon forests. Indonesia is a country with a carbon forest ownership of 36.5 million hectares, which has a carbon absorption capability of 5.5 giga tons of carbon dioxide, which is equivalent to 10% of the world's carbon needs [4].

On paper, the use of efforts to reduce carbon emissions through the energy and forestry sectors can be Indonesia's solution to achieve the NDC target by 2030. When it viewed from an investment law perspective, both sectors are green investment projects. This is said to be based on the Green Investment Policy Direction Document issued by the Investment Coordinating Board (referred to as BKPM) in 2018. The business sector of the forestry sector and the energy sector in the form of geothermal are some forms of green investment carried out in Indonesia. Because both are forms of green investment. Thus, the implementation of green investment has an important role in fulfilling Indonesia's NDC target by 2030.

**Rencana dan Realisasi Investasi per Kelompok Bidang Usaha Potensial  
Investasi Hijau (Green Investment)  
2010-TW3/2017**

No.	Kelompok Bidang Usaha	PMA (USD juta)			PMDN (Rp miliar)		
		Rencana	Realisasi	% Realisasi	Rencana	Realisasi	% Realisasi
1	Kehutanan (KBLI 02)	30,4	5,3	17,4	0,0	0,0	-
2	Pengusahaan Tenaga Panas Bumi (KBLI 0620)	1.087,1	864,9	79,6	4.605,2	0,0	0,0

**Fig. 1.** Indonesia's Green Investment Realization Plan

The ownership of Indonesia's renewable resources to carry out green investment, in fact, is not comparable to the ease of implementing green investment in Indonesia. There are several inhibiting factors (both directly and indirectly) that are assumed to occur due to the lack of certainty of protection for the implementation of green investment in Indonesia. Some of the inhibiting factors include: (1) The rampant cases of forest burning for business interests which have an impact on the 'futility' of efforts to reduce NDCs (indirect impacts) and (2) The existence of forest fire cases in the Katingan Mentaya carbon trading project as a form of green investment in the forestry sector due to the clearing of oil palm plantation business land through government concessions around carbon trading conservation areas, which caused the burning of 1,900 hectares of conservation areas and resulted in a decrease in Indonesia's NDC by up to 20% (direct impact) [4]. Research conducted by Greenpeace stated that between 2015-2019, it was found that there were 4.4 million hectares of burned land in Indonesia. 30% of the burned land, which is about 1.3 million hectares, is an oil palm plantation business area.<sup>4</sup>

The case of forest fires caused by the interests of oil palm plantation businesses is the main obstacle to the continuation of green investment in Indonesia, both in the energy sector and in the forestry sector. This is because, although green investment in the energy sector is not directly affected due to land burning (such as in the forestry sector). Forest fires have a role to play in reducing Indonesia's NDC fulfillment targets. Based on the UNFCCC Third Biennial Update Report, it is stated that the Land Use Change and Forestry (referred to as LUCF) sector, in this case, including the oil palm plantation business, has a role in providing emission pollution in

<sup>3</sup> [http://ppid.menlhk.go.id/siaran\\_pers/browse/435](http://ppid.menlhk.go.id/siaran_pers/browse/435)

<sup>4</sup> <https://www.greenpeace.org/indonesia/publikasi/44219/karhutla-dalam-lima-tahun-terakhir/>

the last 19 years. Through the report, it was found that there was an increase in carbon emission pollution by 380,465 Gg CO<sub>2</sub>e, which was originally 529,815 Gg CO<sub>2</sub>e (2000) to 910,280 Gg CO<sub>2</sub>e (2019) due to LUCF activity [5]. This kind of conditions have the potential to threaten the implementation of green investment both directly and indirectly. In this case, the failure of energy sector investment in the fulfillment of NDCs and the failure of forestry sector investment in the implementation of carbon trading due to burning conservation land which also has an impact on hampering the fulfillment of the state NDC.

Based on these inhibiting factors, it raises the assumption of low legal certainty over the ongoing green investment in Indonesia. Certainty of protection of the implementation of green investment is considered necessary to pay attention to. This is because with legal certainty in terms of green investment protection, it will cause a more predictable condition [6]. Thus, it is expected to increase success in realizing the benefits of green investment in this case the fulfillment of Indonesia's NDC in 2030.

Through this concept of thinking, the author argues that if the implementation of green investment in Indonesia must be accommodated by law in terms of protection of its implementation. This is done in addition to providing positive sentiment towards investors regarding the sustainability of investment in Indonesia in the green investment business sector, and also to accelerate the target of fulfilling Indonesia's NDC based on the Paris Agreement commitment through green investment. Therefore, the author is interested in further researching legal certainty in Indonesia's green investment regulation in order to achieve the country's NDC growth target. The context of the problem to be studied, including:

- a) What are the laws and regulations related to green investment in Indonesia?
- b) Do investment laws and regulations in Indonesia guarantee the protection of green investment?

## **2 Method**

This legal research uses a statute approach. The statute approach research approach is carried out by diving into every existing law, and has a relationship with the legal issues to be answered [7]. The laws and regulations to be used include every law related to investment, especially green investment in Indonesia. Based on his research approach, the type of research carried out is doctrinal legal research. Legal research with a doctrinal type will help this research to interpret and criticize a rule of law as the basis for the emergence of legal arguments. The emergence of these legal arguments in this study will be used as a basis for answering related to the legal issues in question [8]. Then, in an effort to answer the issue in question, this research uses several legal materials which include primary legal materials and secondary legal materials. Primary legal materials in this study include legal materials that have authority in general (legislation) and specifically (conventions and legal documents) [9]. In addition, secondary legal materials in the form of reports, journals, and documents are also used as sources of legal materials that strengthen primary legal materials.

## **3 Research Results and Discussion**

### **3.1 Indonesia's 2030 NDC Target and Green Investment Regulations**

Indonesia has an NDC fulfillment target of 29% with independent efforts and 41% with international cooperation by 2030. To meet this target, based on the provisions in the NDC Implementation Strategy Document published by the Directorate General of Climate Change Control of the Ministry of Environment and Forestry. Several strategies and proportions of NDC fulfillment were mentioned through several mitigation efforts in several business sectors, including the energy sector and the forestry sector. The document explains that efforts to fulfill NDCs in the energy sector are carried out by determining the energy mix policy as an effort to emphasize the use of renewable energy in Indonesia. Based on Government Regulation Number 79 of 2014 concerning Energy Policy, it is stipulated that Indonesia's main energy mix in 2025 and 2050, includes:

- a) Renewable energy use will be at least 23% by 2025 and at least 31% by 2050;
- b) Mandatory oil use is less than 25% by 2025 and less than 20% by 2050;
- c) Coal utilization is at least 30% at a minimum by 2025 and at least 25% by 2050;  
and
- d) Gas use is at least 22% at a minimum in 2025 and at least 24% in 2050.

With this policy, the Indonesian government has indirectly encouraged the use of renewable energy as the main source of the country's energy use. Through this policy, the government also hints at reducing the use of energy that is not environmentally friendly which has the potential to cause emission pollution in order to meet the target of meeting the NDC by 2030. The policy on Indonesia's energy mix in an effort to meet the NDC target is also matched with Indonesia's plan based on the Report of the Government of Indonesia and the Global Green Growth Institute to target the fulfillment of green investment worth 100 billion US dollars in the forestry, fisheries, and renewable energy sectors, one of which is geothermal energy [10]. In addition, the Addendum to Presidential Regulation Number 18 of 2020 concerning the National Medium-Term Development Plan 2020-2024 states that the policy direction of the strategy to fulfill the country's sustainable energy supply is one of which is taken by increasing renewable energy, which includes geothermal energy. Based on the fact that the direction of investment development that supports the implementation of green investment and the existence of state policies that support the fulfillment of Indonesia's NDC in the energy sector. It is possible that the country's NDC targets can be easily achieved through the geothermal energy sector, given the high positive sentiment of the government to realize green investment and the fulfillment of the country's NDC through business fields in the renewable energy sector.

In addition to the energy sector, the fulfillment of Indonesia's NDC is also carried out in the forestry sector, the implementation of which is carried out through carbon trading model Reducing Emissions from Deforestation and Forest Degradation (referred to as REDD+). REDD+ carbon trading is an important component in fulfilling Indonesia's NDC in the forestry sector. Through REDD+ carbon trading, Indonesia will conserve carbon forests through the funding of result-based payments as a form of compensation for emission reductions due to industrial impacts carried out by developed countries, as well as to meet Indonesia's NDC targets. With the support of developed countries in the form of funding both bilaterally and internationally through REDD+ projects, it is projected that it will cause investment activities that are beneficial to Indonesia which have an impact on increasing income, technology development, and increasing the country's capacity [11].

Based on the previous explanation, the two efforts of the Indonesian state to achieve the NDC target, both in the energy sector and in the forestry sector, are indicated to have similar elements in their implementation. The similarity is that there are investment activities that cause capital to enter for the implementation of every low carbon emission development carried out in Indonesia. The context of these investment activities is investment activities that take place based on Indonesian investment regulations in the form of Articles 1 numbers 1, 2, and 3 of Law Number 25 of 2007 concerning Investment which states that *'Investment is any form of investment activity held in the territory of the State of Indonesia, which is carried out by Domestic Direct Investment (referred to as DDI) and Foreign Direct Investment (referred to as FDI) for the benefit of running a type of business'*.

Direct investment made by investors in Indonesia's low carbon emission development by both DDI and FDI to fulfill the NDC. In terms of analogical interpretation, it is carried out by including capital for the development of business implementation in the energy sector, as well as funding business implementation in the forestry sector through result-based payments for REDD+ carbon trading in the territory of Indonesia. Therefore, it is commonplace to say that the implementation of green investment has a correlation with the fulfillment of the country's NDC targets.

The importance of implementing green investment as an effort to fulfill the country's NDC targets raises questions regarding the existence of protection for its implementation under Indonesian law. Moreover, it was found that the implementation of green investment, especially in the forestry business sector (Katingan Mentaya REDD+ carbon trading area) experienced obstacles in its implementation due to land fires caused by the clearing of oil palm plantation business land. Raise thoughts about weak investment regulations in accommodating the protection of green investment implementation in Indonesia. Then, the government's concession in granting oil palm land clearing permits has an impact on hampering the implementation of REDD+ carbon trading as a type of green investment, reflecting that Indonesia's investment regulations are still not fully in favor of investment oriented to the sustainable sector. Therefore, the existence of green investment implementation regulations in Indonesian investment laws and regulations is relevant to be discussed.

**Table 1.** Indonesian investment regulations that are correlated with the implementation of green investment

Law Number 25 of 2007 concerning Investment	Law Number 11 of 2020 concerning Job Creation	Presidential Regulation Number 16 of 2012 concerning the General Plan for Investment
---	---	--

<b>Article 3 Number (1)</b> That the implementation of Indonesian investment is organized based on environmental principles and sustainable principles.	<b>Article 18</b> Provision of facilities to every investment activity, if it meets the following criteria: (a) Infrastructure development; (b) Transfer technology; and (c) Preserving the environment.	<b>Article 2 Letter d</b> of Indonesia's General Investment Plan (RUPM) includes: (a) Improvement of the investment climate; (b) Investment distribution; (c) Focus on food and energy development; and (d) Green investment
<b>Article 12 Number (3)</b> That the consideration of open or closed business fields considers the safety and sustainability of the environment.	<b>Explanation of Article 12 Number (1)</b> Investment activities are based on national interests, in the form of protection of natural resources	
<b>Article 16 Letter d</b> That every investor is responsible for preserving life.		

The table above shows several investment regulations that have a correlation related to the implementation of green investment in Indonesia. Law Number 25 of 2007 concerning Investment, regulates several elements that can support the implementation of green investment in Indonesia, which among others guarantee that every investment implementation must be based on environmental principles and sustainable principles. Then, it is also regulated that every investment activity must be responsible for maintaining the sustainability of life. The law also explains that environmental security and sustainability are state considerations in terms of determining the open and closed business fields that can be held in Indonesia. Based on these points, Law Number 25 of 2007 hints that green investment should be able to run well in Indonesia.

In addition to Law Number 25 of 2007, there are other laws and regulations that have a connection to the ongoing green investment in Indonesia. Law Number 11 of 2020 concerning Job Creation also regulates several things that have a correlation to the ongoing green investment in Indonesia. Article 18 of the law regulates the provision of facilities to every investment activity that preserves the environment. Then, it is again explained in Article 12 number (1) that the implementation of investment is based on national interests in the form of protection of natural resources.

Presidential Regulation Number 16 of 2012 concerning the General Plan for Investment as a blueprint for the implementation of State investment until 2025, also regulates several articles related to the implementation of green investment in Indonesia. Article 2 letter d of the presidential regulation regulates the general plan of investment carried out in Indonesia, one of which is environmental-based investment or green investment. Then, regarding the form of green investment that can be done in Indonesia, it is shown based on the Addendum to the Regulation of the Head of the Investment Coordinating Board of the Republic of Indonesia Number 9 of 2012 concerning Guidelines for the Preparation of the General Plan for Provincial

Investment and the General Plan for Regency/City Investment, that the direction of the form of green investment in Indonesia includes:

- a) Development of the environmentally friendly technology sector and utilization of renewable energy;
- b) Development of a green economy; and
- c) Providing facilities for environmental pollution reduction activities and encouraging carbon trading.

Based on several regulations that have been mentioned, it can be concluded that there are several laws and regulations that support the implementation of state green investment. The substance of the legislation includes an overview of the direction of its implementation as well as basic values such as principles as supporting values for the implementation of green investment in Indonesia.

### **3.2 Lack of Indonesia Green Investment Regulations**

Indonesian investment laws and regulations in the form of Law Number 25 of 2007 concerning Investment, Law Number 11 of 2020 concerning Job Creation, and Presidential Regulation Number 16 of 2012 concerning the General Plan of Investment have actually included related to the implementation of green investment. However, the regulation is felt to be only 'supporting' implementation, not really accommodating the protection of the implementation of green investment in Indonesia. This is said because there has not been a regulation that specifically mentions what kind of green investment is applied [12], and what kind of green investment that is protected by its implementation in Indonesia.

The idea of the lack of legal certainty in Indonesia's green investment regulation is based on the concept of legal certainty of Gustav Radbruch and Van Apeldoorn. Legal certainty according to Gustav Radbruch will ensure order and security if properly observed [13]. Later, Van Apeldoorn expressed that legal certainty has two sides, legal certainty in terms of certainty and legal security [14]. Therefore, based on these two thoughts, the condition that legal certainty has not been met in green investment regulations in Indonesia is due to the absence of law in terms of 'definite' to realize legal security.

Indonesia's investment regulations are considered to be 'premature' in terms of regulations related to the implementation of green investments. The regulation of green investment is still only in the form of implementation directions based on principles that have a correlation to green investment activities, such as sustainable principles and environmental-based principles. Although the principle of law is indeed the basis of the enactment of a legal norm, or it can be said that no norm is born without a principle. However, the principle of law in its application cannot directly act on a legal event. Therefore, it is necessary to have concrete legal norms to be applied directly to a particular legal event [15]. So that the non-accommodating implementation of green investment in Indonesian law is assessed based on the absence of a norm that is oriented towards sustainable principles and environmental-based principles that regulate what types of green investments are carried out and there are no accommodating norms related to the protection of green investments carried out in Indonesia.



The unavailability of investment regulations that specifically regulate the implementation of green investment, in fact, is not the only problem in regulating the implementation of green investment in Indonesia. The lack of legal certainty for the implementation of green investment in Indonesia is also due to the fact that investment regulations in the form of Law Number 11 of 2020 concerning Job Creation have Articles that are considered unfriendly to the environment, and tend to have the potential to threaten the environment which directly impacts the implementation of green investment in Indonesia.

**Table 2.** Articles of Law Number 11 of 2020 concerning Job Creation that have the Potential to Inhibit Green Investment

Law Number 11 of 2020 concerning Job Creation	Explanation
<b>Article 22</b> Environmental Impact Assessment (referred to as AMDAL) is a study of the environmental impact of a planned business activity. To be used as a pre-requisite of administration and business licensing.	Article 22 is an amendment to Article 1 Number 11 of Law Number 32 of 2009 concerning Environmental Protection and Management. The changes made are to replace the obligations for AMDAL (required) in each business operation and permit, to be only a pre-requisite for the implementation and licensing of the business.
<b>Article 88</b> Everyone who carries out business activities that use, produce, regulate B3 and/or pose a risk to the environment, must be responsible for losses caused by their business	Article 88 is an amendment to Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management. The change made was the omission of the diction 'without the need to prove to the element of its guilt'.

Changes to Article 1 Number 11 of Law Number 32 of 2009 concerning Environmental Protection and Management in Article 22 of Law Number 11 of 2020 concerning Job Creation result in potential environmental threats. The threat in question is the magnitude of the possibility of implementing a type of investment business that is reluctant to attach importance to AMDAL. This is because AMDAL in Law Number 11 of 2020 concerning Job Creation is only a pre-requirement, not a necessity for the implementation and licensing in the running of a certain type of business. This condition is if correlated with the rampant environmental destruction caused by oil palm plantations in the form of emission pollution. It raises an assumption about the easiness of licensing and investment implementation, especially in oil palm plantations, which are often ignore on environmental impacts and are reluctant to consider AMDAL. In fact, based on the Regulation of the Minister of Agriculture of the Republic of Indonesia Number 45 of 2019 concerning Electronically Integrated Business Licensing Services in agriculture, it states that AMDAL is the obligation of a type of business in the plantation sector in the implementation of its business activities. Therefore, based on this impropriety, it can be projected that there will be increasing potential obstacles to the implementation of green investment in terms of fulfilling the benefits of its implementation, one of which is the difficulty of implementing emission reductions in line with the fulfillment of Indonesia's NDC targets.

Article 88 of Law Number 11 of 2020 concerning Job Creation has also changed the substance provisions of Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management. The change is the omission of the phrase 'without the need to prove to the element of guilt' if there is a type of business that destroys the environment. Before the change, through the Article, it is regulated that everyone who destroys the environment caused by their business

activities, without the need to prove on the element of their guilt, must make compensation due to the existence of an element (strict liability). In addition, it should be noted that the concept of strict liability is used if a type of business carries out activities that can be categorized as extra-hazardous or abnormally dangerous, then that type of business must bear all losses, even though it has acted carefully and to prevent a loss due to a certain intentionality [16]. With the concept of strict liability in Article 88 of Law Number 32 of 2009 concerning Environmental Protection and Management, it is an obligation for every type of business that causes environmental damage to provide compensation to the plaintiff (both the state, and the party who suffered losses) due to the impact of his business.

With the loss of the phrase, based on the interpretation of *argumentum a contrario*, if there is a case caused by environmental damage due to a type of business. Thus, the business executor who committed environmental destruction can still defend himself (not necessarily guilty) if the executor of the business is prosecuted for the purpose of compensation in the future. Based on this thinking, if it is linked to the case of the REDD+ carbon trading green investment project in Katingan Mentaya. It is feared that Article 88 of Law Number 11 of 2020 concerning Job Creation makes it easier for investment business implementers who carry out a business that has an impact on environmental destruction (especially those that intersect with a green investment project and have an impact on increasing emission pollution) to be free from liability due to the loss of elements (strict liability). Thus, it is assumed that it will encourage an increase in investment business implementers who are not environmentally friendly which can directly cause losses for green investment implementers, especially in the forestry business sector, which has an impact on the difficulty of fulfilling the State NDC.

Based on several analyses conducted, it was found that Indonesia's investment regulations have not guaranteed protection for the implementation of green investments. The lack of regulations governing Indonesia's investment regulations related to green investment, as well as the existence of articles that have the potential to cause losses to the environment and have an impact on the implementation of green investment. It is feared that it will further increase the chances of inhibition of any green investment activities, which is in line with the hampering of the state NDC fulfillment target. Law Number 25 of 2007 concerning Investment and Law Number 11 of 2020 concerning Job Creation as the main regulations for the implementation of State investment, are considered to have an important role to ensure legal certainty in the implementation of green investment in Indonesia. This is because, as the highest positive legal norm that regulates investment in Indonesia, the two regulations have a role as determinants of the direction of state policies and investment decisions.

Thus, due to the lack of guaranteed legal certainty in terms of the implementation of green investment in Indonesian law, efforts are needed to strengthen Indonesia's investment law which in addition to accommodating legal certainty for the protection of the implementation of green investment, also the substance of investment regulations must reflect environmental-based principles and overall sustainable principles to ensure that all state investment policies and decisions are proportionate so as not to injure the implementation of green investment.

## 4 Conclusion

The fulfillment of the NDC target by 2030 based on Indonesia's NDC Implementation Strategy Document can be done by making green investments in the energy sector and the forestry sector. This is because the green investment project has the aim of reducing carbon emissions, which is the goal of fulfilling the State NDC. The suitability of the benefits presented by green investment in fulfilling the NDC target is in fact not directly proportional to the legal certainty of the implementation of green investment in Indonesia. Although Law Number 25 of 2007 concerning Investment, Law Number 11 of 2020 concerning Job Creation, and Presidential Regulation Number 16 of 2012 concerning the General Plan of Investment have included several elements of the implementation of green investment in Indonesia. However, the three of them are considered to have not regulated holistically and specifically related to the implementation of green investment in Indonesia. The regulation is still only in the form of an implementation direction based on principles that have a correlation to green investment activities. Then, several articles were also found in Law Number 11 of 2020 concerning Job Creation which have the potential to injure the implementation of green investment in Indonesia. For this reason, in order to ensure legal certainty for the implementation of green investment in Indonesia in line with the fulfillment of the State NDC target. It is necessary to strengthen Indonesia's investment law by naming regulations that accommodate certainty over the protection of green investment implementation, as well as evaluating the substance of investment regulations to consistently reflect environmental-based principles and overall sustainable principles in each norm governing the implementation of Indonesian investment.

## References

- [1] H. Hans-O. Pörtner, Debra C. Roberts, *Climate Change 2022 - Impacts, Adaptation and Vulnerability - Summary for Policymakers*. Switzerland: IPCC, 2022.
- [2] K. Tienhaara, *Green Keynesianism and the global financial crisis*. New York: Routledge, 2018.
- [3] T. T. T. Tran, H. N. Do, T. H. Vu, and N. N. M. Do, "The factors affecting green investment for sustainable development," *Decis. Sci. Lett.*, vol. 9, no. 3, pp. 365–386, 2020, doi: 10.5267/j.dsl.2020.4.002.
- [4] B. D. N. R. Sukadi, D. A. A. I. Pinatih, and N. P. M. Sari, "Penerapan Good Environmental Governance pada Praktik Perdagangan Karbon di Proyek Katingan Mentaya," *J. Borneo Adm.*, vol. 16, no. 3, pp. 361–382, 2020, doi: 10.24258/jba.v16i3.693.
- [5] KLHK, *Indonesia third biennial update report*, vol. 1, no. 2. 2021.
- [6] M. Khoidin, *Hukum Penanaman Modal (Suatu Pengantar)*. Yogyakarta: LaksBang Justitia, 2019.
- [7] P. M. Marzuki, *Penelitian Hukum (edisi Revisi)*. Jakarta: Kencana Prenada Media Group, 2013.
- [8] P. M. Hadjon and T. Sri Djamiati, *Argumentasi Hukum*. Yogyakarta: Gajah Mada University Press, 2005.
- [9] I. M. Pasek Diantha, *Metodologi Penelitian Hukum Normatif dalam Justifikasi Teori Hukum*. Jakarta: Kencana, 2016.
- [10] Pemerintah Indonesia dan Program Pertumbuhan Hijau GGGI, "Mendorong Investasi untuk Mewujudkan Pertumbuhan Hijau bagi Indonesia," p. 33 hlm, 2020.
- [11] M. F. S. Dr. Ir. Nur Masripatin, M. S. Ir. Emma Rachmawaty, M. S. Yulia Suryanti, S.Si., M. S. Hany Setyawan, S.Hut., M. S. M. Farid, S.Hut., and S. Nur Iskandar, *Strategi*

*Implementasi Ndc*. Jakarta: Direktorat Jenderal Pengendalian Perubahan Iklim, Kementerian Lingkungan Hidup dan Kehutanan, 2017.

- [12] B. R. Anisah, “Eksistensi Investasi Hijau dalam Poros Pembangunan Ekonomi sebagai Bentuk Manifestasi Perlindungan atas Lingkungan Hidup,” *Padjajaran Law Rev.*, vol. 8, no. 1, 2020.
- [13] A. N. Aribowo, “Kepastian Hukum Pengikatan Akta Perjanjian Jual Beli Di Hadapan Notaris Tanpa Dihadiri Para Saksi,” *J. Surya Kencana Satu Din. Masal. Huk. dan Keadilan*, vol. 11, pp. 233–246, 2020.
- [14] M. Julyano and A. Y. Sulistyawan, “Pemahaman Terhadap Asas Kepastian Hukum Melalui Konstruksi Penalaran Positivisme Hukum,” *Crepido*, vol. 1, no. 1, pp. 13–22, 2019, doi: 10.14710/crepido.1.1.13-22.
- [15] A. Y. Hernoko, *Hukum Perjanjian, Asas Proporsionalitas dalam Kontrak Komersial*. Jakarta: Prenadamedia Group, 2010.
- [16] S. Sodikin, “Perkembangan Konsep Strict Liability Sebagai Pertanggungjawaban Perdata Dalam Sengketa Lingkungan Di Era Globalisasi,” *Al-Qisth Law Rev.*, vol. 5, no. 2, p. 261, 2022, doi: 10.24853/al-qisth.5.2.261-298.