

# Joint Statement on raw materials in EU-Indonesia CEPA

## Civil society organizations from Europe and Indonesia ask:

- The EU and the Indonesian government should stop the Indonesia-EU CEPA negotiations, because the agreement poses a threat to the environment and climate, and to the rights of women, Indigenous Peoples, workers, small farmers and fisherfolk.
- Indonesia should retain the policy space to develop its own energy and raw materials value chain, including processing and refining capabilities. The Energy and Raw Materials Chapters in the CEPA would limit Indonesia's ability to protect its internal market through (temporary) tariffs and quotas and to build up its own manufacturing capacities.
- A just energy transition cannot be achieved by privatizing public goods, in this case energy. Public control through the state should be strengthened and not weakened by the liberalization agenda in the renewable energy sector.
- The EU and Indonesia should not agree to any Investor-State Dispute Settlement (ISDS) mechanism, such as in the EU agreements with Mexico and Chile. Investment protection, including the Investment Court System (ICS), potentially undermines the state's capacity to respond to public demands to implement a socially just climate policy.
- The Indonesia-EU CEPA should not integrate elements from the Indonesian "Omnibus Law on Job Creation"<sup>1</sup> as this makes human rights and labor protection in Indonesia worse. Both the EU and Indonesia must adhere to internationally agreed ILO-standards and conventions.
- Trade cooperation must ensure that the traded raw materials have been produced under the highest environmental and due diligence standards. Social and environmental impact assessments need to be mandatory for every mining or energy generation project. The rights of communities affected by mining for critical raw materials must be strengthened and those rights must be taken into account from the outset in the planning and implementation of any projects. Indigenous communities' free, prior and informed consent (FPIC) must be ensured and their decisions respected.
- The EU should reduce its own materials footprint to stay within planetary boundaries and to reduce dependence on resources from other countries such as Indonesia. The EU should commit to reducing critical raw materials consumption by setting targets to reduce consumption through sufficiency measures, material efficiency, responsible design, and substitution technologies.

## EU-Indonesia Comprehensive Economic Partnership Agreement (CEPA)

Indonesia and the European Union have been negotiating the EU-Indonesia Comprehensive Economic Partnership Agreement (CEPA) trade agreement since 2016. There are still contentious issues remaining in the negotiations and one of the key issues is on raw materials, under the Energy and Raw Materials Chapter. This chapter specifically regulates the opening

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<sup>1</sup> [Explainer: What's at stake with Indonesia's controversial jobs creation law? | Reuters](#)

of market access and investment in the energy and raw materials sectors to ensure that there are no barriers to EU trade and investment.

However, the liberalization of investment and trade in energy and raw materials in the Indonesia-EU CEPA would have a negative impact on the national interests of Indonesia, the environment, and the Indonesian people at large. For this reason, while we acknowledge the importance of a deepened relationship between the EU and Indonesia based on solidarity and trade cooperation, European and Indonesian civil society groups want to express their concerns regarding CEPA's implications, in particular on human rights and the environment as well as Indonesia's capacity to add value to its raw materials.

## **Irresponsible mining practices and its social and ecological consequences**

Increasing demand for critical mineral raw materials for the green energy transition has triggered over-exploitation and extraction of natural resources, as is the case in Indonesia.

Some estimates indicate Indonesia supplies over one-fourth of the world's mineral supply.<sup>2</sup> Indonesia is the world's biggest nickel producer. It also produces significant quantities of coal, copper, cobalt, tin, gold and bauxite. In the so-called 'nickel provinces' of Sulawesi and North Maluku, mining's damage manifests itself in different forms. Civil society organisations have been tracking sea and river pollution contaminating once pristine waters, reducing fish stocks, causing skin infections in children, and threatening the livelihoods of local people and indigenous communities.<sup>3</sup> Nickel mining in Raja Ampat threatens the most biodiverse coral reef system on the planet,<sup>4</sup> and could further exacerbate the armed conflict in West Papua which is currently displacing almost 80,000 civilians.<sup>5</sup> Mining is also driving deforestation<sup>6</sup> and forcibly displacing local peoples.<sup>7</sup> Women are forced to "adapt" to the situation by taking roles as mining laborers with poor working conditions, taking up informal works such as food vendors, or sex workers. The extraction of critical raw materials also happens at the costs of workers and unions.<sup>8</sup>

The social and environmental impacts of mineral extraction for the green energy transition are not effectively addressed in the Energy and Raw Materials Chapter of the Indonesia-EU CEPA, as there are no legal implications for parties that fail to mitigate these impacts. The provisions under the trade and sustainable development chapter are still questionable in their effectiveness, given that there is no binding enforcement mechanism for related parties, especially corporations. This risks eroding Indonesia's sovereignty in governing its natural resources and domestic value addition and supports a new period of extractivism.

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<sup>2</sup> US Dept of Commerce, [Indonesia - Mining](#)

<sup>3</sup> [Indonesia: Nickel mining operations in Kabaena island in Sulawesi adversely affect Bajau's health & livelihood - Business & Human Rights Resource Centre](#)

<sup>4</sup> [Delapan Perusahaan Tambang Kantongi Izin, Raja Ampat Terancam Tinggal Nama](#)

<sup>5</sup> [IDP Update September 2024: New Research on IDPs in West Papua underlines urgent need for Government action -](#)

<sup>6</sup> [Nickel miners linked to devastation of Indonesian forests](#)

<sup>7</sup> [Indonesian nickel project harms environment and human rights, report says](#)

<sup>8</sup> ['Production first, safety later': inside the world's largest nickel site](#)

## **Lack of value addition and undermining of Indonesia's industrial development**

The Energy and Raw Materials Chapter specifically regulates for the opening of market access and investment in the energy and raw materials sectors, and serves to ensure that there are no barriers to EU trade and investment in these sectors. This chapter seeks to ensure that Indonesia opens market access and eliminates 'discriminatory' treatment in the energy and raw materials sectors. This includes provisions prohibiting export restrictions, including the elimination in principle of all export duties or any measure having equivalent effect. However, this provision conflicts with Indonesia's policy of limiting raw mineral exports to fulfill domestic processing.

The EU's pressure on Indonesia to remove restrictions on raw mineral exports calls into question the EU's commitment to support domestic value-added production in its partner countries. To make matters worse, the provision on performance requirements also prohibits the application of local content and much-needed technology transfer requirements. This prohibition will make it even more difficult for Indonesia to strengthen its downstream economic agenda around domestic value-added production. In fact, the prioritization of industrial policy within the EU, if conducted in a "business as usual" manner, will only deepen development inequality in developing countries like Indonesia. In this case, the EU's desire to guarantee the supply of essential minerals for its industrial development will only perpetuate extractive business practices as usual.

The Energy and Raw Materials Chapter also encourages privatization, by prohibiting government intervention in the pricing of energy goods. These provisions will only benefit foreign private actors acting in Indonesia as independent power producers and will lead to the Indonesian government having no option but to purchase electricity at the company's asking price. In the end, this mechanism will increase the burden on state finances and undermine people's access to affordable electricity, as well as hindering the realization of an equitable energy transition.

## **Corporate protections for critical minerals supply in Indonesia**

The EU expansion of resource extraction and the privatization of the public energy sector in Indonesia will only strengthen the protection of multinational corporations. This is evidenced by the Investment Chapter of the Indonesia-EU CEPA, which contains the Investment Court System (ICS). The EU proposal for ICS is simply a rebranding of the pre-existing ISDS mechanism that gives special rights to multinational corporations to sue the state. Given the global trend of competition to secure critical mineral supplies and the nationalization agenda of resources under Indonesia's mining law, this will open up more potential lawsuits for Indonesia given Indonesia's past experience in dealing with ISDS claims. The mining sector is one of the most litigious industries when it comes to ISDS. Therefore, we see that incorporating such elements into the Indonesia-EU CEPA will have an impact on the protection of the rights of the Indonesian people over corporations. The EU has recently decided to exit the Energy Charter Treaty after several ISDS cases, yet is still promoting provisions on ICS in its trade negotiations. This contradiction shows the EU's hypocritical approach when it comes to the ISDS system.

## Consequences for the EU

Along with the potential negative consequences for Indonesia, the EU's policy of pushing for market liberalization has in fact harmed the EU's own access to critical materials. While the EU has been fighting Indonesia over trade rules, China has invested tens of billions in nickel mining and refining in Indonesia. As a result, Chinese producers have secured a huge supply of nickel for its energy transition. As it stands, 80-82 percent of Indonesian battery-grade nickel output is expected to be produced by majority Chinese producers this year.<sup>9</sup>

What the EU should therefore do is move towards a truly equal partnership with Indonesia, that does not force Indonesia to liberalize its raw materials export or give up its sovereignty to set prices, but instead shows the EU's willingness to support Indonesian value addition and sustainable economic development. The EU can form an alternative to Chinese-owned environmentally destructive and dangerous nickel processing in Indonesia by investing in and supporting cleaner and more responsible processing capabilities and by paying a fair price for the resources. This would set the standard for fair, equal and sustainable trading practices.

## Our demands

Civil society organizations from Europe and Indonesia ask:

- The EU and the Indonesian government should stop the Indonesia-EU CEPA negotiations, because the agreement poses a threat to the environment and climate, and to the rights of women, Indigenous Peoples, workers, small farmers and fisherfolk.
- Indonesia should retain the policy space to develop its own energy and raw materials value chain, including processing and refining capabilities. The Energy and Raw Materials Chapters in the CEPA would limit Indonesia's ability to protect its internal market through (temporary) tariffs and quotas and to build up its own manufacturing capacities.
- A just energy transition cannot be achieved by privatizing public goods, in this case energy. Public control through the state should be strengthened and not weakened by the liberalization agenda in the renewable energy sector.
- The EU and Indonesia should not agree to any Investor-State Dispute Settlement (ISDS) mechanism, such as in the EU agreements with Mexico and Chile. Investment protection, including the Investment Court System (ICS), potentially undermines the state's capacity to respond to public demands to implement a socially just climate policy.
- The Indonesia-EU CEPA should not integrate elements from the Indonesian "Omnibus Law on Job Creation"<sup>10</sup> as this makes human rights and labor protection in Indonesia worse. Both the EU and Indonesia must adhere to internationally agreed ILO-standards and conventions.
- Trade cooperation must ensure that the traded raw materials have been produced under the highest environmental and due diligence standards. Social and environmental impact assessments need to be mandatory for every mining or energy generation project. The rights of communities affected by mining for critical raw materials must be strengthened

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<sup>9</sup> <https://www.ft.com/content/0f8e2fe8-c7cb-4d6a-9436-1cb1806af4e0>

<sup>10</sup> <https://www.reuters.com/world/asia-pacific/whats-stake-with-indonesias-controversial-jobs-creation-law-2022-06-09/>

and those rights must be taken into account from the outset in the planning and implementation of any projects. Indigenous communities' free, prior and informed consent (FPIC) must be ensured and their decisions respected.

- The EU should reduce its own materials footprint to stay within planetary boundaries and to reduce dependence on resources from other countries such as Indonesia. The EU should commit to reducing critical raw materials consumption by setting targets to reduce consumption through sufficiency measures, material efficiency, responsible design, and substitution technologies.

## **Signatories**

### *Global and regional organisations*

1. Climate Action Network Europe (CAN Europe)
2. Climate Action Network Southeast Asia (CANSEA)
3. EU Raw Materials Coalition
4. European Coordination Via Campesina
5. European Trade Justice Coalition
6. Fern
7. Friends of the Earth Europe
8. GRAIN
9. Plataforma América Latina y el Caribe mejor sin TLC
10. Publish What You Pay
11. Regions Refocus
12. SIRGE Coalition
13. Transnational Institute

### *National organisations*

14. Asamblea Argentina mejor sin TLC, Argentina
15. ATTAC Argentina, Argentina
16. Anders Handeln, Austria
17. Attac Austria, Austria
18. National Garment Workers Federation, Bangladesh
19. 11.11.11, Belgium
20. CNCD 11.11.11, Belgium
21. Global Aktion, Denmark
22. Miljøbevægelsen NOAH- Friends of the Earth Denmark, Denmark
23. ActionAid France, France
24. Aitec, France
25. Alofa Tuvalu, France
26. Alternatiba, France
27. Amis de la Terre / Friends of the Earth, France
28. ANV-COP21, France
29. Attac France, France
30. CADTM France, France
31. Canopée, France
32. CCFD-Terre Solidaire, France
33. CGT (Confédération Générale du Travail), France

34. Collectif national Stop CETA/Mercosur, France
35. Confédération paysanne, France
36. CRID, France
37. Extinction Rebellion France, France
38. Fédération Artisans du Monde, France
39. Fondation Copernic, France
40. France Nature Environnement, France
41. FSU (Fédération Syndicale Unitaire), France
42. Générations Futures, France
43. Notre Affaire à Tous, France
44. Reclaim Finance, France
45. Union Syndicale Solidaires, France
46. Veblen Institute for Economic Reforms, France
47. Nature & Progrès Fédération, France & Belgium
48. Attac Germany, Germany
49. Berliner Wassertisch, Germany
50. Brot für die Welt, Germany
51. FIAN Deutschland, Germany
52. German NGO Forum on Environment & Development, Germany
53. Human Rights Monitor, Germany
54. Misereor, Germany
55. NaturFreunde Deutschlands, Germany
56. Netzwerk gerechter Welthandel, Germany
57. PowerShift e.V., Germany
58. Rettet den Regenwald, Germany
59. Slow Food Deutschland, Germany
60. Stiftung Asienhaus, Germany
61. Umweltinstitut München e.V., Germany
62. Urgewald, Germany
63. Watch Indonesia! Für Menschenrechte, Demokratie und Umwelt in Indonesien und Osttimor e.V., Germany
64. WEED - World Economy, Ecology, & Development, Germany
65. Aceh Wetland Foundation, Indonesia
66. AEER (Aksi Ekologi & Emansipasi Rakyat), Indonesia
67. BAKUMSU, Indonesia
68. Bina Desa, Indonesia
69. Borneo Institute, Indonesia
70. CEMWU KSPSI, Indonesia
71. Farkes Reformaasi, Indonesia
72. FIAN Indonesia, Indonesia
73. Forum penjaga hutan dan sungai harimau pining, Indonesia
74. FSPI (Federasi Serikat Pekerja Indonesia), Indonesia
75. Indonesia AIDS Coalition, Indonesia
76. Indonesia for Global Justice (IGJ), Indonesia
77. Indonesia Green Party (Partai Hijau Indonesia), Indonesia
78. JAMTANI (Indonesian Peasant Community Organization), Indonesia
79. Jaringan Advokasi Tambang Sulawesi Tengah ( JATAM SULTENG, Indonesia
80. Jaringan Kerja Lembaga Pelayanan Kristen di Indonesia (JKLPK), Indonesia

81. Koalisi perempuan jaga lingkungan, Indonesia
82. Kolektif Semai, Indonesia
83. Lembaga Pengkajian Hukum Internasional, Indonesia
84. MATEPE Foundation, Indonesia
85. Pemerhati Lingkungan hidup Urai Uni, Indonesia
86. Pengurus Wilayah Aliansi Masyarakat Adat Nusantara (AMAN) Tano Batak, Indonesia
87. Persatuan Pegawai PT PLN Indonesia Power, Indonesia
88. Persaudaraan Pekerja Muslim Indonesia '98, Indonesia
89. Petrasa Foundation, Indonesia
90. Puanifesto, Indonesia
91. Publish What You Pay (PWYP) Indonesia, Indonesia
92. Sahita Institute, Indonesia
93. Satya Bumi, Indonesia
94. Save Our Borneo, Indonesia
95. SERBUK Indonesia, Indonesia
96. Serikat Petani Indonesia, Indonesia
97. Solidaritas Perempuan, Indonesia
98. Wahana Lingkungan Hidup Indonesia (WALHI), Indonesia
99. WALHI Bengkulu, Indonesia
100. WALHI NTT, Indonesia
101. WALHI Papua, Indonesia
102. WALHI Sumatera Utara, Indonesia
103. Yayasan Ambeua Helewo Ruru, Indonesia
104. Yayasan Apel Green Aceh, Indonesia
105. Yayasan Bina Insani Indonesia Kendari / Foundation For Human Development, Indonesia
106. Yayasan Motivator Pembangunan Masyarakat (MPM), Indonesia
107. Yayasan Pusaka Bentala Rakyat, Indonesia
108. YIHUI (Yayasan Insan Hutan Indonesia), Indonesia
109. Observatorio Fairwatch, Italy
110. Mouvement Ecologique asbl / FoE Luxembourg, Luxembourg
111. Both ENDS, Netherlands
112. FNV, Netherlands
113. Handel Anders! coalitie, Netherlands
114. Platform Aarde Boer Consument, Netherlands
115. SOMO, Netherlands
116. Working group Food Justice, Netherlands
117. Trade Justice Pilipinas, Philippines
118. TROCA - Plataforma por um Comércio Internacional Justo, Portugal
119. Earth Thrive, Serbia
120. Observatori del Deute en la Globalització, Spain
121. Ongd AFRICANDO, Spain
122. SETEM Catalunya, Spain
123. Southern and Eastern Africa Trade Information and Negotiation Institute (SEATINI), Uganda