

Indonesia for Global Justice (IGJ) Analysis Paper

# IEU CEPA WHO CONTROLS INDONESIA'S CRITICAL MINERALS?

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# INTRODUCTION

On 23 September 2025, Indonesia and the European Union officially signed the Comprehensive Economic Partnership Agreement (IEU-CEPA). Narratives regarding potential GDP increases and rising exports following the implementation of IEU-CEPA have been circulated widely in the media. The projected rise in exports is largely attributed to several key commodities expected to dominate the European market, including palm oil, plantation products, and timber-based goods.

There is an assumption and analysis that suggests<sup>1</sup> how the trade structures of Indonesia and the European Union are complementary. Indonesia's Trade Complementarity Index (TCI) for exports to the EU imports is approximately 0.6 out of a maximum of 1, which indicates that many of Indonesia's major export products match the EU's import needs (74% of Indonesia's 500 main export products are also key EU imports). This also suggests that their Export Similarity Index is low (around 0.3/1), showcasing how Indonesia tends to export primary-sector commodities (which include natural resources and raw materials) to the EU, while the EU exports secondary-sector products (high-technology manufactured goods) to Indonesia. The European Union excels in services and capital goods, whereas Indonesia has a comparative advantage in agriculture as well as minerals.

**IEU-CEPA not only regulates trade in goods and services, but also contains several interrelated provisions that can influence Indonesia's domestic policies, particularly in the management of strategic sectors such as critical minerals.** As a major producer of nickel, bauxite, copper, and tin, Indonesia occupies a central position in the global mineral supply chain, especially in the context of the global clean energy transition. According to USGS data (2023)<sup>2</sup>, Indonesia is the world's largest nickel producer, accounting for more than 50% of the global nickel supply used in electric vehicle batteries.

<sup>1</sup> **Centre for Strategic and International Studies (CSIS)**, *Memetik Keuntungan dari Perjanjian Transformatif: Studi mengenai Indonesia-EU CEPA*, Jakarta: CSIS, 2023, <https://www.csis.or.id/publication/memetik-keuntungan-dari-perjanjian-transformatif-studi-mengenai-indonesia-eu-cepa/>

<sup>2</sup> **Katadata**, *Indonesia, Negara Penghasil Nikel Terbesar di Dunia pada 2023 Menurut Badan Survei Geologi Amerika Serikat*, 2023, <https://databoks.katadata.co.id/pertambangan/statistik/78c11619e2e0aa2/indonesia-negara-penghasil-nikel-terbesar-di-dunia-pada-2023>

For this reason, the Indonesian government saw an opportunity and implemented a downstreaming policy in 2020 by banning the export of raw ores, intending to boost domestic value-added industries and strengthen energy self-sufficiency. This policy requires investors to build smelters and processing facilities within the country before exporting their products in order to increase their value. The Indonesian government has now developed regulations concerning export bans on 47 types of minerals classified as critical minerals.<sup>3</sup>

Several years of implementing these policies show a rise in critical mineral export value. Nickel stands out, with export value increasing from US\$3 billion to US\$30 billion following the raw ore export ban. In 2024, Indonesia was expected to produce 61% of the world's refined nickel, rising to 74% by the year 2028.<sup>4</sup> The economic benefits of nickel downstreaming have been accelerated by global EV battery demand in addition to major Chinese investments (e.g., Tsingshan) in industrial zones such as Morowali. Contrasting to this, copper downstreaming is still in early development, despite the fact that US\$40 billion is in commitments for 21 priority projects, which include major smelters owned by Freeport and Amman Mineral. Tin downstreaming lags far behind, with over 95% of tin exports still in ingot form and minimal foreign investment. Despite economic gains, governance challenges remain serious and will be further discussed.

## GOVERNANCE CHALLENGES IN INDONESIA'S CRITICAL MINERAL SECTOR

It is important to analyze the current governance challenges in Indonesia's critical mineral sector before examining how trade and investment agreements may weaken existing national policy strategies. Both issues are deeply interrelated. **Without alignment between policymaking and international economic diplomacy, Indonesia will struggle to build long-term, national-interest-driven mineral governance.**

Currently, mineral-rich countries (not only Indonesia), particularly developing countries, are exploring value-added management or downstreaming strategies to capture greater benefits from their resources. Nevertheless, a study by CEPR (2023) highlights that Indonesia's downstreaming policy entails both economic and political dilemmas.<sup>5</sup> The study explains that while the policy promises local industrial development and job creation, it also faces significant environmental and social-governance challenges that remain insufficiently addressed.

**3** Kementerian Energi dan Sumber Daya Mineral Republik Indonesia, Keputusan Menteri ESDM No. 296 Tahun 2023 tentang Penetapan Mineral yang Tergolong dalam Klasifikasi Mineral Kritis, Jakarta, 2023.

**4** Financial Times, Indonesia ore ban to hit metals markets, 8 January 2014, <https://www.ft.com/content/907305de-7883-11e3-831c-00144feabdc0>

**5** Bosker, M., E. van den Herik, P. Pelzl, and S. Poelhekke, The (Un)intended Consequences of Export Restrictions: Evidence from Indonesia, CEPR Discussion Paper No. 20791, Paris & London: CEPR Press, 2025, <https://cepr.org/publications/dp20791>

Furthermore, a study by CELIOS titled Economic and Health Impact of Nickel Processing Industry (2024)<sup>6</sup> supports these findings. It concludes that the economic benefits of the nickel industry are temporary. The belief that nickel industries improve local welfare through job creation and wage increases is largely invalid. Job absorption increases only during the third year of factory construction, then declines by year 15 as the industry's negative impacts reduce employment in other sectors, especially sectors such as agriculture and fisheries.

The surge in mining exports has not translated into broad-based economic improvement.<sup>7</sup> The economic gains from the nickel industry have not been fully enjoyed by the regions that produce nickel, as most of the benefits remain concentrated at the national level.<sup>8</sup> Widespread social conflicts and human rights violations have occurred, particularly in nickel-producing areas such as Halmahera and Wawonii, with reports of land grabbing, forced evictions, and intimidation. Copper mining by Freeport has resulted in long-standing violations of Indigenous peoples' rights. Meanwhile, tin mining in Bangka Belitung has damaged more than 240,000 hectares of mangrove forests and 5,000 hectares of coral reefs.<sup>9</sup> In addition, illegal mining remains a serious governance challenge, especially in the tin sector. As of April 2025, there were approximately 1,000 illegal mining sites in Bangka and Belitung,<sup>10</sup> with weak law enforcement.

Environmental degradation—deforestation, water contamination, biodiversity loss—occurs not only in the three main critical minerals (nickel, copper, tin). Local livelihoods decline due to soil and water degradation, rising living costs, and exclusion from the industrialization benefits. Although downstreaming may appear economically promising, it also risks deepening inequality, damaging ecosystems, and worsening governance challenges without strong safeguards, inclusive planning, and adequate environmental protections.

**Within the context of trade and investment agreements, critical minerals are in a global race to attract investment.** Yet fiscal incentives such as tax holidays, import duty exemptions, and bilateral investment treaties (BITs) do not guarantee an increase in investment. According to the World Bank (2022),<sup>11</sup> the biggest barriers to attracting quality investment in Indonesia's strategic minerals are regulatory uncertainty, weak intersectoral coordination, low bureaucratic capacity, and poor legal certainty—matters that erode investor confidence.

6 **CELIOS**, Studi baru menunjukkan dampak ekonomi dan kesehatan dari pengolahan nikel di Indonesia, Jakarta: CELIOS, 2024  
[https://energyandcleanair.org/wp/wp-content/uploads/2024/02/Press-release\\_CREA\\_Celios\\_Nickel-downstreaming\\_02-2024\\_ID.pdf](https://energyandcleanair.org/wp/wp-content/uploads/2024/02/Press-release_CREA_Celios_Nickel-downstreaming_02-2024_ID.pdf)

7 **Financial Times**, Indonesia ore ban to hit metals markets, 8 January 2014.

8 *Ibid.*

9 **Walhi Bangka Belitung**, Hafiz (Wawancara dan Presentasi, 2025). Sumber data mendukung; Mongabay Indonesia, *Menguak Timah Ilegal dari Bangka Belitung ke Pasar Global*, 18 November 2025, <https://mongabay.co.id/2025/11/18/menguak-timah-ilegal-dari-bangka-belitung-ke-pasar-global/>

10 **CNBC Indonesia**, Prabowo Sebut Ada 1.000 Tambang Timah Ilegal di Bangka Belitung, 29 September 2025, <https://www.cnbcindonesia.com/news/20250929102429-4-671015/prabowo-sebut-ada-1000-tambang-timah-ilegal-di-bangka-belitung>

11 **World Bank**, *Investment Policy and Regulatory Review*, Washington, DC: World Bank, 2022, <https://documents1.worldbank.org/curated/en/099010009062240252/pdf/P173938086d09008a0bb280eb2777f84016.pdf>



# ANALYSIS OF IEU-CEPA CLAUSES RELATED TO CRITICAL MINERALS

The clauses in the IEU-CEPA are basically interrelated. When analyzing the critical mineral sector, the Energy and Raw Materials Chapter is the most directly relevant, although several other chapters indirectly regulate Indonesia's critical mineral sector as well.

It must be noted that once the IEU-CEPA enters into force, the agreement will apply indefinitely after ratification. The agreement does not contain any automatic expiry period, meaning that the IEU-CEPA will remain legally binding without limitation until one of the parties formally terminates it. So, once IEU-CEPA is in effect, its commitments will bind Indonesia and the European Union indefinitely, unless a termination procedure is taken.

## A. National Treatment and Market Access for Goods (Chapter 2)

This chapter directly restricts Indonesia's policy space over raw materials, primarily due to the prohibition on most export restrictions. This affects policies related to minerals and raw materials, such as the ban on unprocessed nickel ore exports. This is reinforced in Article 2.8,<sup>12</sup> which states that "No Party shall adopt or maintain any prohibition or restriction on the importation of any good of the other Party or on the exportation or sale for export of any good destined for the territory of the other Party..."

In general, the provisions also regulate the principle of equal treatment for all business actors (both domestic and from the European Union). The regulation of import and export monopolies is outlined in Article 2.9, which states that no party may establish or maintain an import or export monopoly, unless it is delegated for public policy purposes—such as food security—for any traded goods. The footnote in this article further clarifies that "for the purposes of this Article, the exception for public policy objectives does not apply to raw materials and energy goods, except electricity, as defined in Chapter 14 (Energy and Raw Materials)." The liberalization principles are clearly emphasized in this Chapter, which is closely linked to Chapter 14 concerning the trade of raw materials and minerals.

<sup>12</sup> European Commission. EU-Indonesia: Text of the Agreements, European Union, [https://commission.europa.eu/index\\_en](https://commission.europa.eu/index_en)

## B. Trade in Services and Investment (Chapter 8)

The Investment Chapter applies to all sectors (including the critical minerals sector); however, its provisions predominantly regulate investor protections. In particular, Article 8.11<sup>13</sup> of the Investment Chapter in IEU–CEPA addresses what are known as “performance requirements,” under which Indonesia and the European Union agree not to require investors (for example, EU investors) to engage in technology transfer, use local content, partner with local entities, or invest in Research and Development (R&D) in Indonesia. These provisions are legally binding. Therefore, if the Indonesian government seeks to impose obligations on investors to conduct technology transfer or carry out the other measures mentioned above, Indonesia may be considered in violation of the agreement.

Aligning with Indonesia’s Job Creation Law, this chapter also relaxes the requirements for the entry of needed foreign workers (*Tenaga Kerja Asing*). As a result, Indonesia’s opportunities to strengthen local supply chains and downstream industrial capacity are reduced, key instruments for securing technology transfer are removed, and foreign investor dominance may expand without obligations to contribute to domestic industrial development.

## C. Competition (Chapter 13 with Annex)

This chapter regulates competition law discipline, subsidy rules, as well as the removal of special treatment for State-Owned Enterprises (SOEs). All entities—SOEs or private firms—must comply with the same competition rules and non-discriminatory enforcement. This translates to Indonesia must ensure that anti-monopoly and fair competition laws apply equally to SOEs and private companies.

In Annex Article 13-C,<sup>14</sup> there is a list of Indonesian state-owned enterprises included in the provisions, stating that “operations shall be conducted without discrimination against EU companies trading with Indonesia or EU companies investing in Indonesia.” This clause regulates the removal of special treatment for strategic industries, whereby all companies (including state-owned enterprises) are subject to open-competition principles.

In the case of subsidies, Article 13.7 explains that “The Parties agree that subsidies can be granted by a Party when they are necessary to achieve a public policy objective. The Parties recognise, however, that in certain circumstances certain subsidies may have the potential to distort the proper functioning of markets...”. Although both parties agree that subsidies may only be granted when necessary to achieve a legitimate public policy objective, certain types of subsidies may still have the potential to disrupt market functioning and undermine the benefits of trade liberalization.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid.



This includes both fiscal subsidies (such as financial assistance and export/import tax reductions) and non-fiscal subsidies (such as the granting of special rights or preferential pricing set by the government). In general, fiscal and non-fiscal subsidies that are deemed to “potentially distort competition” will also be subject to strict oversight under the provisions of this Chapter. For Indonesia’s critical minerals sector, for example, subsidies for cheap electricity or gas for nickel smelters, tax incentives for mineral downstreaming investments, or price compensation for rare earth metal producers must all be assessed against CEPA’s criteria.

Chapter 13 of IEU–CEPA contains specific disciplines for trade in energy and raw materials, including a prohibition on dual pricing practices—that is, policies that set export prices higher than domestic prices for certain raw materials. The agreement restricts government intervention in regulating domestic mineral prices, except for permitted reasons. CEPA states that it will limit unjustified government intervention in the pricing of raw materials and establish mechanisms for transparency and information exchange in such cases. This means that policies such as the Mineral Benchmark Price (HPM) or the Coal Reference Price (HBA), if set significantly below market levels for the sole purpose of protecting domestic downstream industries, would fall under strict limitations.

Article 13.10 also establishes a comprehensive transparency principle. As a result, the Indonesian government must be prepared to provide economic justifications and transparent data to the EU. In practice, the EU may even request data or specific information if Indonesia sets the domestic price of a mineral below market value for an extended period. Through this mechanism, any dual-pricing policy (one price for the domestic market and another for exports) becomes difficult to maintain unilaterally.

The agreement also provides a bilateral consultation mechanism. If either party is concerned that a particular subsidy may negatively affect trade, it may request consultations to discuss its potential impact. For example, the EU may seek approval or raise objections through consultations if Indonesia provides substantial subsidies to its nickel-processing industry that are deemed harmful to EU producers. Although this mechanism allows both sides to resolve issues related to distortive subsidies through dialogue before escalating to formal dispute settlement under CEPA, the Indonesian government is, in general, placed under significant pressure, as its policy space to intervene in support of national priority industries, especially in the critical minerals sector, becomes more restricted.



## D. Energy and Raw Materials (Chapter 14)

Textually, CEPA recognizes Indonesia's sovereignty over natural resources and the state's right to regulate domestic policy, but this right must be exercised in line with treaty commitments. This is stated in Article 14.1 of the Energy and Raw Materials Chapter, which "recognizes that raw materials and minerals are under each country's sovereign right to regulate," but limits this through the principles of "transparency and non-discrimination."<sup>15</sup>

Article 14.1 also states that "the Parties preserve their right to adopt, maintain, and enforce measures necessary to pursue legitimate public policy objectives." **This means Indonesia's mining downstreaming policy is recognized only if it can be justified as a legitimate public policy objective and fits within the treaty's exceptions.** The exceptions include securing the supply of energy and raw materials, protecting society, the environment, public health, and consumers, and ensuring public safety. However, the reference to "public policy objectives" remains vague, as the agreement does not clearly define what these objectives entail.

These principles are highly ambiguous and place Indonesia in a difficult position, as it must prove that all policies meet these criteria or risk challenges. While Indonesia's raw materials strategy is linked to national energy security, which often requires confidentiality, CEPA's transparency and non-discrimination requirements may allow the EU to challenge domestic mineral and energy policies in the name of liberalization.

Moreover, the environmental impact provisions recognize each party's own legal standards, and the agreement does not impose binding legal consequences. Environmental impacts are considered valid as long as activities comply with national laws. Article 14.8 states that "each Party shall ensure that—according to its laws—an environmental impact assessment is required before approving a project."

Supporting the analysis in the Investment Chapter regarding the absence of binding obligations for technology transfer, Article 14.13<sup>16</sup> provides rules on capacity-building cooperation in the minerals sector. However, these provisions only "facilitate" activities such as research, development, innovation, and the dissemination of environmentally friendly technologies, rather than imposing clear or enforceable requirements for companies to conduct technology transfer.

<sup>15</sup> European Commission. EU-Indonesia: Text of the agreements, diakses melalui [https://commission.europa.eu/index\\_en](https://commission.europa.eu/index_en)

<sup>16</sup> Ibid



## **E. Trade and Sustainable Development (Chapter 15)**

This chapter outlines the commitments of both parties to implement sustainable trade. It should be understood that the principles written in these provisions are non-binding for both sides (right to regulate).<sup>17</sup> This also means that the agreement does not impose binding obligations on the Indonesian government to implement green governance in the critical minerals sector.

Meanwhile, it is important to revisit the liberalization goals in the chapter on “trade in goods,” where Indonesia is essentially encouraged to export raw materials. This reflects a double standard, as the European Union itself promotes the liberalization of raw material and mineral markets while prohibiting resource protection measures.

In practice, sustainability clauses may be used to assess or restrict Indonesian exports on environmental grounds. This may frame Indonesia's domestic policies as trade barriers, reducing policy sovereignty. In the context of critical minerals, the EU demands environmental safeguards under green economy rules, yet Chapter 14 limits the very policy tools Indonesia needs to pursue a just and sustainable downstreaming strategy—revealing contradictions between chapters.


Additionally, regardless of IEU–CEPA, the EU will continue implementing the Carbon Border Adjustment Mechanism (CBAM), which may hinder exports of Indonesia's downstream mineral products. For instance, Indonesia is currently developing its ferronickel production alongside the domestic steel industry. In the end, Indonesia now faces new export barriers (through the CBAM rules), where Indonesian industries must pay a certain cost for the carbon emissions produced, which can increase overall industrial expenses.

## **F. Dispute Settlement (Chapter 22)**

In general, the provisions adopt a WTO-like framework that uses a state-to-state mechanism. This chapter also outlines an independent and transparent dispute settlement procedure between governments. In the context of mineral interests, this chapter provides a legal pathway. For example, if Indonesia's downstreaming policy or export bans are considered to violate CEPA commitments, the EU may bring the case to a dispute settlement panel.

CEPA currently does not include an investor–state dispute settlement (ISDS) mechanism in this chapter. However, the separate Investment Protection Agreement states that after the agreement enters into force, both parties will negotiate an investor claim system (the Investment Court System) within three years.

<sup>17</sup> *Ibid.*



This can be seen in the annex of the Investment Protection Agreement, which states: "After the entry into force of the agreement, the EU and Indonesia will continue negotiations to add a modern, state-of-the-art system for settling investment disputes between investors and the State, to conclude these talks within three years. These efforts will also reflect ongoing international reforms in this area. This agreement ensures legal certainty, strengthens investor confidence, and underlines the shared commitment of the EU and Indonesia to modern standards of investment protection."<sup>18</sup> If such a system is established, foreign mining companies could directly challenge Indonesian government policies (such as changes to mining laws or contract cancellations) in an international forum. Indonesia has already lost the WTO nickel dispute over its export ban (WTO Dispute DS592, ruled against Indonesia in late 2022). With CEPA, these WTO obligations are now confirmed and strengthened bilaterally, making it even harder for Indonesia to impose export bans or set raw material prices without violating CEPA.

## G. Institutional Framework (Chapter 24)

Chapter 24 regulates the institutional provisions that will guide the implementation of this agreement. This is important because these mechanisms determine how the agreement will operate in practice. At the core of this structure is the Trade Committee, consisting of representatives from Indonesia and the European Union. According to Article 24.1, the Trade Committee is established as the main forum between the two parties and will meet annually at a location agreed upon (either in Indonesia or in the EU). The Committee is co-chaired by a minister-level official from Indonesia and the European Commissioner for Trade, or their designated representatives.

The Committee has broad authority to oversee the implementation of the agreement, make technical adjustments, and even amend certain provisions through joint decisions. Its role also includes interpreting the text, establishing or dissolving implementing bodies, and guiding trade and investment relations. It is important to note that any decision taken by the Trade Committee under these powers is binding on both parties. Article 24.3 states that such decisions are binding and will take effect once each party has formally notified that its internal legal procedures for approving the decision have been completed.

<sup>18</sup> Key elements, <https://policy.trade.ec.europa.eu/eu>

The role of Civil Society Organizations is also outlined in this chapter. The establishment of a Domestic Advisory Group (DAG) will serve as an advisory body to the Trade Committee and will participate in the Civil Society Forum — a joint forum where representatives of Indonesia's DAG, the EU's DAG, and other civil society actors can engage in dialogue with the Trade Committee. This Civil Society Forum is held alongside the meetings of the Trade Committee (unless otherwise agreed) and serves as a platform for exchanging views.

However, it is important to underline that civil society's role through the DAG is non-deliberative: they do not participate in voting or formal consensus within the Trade Committee or any specialized committees. DAG advice must be “considered,” but the government is not obligated to follow it. Article 24.7 even states that “each Party may decide on the follow-up to the advice or recommendations by its domestic advisory group,”<sup>19</sup> meaning each side is free to determine whether or not to act on the recommendations. In other words, DAG feedback may be disregarded if it does not align with government priorities. Additionally, the Civil Society Forum functions only as a space for exchange, with no decision-making authority. In this forum, the Trade Committee “engages in dialogue” with civil society, but final decisions are made privately by government representatives in the Committee. There is no veto power or binding influence for non-government actors.

These limitations mean that civil society cannot directly steer the course of the IEU–CEPA; they can only influence it indirectly through the arguments and evidence they present. For example, civil society organizations may highlight issues such as the sustainability of the mineral industry or the social impacts of downstreaming, but the final outcome depends on whether the government is willing to integrate these inputs into its official position in the Committee.

The significant authority held by the Trade Committee in directing the implementation of the agreement can become a double-edged sword for Indonesia. On the one hand, the Committee provides flexibility to adjust the implementation of the IEU–CEPA in response to evolving conditions. On the other hand, if Indonesia's internal coordination is weak, decisions made by the Committee may instead create gaps in coordination and disrupt the coherence of national policy.

A national coordination mechanism that involves all domestic stakeholders is required before and after each Committee meeting so that Indonesia can present a unified position. If the Ministry of Trade (as the lead FTA negotiator) is not in sync with technical ministries such as the Ministry of Energy and Mineral Resources (ESDM), the Ministry of Industry, or Bappenas, Indonesia's position in the Trade Committee may become fragmented.

<sup>19</sup> European Commission. *EU-Indonesia: Text of the agreements*, [https://commission.europa.eu/index\\_en](https://commission.europa.eu/index_en)



# CONCLUSION

**From the analysis above, it is clear that the provisions in the IEU-CEPA carry significant potential negative consequences, especially regarding the shrinking of Indonesia's policy space as well as the weakening of strategies in order to strengthen governance within the critical mineral sector.**

Chapter 8 (Investment) removes any obligation for investors to conduct technology transfers or ensure that foreign investment benefits local industries. Chapter 13 (Competition) constrains Indonesia's ability to support strategic industries through subsidies or special treatment, and may even threaten the continuity of downstreaming programs. Chapter 14 (Energy and Raw Materials) promotes liberalization of mineral raw materials. Chapter 15 (Sustainable Development), despite its positive spirit, contains provisions that could open the door to trade sanctions based on stringent EU environmental standards. Chapter 22 (Dispute Settlement) demonstrates the risk that Indonesia may face legal challenges if it implements protective policies, thereby eroding national regulatory sovereignty. Overall, these conditions illustrate Indonesia's very weak bargaining position in trade and investment within the critical mineral sector.

Moreover, the agreement's "green principles," particularly those related to environmental and social impact assessments in the mineral industry, emphasize the right to regulate, yet still rely heavily on domestic legal practice (Indonesia's investment and natural resource laws). As a result, the provisions in the agreement do not automatically lead to improvements in Indonesia's mineral governance.

In addition, this agreement cannot be viewed solely as a source of investment opportunities in the critical mineral sector; it also restricts other policy avenues needed by the Indonesian government to comprehensively manage long-term resource governance for public welfare. Although these constraints arise partly from Indonesia's weak bargaining power,<sup>20</sup> the Indonesian government must still integrate strategies for strengthening governance and domestic policy frameworks.

<sup>20</sup> Countries rich in mineral resources (not only Indonesia) continue to hold a weak bargaining position, operating mainly within a competitive race to attract investment. These resource-rich countries compete to offer various incentives and regulatory flexibility in their trade and investment agreements. For example, Indonesia's Job Creation Law prioritizes regulatory flexibility and protections for foreign investors, yet lacks a clear long-term industrial strategy. For further explanation, see: <https://unctad.org/publication/world-investment-report-2025>



For instance, although IEU–CEPA provisions such as the ban on performance requirements for investors, restrictions on subsidies, and the removal of special treatment for strategic industries (particularly critical minerals) have been accepted as bargaining tools to attract investment, the agreement still cannot guarantee increased investment if domestic issues like legal uncertainty, corruption, and regulatory inconsistencies persist. Thus, trade and investment commitments cannot be separated from domestic regulatory reforms.

Consequently, this trade and investment agreement cannot yet be considered a reliable driver—and may even become an obstacle—for Indonesia in improving governance in its critical mineral industry. Furthermore, the agreement's provisions are imbalanced: although critical minerals are Indonesia's national resources, many clauses restrict Indonesia's ability to regulate them.

There are serious governance challenges in Indonesia's critical mineral sector across social, economic, and ecological dimensions. The Indonesian government must conduct a careful and comprehensive assessment, as the long-term impacts of trade and investment agreements such as the IEU–CEPA have the potential to weaken the competitiveness of domestic industries and reinforce structural inequalities within the national economy. **It appears necessary to restructure Indonesia's downstream strategy more equitably so that it aligns with the country's economic diplomacy and does not contradict Indonesia's long-term national interests.**

**However, this synergy can only function effectively if supported by coherent internal policies, including downstream industrialization planning for various critical minerals and a clear strategy to ensure sustainability and national resource sovereignty, without neglecting the social and ecological dimensions.**

If domestic policies are not integrated with a sound economic diplomacy strategy, Indonesia risks being trapped in a weak position within global industrial value chains for an extended period. This would lead not only to comprehensive economic, social, and ecological losses but also to a long-term erosion of national resource sovereignty.

Therefore, even though the IEU–CEPA trade agreement has been concluded, this analysis paper underscores the importance of critically re-examining the provisions contained within the agreement. Based on the text of the agreement, it appears that Indonesia's mineral resources are effectively legitimized to be controlled by the European Union through the IEU–CEPA, while the EU remains reluctant to engage in technology transfer for critical mineral industries. This situation will not only cause economic losses but also pose a significant threat to Indonesia's sovereignty over its energy and mineral resources.

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