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INDONESIA'S ACCESSION TO THE OECD

A RECOMMENDATION TO IMPROVE INDONESIAN REGULATORY AND INSTITUTIONAL FRAMEWORK IN THE ENERGY AND ENVIRONMENTAL SECTOR

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INDONESIA'S ACCESSION TO THE OECD: A RECOMMENDATION TO IMPROVE INDONESIAN REGULATORY AND INSTITUTIONAL FRAMEWORK IN THE ENERGY AND ENVIRONMENTAL SECTOR

A Collaborative Research Report by the Indonesian Center for Environmental Law (ICEL) and the Center for Economic and Law Studies (CELIOS)

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EXECUTIVE SUMMARY

Indonesia's bid to join the Organisation for Economic Co-operation and Development (OECD) marks a critical juncture for advancing its regulatory frameworks—particularly in the areas of environmental governance and energy transition. This policy paper, jointly produced by the Indonesian Center for Environmental Law (ICEL) and the Center for Economic and Law Studies (CELIOS), presents a comprehensive Regulatory Gap Analysis (RGA) that evaluates the alignment between Indonesia's current legal architecture and relevant OECD instruments. The analysis identifies structural and normative misalignments and proposes reform strategies to ensure Indonesia's readiness for OECD membership.

OECD membership requires adherence not only to binding legal instruments but also to non-binding "soft law" instruments, such as recommendations and declarations. These instruments collectively shape best practices in sustainable development, anti-corruption, agrarian conflicts, and responsible business conduct. Among the OECD's critical legal instruments reviewed are: (1) the Recommendation on Coal and the Environment; (2) the Recommendation of the Council on the Reduction of Environmental Impacts from Energy Use in the Household and Commercial Sectors; (3) the Recommendation of the Council on Environmentally Favourable Energy Options and their Implementation; (4) the Recommendation of the Council concerning the Reduction of Environmental Impacts from Energy Production and Use; (5) the Declaration on a new approach to align development cooperation with the goals of the Paris Agreement on Climate Change; (6) the Recommendation of the Council on Environmental Compliance Assurance; (7) the Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy; (8) the Declaration on Transformative Solutions for Sustainable Agriculture and Food Systems; (9) the Recommendation of the Council on Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises; and (10) the Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption.

The analysis reveals substantial regulatory and institutional shortcomings. For example, despite the presence of environmental legislation, Indonesia's coal pricing mechanisms fail to fully internalize environmental externalities, thereby contravening the Polluter Pays Principle. Although Environmental Impact Assessments (EIA) are formally required, their implementation often lacks rigor and fails to adequately consider long-term ecological and social consequences—particularly in mining regions where environmental carrying capacities have already been exceeded.

Public participation, a cornerstone of OECD environmental standards, remains notably weak in Indonesia. This is especially evident in the implementation of National Strategic Projects (*Proyek Strategis Nasional*), where decision-making is predominantly top-down and public consultations are either perfunctory or selectively conducted. Indigenous Peoples and marginalized communities are frequently excluded from these processes, underscoring the urgent need to institutionalize Free, Prior, and Informed Consent (FPIC) mechanisms within Indonesia's environmental and energy governance frameworks.

From an institutional perspective, a key shortcoming is the absence of a dedicated energy transition committee within Indonesia's national OECD accession team. The persistent fragmentation between environmental and energy agencies, coupled with the reliance on ad hoc task forces—such as those established for the Just Energy Transition Partnership (JETP)—reflects the broader institutional challenge of weak cross-agency coordination. This fragmentation highlights the need for a more structured and sustainable governance framework that integrates energy transition policy across sectors.

Furthermore, while *Danantara* provides substantial financial capacity for energy transition initiatives, its governance structure is misaligned with the OECD's Anti-Corruption and Integrity (ACI) Guidelines. The dual roles held by ministers within *Danantara* pose conflicts of interest, undermine transparency, and diminish the role of public accountability mechanisms.

From a financing standpoint, Indonesia's Official Development Assistance (ODA) instruments must be more explicitly aligned with the goals of the Paris Agreement. Although the LDKPI (*Lembaga Dana Kerjasama Pembangunan Internasional*) under the Ministry of Finance oversees ODA distribution, current regulations lack clarity and clear guidance on climate adaptation or mitigation priorities, risking misalignment with global climate objectives.

To address the multifaceted challenges identified in this analysis, the paper proposes a comprehensive and integrated reform strategy:

Regulatory Reform

Indonesia must strengthen its Environmental Impact Assessment (EIA) framework by institutionalizing inclusive processes, issuing clearer technical guidelines, and updating environmental standards in line with global best practices and the best available technologies. The Free, Prior, and Informed Consent (FPIC) process should be granted full legal recognition, ensuring meaningful participation by local communities in decision-making. Public involvement in energy projects must be enhanced through regulatory revisions that guarantee broad, effective participation and the creation of inclusive, accessible, and transparent grievance mechanisms. Additionally, decentralizing energy governance will be critical to fostering regional engagement and responsiveness.

Internalizing Environmental and Social Costs

Environmental and social costs must be internalized in the selection of energy technologies, with an emphasis on cost-effectiveness and long-term sustainability. Environmental standards should be regularly updated based on the best available science, and EIAs must thoroughly assess cumulative and long-term impacts, particularly those associated with coal-related activities.

Transparency and Access to Information

Indonesia should mandate full public disclosure of energy pricing structures, emissions data, and Power Purchase Agreements (PPAs). Environmental data—particularly real-time ambient air quality information near coal power plants—must be made readily accessible to ensure transparency, facilitate oversight, and empower public engagement.

Governance and Institutional Strengthening

A dedicated, cross-sectoral coordinating body must be established to manage the energy transition as a strategic national priority, rather than a siloed environmental issue. This requires revising the legal foundation of the existing energy transition task force to provide it with a strong and sustainable authoritative mandate. Key measures include developing integrated cross-sectoral data systems, reforming performance-based permitting frameworks, and instituting an early warning system grounded in environmental risk analysis. Harmonization of central and local regulations—as well as the formation of national and regional committees to oversee a just transition for affected communities—should also be prioritized.

Enhancing Climate Finance Frameworks

Indonesia's Official Development Assistance (ODA) instruments must be clearly aligned with its climate goals through explicit provisions guiding the allocation of grants and technical assistance. These mechanisms should directly support decarbonization and energy transition efforts. The government must also raise its ambition in its second Nationally Determined Contribution (NDC) and ensure that ODA implementation complies with the Paris Rulebook—particularly its provisions on means of implementation—to bridge the current implementation gap identified in the UNFCCC synthesis report.

Oversight of Green Investment Instruments

The legal and governance frameworks governing *Danantara* must be revised to meet OECD standards on anti-corruption, integrity, and transparency. This includes mandatory asset disclosures, robust accountability frameworks, and regular independent audits. As emphasized by the OECD, sovereign wealth funds must operate transparently and be insulated from political interference. Thus, caution must be exercised when deploying state assets for strategic investment projects. The development of *Danantara*'s Energy Transition Roadmap should proceed under OECD supervision to ensure inclusive civil society engagement and alignment with international climate commitments.

Research and Demand-Side Management

Indonesia's Energy Law should be amended to institutionalize interdisciplinary research as a foundation for evidence-based policymaking. Furthermore, demand-side energy management must be actively promoted through fiscal incentives, public education, and behavioral change programs aimed at enhancing energy efficiency and reducing consumption.

Regulatory Gaps in Danantara and OECD Standards

Danantara's governance framework reveals significant gaps when assessed against OECD principles, particularly regarding anti-corruption, conflict of interest prevention, and institutional integrity. National regulations that permit dual office holding by state officials within Danantara's structure, along with exemptions from asset declaration obligations, pose potential conflicts of interest and weaken mechanisms of checks and balances. Furthermore, provisions granting legal immunity and excluding Danantara's financial losses from the definition of state finances create legal loopholes that undermine public accountability. Systemic risks also emerge due to the absence of clear protections for third-party funds managed by state-owned banks whose assets are handled by Danantara. Therefore, beyond ensuring governance that is professional, transparent, and free from political interference, there is an urgent need for a 2050 Energy Transition Investment Roadmap aligned with OECD standards and inclusive of affected communities in its planning process.

PLN Monopoly and OECD Competitive Neutrality

The monopolistic dominance of PLN in Indonesia's electricity sector contradicts the OECD principle of competitive neutrality, which emphasizes equal treatment between state-owned enterprises (SOEs) and private sector actors. Although parts of electricity generation have been opened to private entities, PLN continues to monopolize the transmission side, which in practice hinders the energy transition. National regulations, such as Article 11(b) of Law Number 6 of 2023 on Job Creation and Article 9 of Government Regulation Number 14 of 2012, further reinforce PLN's dominance. This creates a gap with OECD principles. The absence of mechanisms to assess the impact of regulations on competition, limited public participation, and lack of transparency have prolonged dependence on fossil energy, while also weakening efficiency and accountability in PLN's governance.

Indonesia's journey toward OECD membership must be driven by systemic reforms that bridge regulatory, institutional, and governance gaps. Only by aligning national laws with international standards can Indonesia ensure that its energy transition is not only environmentally sustainable but also socially inclusive and economically just. This policy paper lays the groundwork for such a transition, offering a blueprint for harmonizing Indonesia's legal framework with the principles of responsible development embodied in the OECD.

CELIOS's Documentation

I Introduction

Indonesia's accession to the OECD is an important momentum to elevate the standard of national governance across multiple sectors—most notably, the energy transition. To date, Indonesia's bid has been met with generally positive responses, particularly due to its potential to accelerate regulatory improvements in areas such as investment governance, tax transparency, and environmental safeguards.

However, this momentum must also be approached with critical scrutiny. It is essential to assess whether Indonesia's current legal and policy frameworks—ranging from the omnibus Job Creation Law (*Undang-Undang Cipta Kerja*) to more technical instruments such as Presidential Regulation No. 112/2022 on the phased retirement of coal power plants—are truly aligned with the binding and non-binding standards established by the OECD.

In addition, the establishment of *Danantara*, Indonesia's sovereign wealth fund (SWF) with an estimated US$ 900 billion in assets under management, raises critical questions regarding its adherence to OECD principles—particularly those related to transparency, accountability, and governance integrity. Similarly, the recent revision of the State-Owned Enterprises (SOE) Law, which was undertaken in a rushed manner and has sparked significant public debate, underscores concerns about procedural legitimacy and inclusive policymaking.

The practice of mineral downstreaming also presents serious contradictions with the OECD's sustainability standards. Widespread labor disputes and the environmental consequences of rapidly expanding captive coal power plants—particularly in terms of air pollution—highlight the disconnect between Indonesia's current policy practices and the OECD's commitments to environmental stewardship and responsible business conduct.

This paper aims to map the regulatory challenges associated with Indonesia's energy transition and to emphasize the importance of conducting a Regulatory Gap Analysis (RGA) to assess the country's regulatory preparedness for OECD accession. The findings from this approach are supported by recommendations from civil society organizations that advocate for the harmonization of national regulations with OECD standards. In this context, we urge the OECD to place greater emphasis on environmental governance, agrarian conflict resolution, and corruption risks as core issues that merit detailed examination within Indonesia's accession process.

II Methodology

This policy paper employs a qualitative research methodology, primarily based on the analysis of secondary sources. The objective is to identify and critically evaluate regulatory gaps within the OECD legal framework with Indonesian regulatory framework, particularly in the areas of energy transition and environmental governance. Based on this analysis, the paper seeks to formulate actionable policy recommendations.

Data for this analysis is derived from a comprehensive review of secondary materials, including:

Primary legal texts

Selected OECD legal instruments and Indonesia's national regulatory frameworks

Academic literature

Peer-reviewed journal articles, legal commentaries, and scholarly publications

Institutional reports

Publications from government agencies, intergovernmental organizations such as the United Nations (UN), the OECD, and the European Union (EU)

The analysis in this paper is anchored in a regulatory and institutional gap assessment framework, which consists of three key stages: (a) **Mapping the current regulatory landscape** by identifying existing legal instruments and delineating their respective scopes; b) **Gap detection**, which involves pinpointing regulatory voids, outdated provisions, conflicting norms, and shortcomings in implementation; and c) **Impact evaluation**, which assesses the legal, social, and economic implications of these regulatory deficiencies.

To conduct this analysis, the study examines a total of 25 domestic legal instruments, comprising 11 Laws, 6 Government Regulations, 3 Presidential Regulations, 3 Ministerial Regulations, and 2 Ministerial Decrees.

Given the study's reliance solely on secondary sources, it does not incorporate empirical data collection methods such as interviews or surveys. While this limits the inclusion of direct stakeholder perspectives, the use of authoritative legal texts, institutional reports, and peer-reviewed literature ensures the robustness and credibility of the findings.

III OECD Legal Framework on Energy and Environmental Sector

Legal instruments under the OECD are classified into five categories:[1]

Types of Legal Instrument	Definition	Example	Binding Force
Decisions	Clearly defined rights and obligations, and in certain instances, may incorporate mechanisms to monitor their implementation.	Decision of the Council revising the OECD Standard Codes for the Official Testing of Agricultural and Forestry Tractors, and Decision of the Council on the Guidelines for Multinational Enterprises on Responsible Business Conduct.	Legally binding on all Members, except those who abstain at the time of adoption. Adopted by the Council.
Recommend-ations	Express political commitment to uphold specified principles and imply an expectation that adherents will make reasonable efforts to implement them.	Recommendation of the Council on Eliminating Government Support to Illegal, Unreported, and Unregulated Fishing, and Recommendation of the Council on Environmental Compliance Assurance.	Not legally binding. Adopted by the Council.
Substantive Outcome Documents	Outline general principles or long-term objectives and typically possess a formal and solemn character.	Declaration on Protecting and Empowering Consumers in the Digital and Green Transitions, and Declaration on Enhancing SMEs and Entrepreneurship Policies for Greater Resilience and Successful Green and Digital Transitions.	Not legally binding. Adopted by individual adherents, usually as the result of ministerial or high-level meetings within the OECD framework.
International Agreements	Treaties or conventions negotiated and concluded within the OECD framework.	Conventions on Anti-Bribery and Mutual Administrative Assistance in Tax Matters.	Legally binding on parties. Adopted directly by adherents.
Arrangements, Understand-ings, and Others	Sector-specific instruments, often technical in nature, developed within the OECD framework over time.	Arrangement on Officially Supported Export Credits, the International Understanding on Maritime Transport Principles and the Development Assistance Committee (DAC) Recommendations.	May involve both binding and non-binding elements depending on the case

Table 1. **Types of OECD Legal Instruments**

1 OECD, "OECD Legal Instruments," https://legalinstruments.oecd.org/en/about, accessed on 10 May 2025.

This analysis focuses on eight selected OECD legal instruments, each of which holds significance in shaping regulatory and policy frameworks across energy, environmental, and governance domains:

1 Recommendation of the Council on Coal and the Environment

This Recommendation emphasizes the need for countries to develop or enhance environmental protection and control measures from the earliest stages of coal-related policy planning and development. It advocates for the alignment of energy and environmental policies, particularly amid rising coal consumption. Although not legally binding, the Recommendation reflects growing concerns over the environmental consequences of carbon dioxide emissions and broader fossil fuel use. Moreover, increasing coal production and consumption could aggravate environmental degradation and pose risks to health and safety. Member countries are encouraged to formulate comprehensive policies for coal use, enhance environmental protection measures, and implement effective information campaigns targeted at policymakers, investors, traders, users, and the general public. These efforts aim to raise awareness and foster informed decision-making on the environmental implications of coal-related activities.

2 Recommendation of the Council on the Reduction of Environmental Impacts from Energy Use in the Household and Commercial Sectors

This recommendation emphasizes that managing energy demand should be a major element of integrated environmental and energy policies in these sectors. It also stresses the importance of coordinating such policies. Though non-binding, it reflects a strong political commitment to addressing the issue. The urgency behind this recommendation stems from the growing energy consumption in household and commercial sectors, which contributes significantly to overall energy use. In densely populated areas, this trend intensifies environmental impacts, underscoring the need for targeted policy action. Member countries are encouraged to prioritize energy policies that promote sustainable growth in energy consumption and a cleaner energy mix that align with environmental objectives and minimize harm to the environment.

3 Recommendation of the Council on Environmentally Favourable Energy Options and their Implementation

This recommendation emphasizes that both energy availability and environmental quality are crucial for economic growth and quality of life. These two objectives often need to be balanced to achieve optimal outcomes for industrialized societies. Although it is not legally binding, it reflects the growing priority placed on environmental protection by governments and the public. It encourages adherents to identify and support energy options that are environmentally beneficial, while also aligning with long-term environmental goals and broader social and economic objectives.

4 Recommendation of the Council concerning the Reduction of Environmental Impacts from Energy Production and Use

The recommendation calls on Member countries to incorporate environmental considerations into their energy policies, with the goal of reducing pollution and limiting the environmental harm associated with energy production and consumption. The recommendation addresses key areas such as the siting of energy facilities, offshore oil and gas exploration, surface coal mining, and the control of sulphur oxide emissions. It also highlights the importance of public participation, strategic land use planning, and international collaboration. While non-binding, it reflects a clear political commitment to urgent action. This urgency is driven by the growing need to mitigate the negative environmental effects of energy production and use, while continuing to promote energy efficiency and conservation. To implement this recommendation, Member countries are encouraged to integrate environmental and energy policy frameworks, adopt energy pricing strategies that reflect environmental costs, apply environmental criteria when selecting sites for energy infrastructure, regulate offshore fossil fuel exploration and coal mining, and take active steps to reduce sulphur dioxide emissions.

5 Declaration on a New Approach to Align Development Cooperation with the Goals of the Paris Agreement on Climate Change

This Declaration presents a renewed framework for aligning development cooperation with the goals of the Paris Agreement on Climate Change. It outlines how DAC members plan to support climate action, promote environmental sustainability, and conserve biodiversity, while also serving as a key input to the discussions at the 26th UN Climate Change Conference of the Parties (COP26). Although the Declaration is not legally binding, it demonstrates a strong political commitment to its core principles. This Declaration arises from the urgent need to support investments that enhance adaptation and resilience, particularly those that are nature-positive, locally led, inclusive, transparent, and gender-responsive. It also underscores the importance of addressing loss and damage linked to the adverse impacts of climate change. To ensure maximum effectiveness for developing countries, these efforts should align with existing mechanisms and frameworks already in place.

6 Recommendation of the Council on Environmental Compliance Assurance

This recommendation is a non-legally binding instrument aimed at assisting both Members and non-Members in developing a comprehensive, effective, and efficient set of tools to promote, monitor, and enforce compliance with environmental laws. The urgency of this recommendation lies in its support for Adherents in strengthening their environmental governance frameworks to ensure better compliance outcomes. Through this Recommendation, Adherents are encouraged to share and promote its principles across all levels of government. They should also offer advice, guidance, training, and outreach, especially to small and medium-sized enterprises, to help them understand and meet their environmental obligations. The Recommendation calls for proactive compliance efforts, efficient and targeted monitoring based on regulatory priorities and the characteristics of the regulated community, and minimizing unnecessary administrative burdens. It urges the timely use of appropriate enforcement tools, administrative, civil, or criminal, to restore

compliance, ensure penalties are proportionate, and deter future violations. Additionally, adherents should address challenges related to multi-level governance, engage all relevant stakeholders, strengthen institutional capacity, and regularly assess the performance of enforcement authorities.

7 Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy

This declaration sets the expectation that all businesses should avoid and address the negative impacts of their operations, while actively contributing to sustainable development in the countries where they operate. Although it is not legally binding, the Declaration represents a strong political commitment made by Ministers and Representatives from 50 countries and the European Union. Its primary goal is to guide and support governments in fostering policy environments that encourage responsible business conduct (RBC) across enterprises of all types and sizes. Adhering countries commit to the OECD Guidelines for Multinational Enterprises through a binding government-level decision. As part of this commitment, they establish National Contact Points (NCPs) to promote the Guidelines, facilitate their implementation at the national level, and provide a platform for dialogue and mediation on issues related to business conduct. Enterprises are expected to integrate responsible business conduct (RBC) into their internal policies and management systems, ensuring oversight by senior leadership and accountability at the board level. Additionally, the effective implementation of due diligence is encouraged, including its incorporation into national laws and policy frameworks.

8 Declaration on Transformative Solutions for Sustainable Agriculture and Food Systems

This declaration sets out a common vision among governments for the actions needed to transform agriculture and food systems. It focuses on three key objectives: ensuring food security and nutrition, enhancing environmental sustainability, and promoting inclusive and equitable livelihoods. While the Declaration is not legally binding, it reflects a collective political commitment to urgent and coordinated action. This Declaration responds to the pressing need for a shift toward more sustainable and resilient agricultural and food systems. It seeks to address the interconnected challenges of feeding a growing global population, tackling environmental issues such as climate change and biodiversity loss, and securing livelihoods for all, particularly small-scale and family farmers, as well as others engaged along the food supply chain. To implement this vision, adherent countries are encouraged to Develop and apply coherent, whole-of-government policy frameworks, Promote inclusive and participatory processes, Increase investment in research, development, and infrastructure, Strengthen research collaboration and knowledge sharing, Enhance international cooperation, Leverage trade to support the transformation of food systems, Establish measures at local, national, and global levels to support resilient and sustainable food systems.

9 Recommendation of the Council on Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises

(ACI Guidelines) are the first international instrument specifically designed to support states, in their role as enterprise owners, in combating corruption and promoting integrity within the enterprises they own. These Guidelines support governments in leading by example, ensuring ownership structures promote ethical conduct, encouraging SOEs to adopt sound governance practices, and embedding strong accountability systems across the SOE sector. The ACI Guidelines complement the objectives of the OECD Guidelines on Corporate Governance of State-Owned Enterprises by offering targeted guidance to states on fulfilling their role as active and informed owners, particularly in the areas of anti-corruption and integrity. To adhere to this recommendation, states should undertake a range of actions, including applying high standards of conduct to the state itself, establishing ownership arrangements that foster integrity, ensuring clarity in legal and regulatory frameworks and in the state's expectations regarding anti-corruption, and acting as active and informed owners. Additionally, states should encourage integrated risk management systems, promote internal controls, ethics, and compliance programs within SOEs, safeguard the autonomy of SOE decision-making bodies, establish robust accountability and review mechanisms, take appropriate action while respecting due process in investigations and prosecutions, and actively engage with civil society, the public, the media, and the business community.

10 Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption

This Recommendation is a non-legally binding instrument aimed at promoting a comprehensive approach for international development agencies to address corruption, as outlined in Articles 15–25 of the United Nations Convention against Corruption (UNCAC), including the bribery of foreign public officials. Its purpose is to support these agencies in fulfilling their international and regional anti-corruption commitments. The Recommendation advises that Members and non-Members adhere to it to establish or revise systems to manage risks of, and respond to, actual instances of corrupt practices in development co-operation. These systems should be implemented by the Adherents' international development agencies and their implementing partners when involved in the disbursement and/or management of aid.


CELIOS's Documentation

IV Regulatory Gap Analysis in Indonesia's Energy and Environmental Sector

This paper analyzes the gaps between the mandates and recommendations outlined in selected OECD legal instruments and the existing regulatory framework in Indonesia. These gaps may pertain to either the legal provisions themselves or their implementation. The analysis is presented as follows:

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
OECD Recommendation of the Council on Coal and the Environment	In order to ensure the appropriate use of different energy resources, the cost of environmental protection and pollution control should be, as is compatible with the Polluter Pays Principle, reflected in the price of energy.	Law No. 30 year 2007 on Energy, article 7 and its elucidation mandates that energy prices are set based on fair economic value, which reflects the costs of energy production, including environmental costs and conservation costs.	Energy prices in Indonesia do not consider externalities, including environmental, health costs, which make coal prices seem to be cheaper than other sources, in particular renewables.
	An assessment be made of the environmental and social consequences of a large-scale introduction of coal, including the national and regional aspects, especially in countries where coal is not currently used.	Law No. 32 year 2009 on Environmental Management and Protection and its implementing regulations already mandated activities which bring major impacts to the environment, including coal mining activities, to conduct environmental impact assessment prior to secure environmental permit.	However, many environmental assessments do not assess comprehensively about environmental and social consequences of coal mining. Even more, in more strategic documents, like spatial planning, often legalize mining activities, even when environmental carrying capacity already exceeds. For example, East Kalimantan Province's spatial planning back in 2016 allowed 71% of Samarinda area to be a mining area, which violated the environmental carrying capacity in the region.
	Pertaining to mining activities: • The process of enforcement of environmental legislation, e.g. reclamation, should be conducted in a	Indonesia has Coal and Mineral Mining Law, through Law No. 4 year 2009, which was partially revised three times under Law No. 3 year 2020, Law on Job Creation, as well as the	The challenges lie in the implementation. Even though the regulations already mandated reclamation, and even a reclamation fund is compulsory prior to securing the mining

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	manner which avoids or minimises delays and associated costs • The calculation of the cost of coal should allow for the cost of future land reclamation made necessary by its production	newest 2025 Mining Law. The law already mandated reclamation and post-mining activities (article 99). Even, every permit holder shall provide reclamation and post-mining funds prior to conducting the activities (article 100). The law also imposes criminal sanctions for every permit holder who are violating above-mentioned obligations.	permit, however, due to lack of monitoring and enforcement of the regulations, many permit holders still do not comply with the clauses. This not only led to high numbers of environmental degradation, but also many accidents around the mine pit. For example, within 2011-2018, 32 people died in the open mine pit due to unreclaimed mines.
	Pertaining to coal transport and handling: • Measures should be implemented to control environmental disturbances when coal is loaded and unloaded, from coal stockpiles and from railroad cars, trucks and barges and in using new coal transportation systems; • Consideration should be given to the continuing demands made on water resources and the need to ensure that the discharged water is of acceptable quality when coal slurry transport or coal washing techniques are employed; • Efforts should be intensified in coal cleaning and blending techniques to provide coal of uniform quality, which is specifically important for small-scale plants.	Every coal mining activity shall assess impacts to the environment, social and health from coal transport and handling under environmental impact assessment documents.	However, there is no specific guideline on what aspects need to be assessed during coal transport and handling. Therefore, some environmental disturbances or impact to water resources might not be assessed by the permit holder. Nevertheless, during the assessment of the EIA, experts on coal mining should be included within the assessment team. So that the assessor could ensure the approved EIA already comprehensively assess all potential impacts from each activity.
	Pertaining to Air pollution from coal: • Taking into account their cost-effectiveness, the best available abatement techniques should be employed to minimise the emission of particulates and	• To date, emission standards pertaining to coal mining are still unavailable. The emission standards regulation is focusing on coal power plants, which is regulated under Ministry of Environment and	• The emissions standards are still loose compared to global levels or other countries, where major countries have adopted very tight emission standards for new generation capacity.

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	SOx in order to ensure that no significant degradation of the environment will occur, both within and beyond national frontiers; • Proven technologies for reducing NOx emissions should be used, taking into account their costs and advantages. These technologies would include new combustion system designs, including improved burner, fluidised beds and flue gas denitrification; • Gaseous and particulate carcinogenic pollutants and by-products should be strictly controlled; • Emissions and ambient air quality should be adequately monitored to ensure that requisite guidelines are followed and standards are met; • Priority should be given to the burning of less polluting coal while applying and developing further the appropriate technical and economic means for controlling emissions from more polluting coals, with due regard to relevant constraints.	Forestry Regulation No. 15 year 2019. • The emissions are monitored through environmental management and monitoring reports, which shall be submitted by each permit holder every three or six months. • Under MoEF Regulation No. 15/2019, particulate carcinogenic, particulate matter, is regulated for different types of power plants. Aside from MoEF Regulation No. 15/2019, Government Regulation No. 22/2021 also regulated particulate carcinogenic, including PM 2.5 and PM 10 through national ambient air quality standard (NAAQS). • MoEF Regulation No. 5/2021 regulated a guidance to fulfill emission standards for business owners, including technologies to reduce NOx, such as scrubber, NSCR, and SCR. • There is no regulations which stated priority to burn less polluting coal	• With regard to the monitoring, the quality of reported emissions data is still questionable, with some coal power plants reporting unrealistically low levels of emissions. • Further, there is no specific regulation that mandates the ambient air quality monitoring surrounding the coal mining or coal fired power plant area. The obligation to monitor ambient air quality, generally regulated under Ministry of Environment and Forestry Regulation No 14 year 2020 and Governmental Regulation No. 22 year 2021, although the current NAAQS has not been complied with WHO Air Quality standard.
	Pertaining to Solid Waste from coal: • The environmental consequence and costs of coal preparation and the disposal of resultant wastes prior to burning should be examined; • An examination should be made of the desirability of incentives needed to extend the existing commercial uses for	• Each person who produced fly ash and bottom ash from coal fired power plants could be excluded from the obligation to manage the waste according to Government Regulation No. 22/2021 and MoEF Regulation No. 6/2021. • Every hazardous waste producer is obligated to utilize the waste that they	Job Creation Law changed the regulation regarding fly ash and bottom ash. Before Job Creation Law, fly ash and bottom ash were regarded as hazardous waste because of its impact to human health and environment. However, after the enactment of Job Creation Law, fly ash and bottom ash from coal fired power plants are classified as non

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	fly ash and desulphurisation waste; and increased effort should be directed towards demonstrating the practicality of solid waste utilisation, taking into account its impact on the environment; • An examination should be made of the desirability of incentives needed to encourage disposal of the wastes into the mine and their environmental consequences.	produced as long as they complied with different criterias presented on MoEF Regulation No. 6/2021, including: ○ The same properties or functions as the raw materials being substituted; ○ Meet environmental standard and quality standard in accordance with the provisions of law and regulations; ○ A composition smaller than 100% of the overall raw materials used to produce the product; ○ Comply with Indonesia National Standard.	hazardous waste that open opportunities for the waste producers to utilize the waste, for example as bricks and cement mixture.
OECD Recommendation of the Council concerning the Reduction of Environmental Impacts from Energy Production and Use	Recommends that Member countries, in the planning and implementation of their energy and environment policies, ensure that (some of them): 1. The public is objectively informed and its views are sought; 2. Land use planning is employed, which takes into account environmental protection goals; 3. Energy conservation measures which have positive environmental effects should be promoted	Some of the recommendations are already in line with Indonesian regulatory framework, but some are not. Details are below: 1. There are obligations for the government and permit holders to open the information and engage the public through public consultation in energy projects, both at program and project level. This mandate was regulated under Law No. 32 year 2009 on Environmental Protection and Management and Governmental Regulation No. 22 year 2021. 2. There is an obligation to comply with spatial planning prior to securing environmental permit, due to Law No. 32 year 2009. There is also an obligation to conduct Strategic Environmental	1. The challenges are in the implementation, even when the regulation already mandates public consultation and open the information, the communities often do not get sufficient information about upcoming projects or only a small part of the communities were invited in the consultation. The untransparent nature of the projects more happening in the project / program classified as National Strategic Project as regulated under Coordinating Ministry of Economic Affairs Regulation No. 7 year 2021 which has been changed several times, until the latest under Coordinating Ministry of Economic Affairs Regulation No. 8 year 2023 2. The regulation that mandates no changes to zoning

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
		Assessment prior to enacting the spatial planning. However, Law No. 2 year 2025 on coal and mineral mining regulates guarantee of no changes to zoning and spatial plans in mining areas (article 17A and 22A). 3. Indonesia has enacted Governmental Regulation No. 33 year 2023 on Energy Conservation, which promotes incentives for energy providers, producers, and users who conduct energy conservation efforts.	and spatial planning could harm environmental protection and lead to community's conflict. Because this means that if an ecologically sensitive area is discovered inside the mining area, then the zoning can't be changed and the mining activity will still be conducted. This also means that mining activity will be keep running without considering the environmental carrying capacity. 2. The implementation of energy conservation in Indonesia is still low, due to lack of socialization, awareness and incentives. However, The 2023 regulations serve as a breakthrough towards the efforts.
	RECOMMENDS that Member countries, when developing their policies for the siting of major energy facilities, ensure that: 1. Solutions acceptable to the interested parties are actively sought within the siting decision process; 2. Legislative or administrative means be found to encourage the development of siting policies at national level as part of energy development and environmental policies; 3. Within each country there is a system to assess the environmental impacts of energy facilities (including comparison with	Public participation in the siting process is mainly regulated under Law 32/2009 on Environmental Management and Protection, which mandates public participation during environmental impact assessment. Additionally, Law No. 26 year 2007 on spatial planning also mandates that the public has the right to participate during the spatial planning drafting process (Article 65). On the other hand, The coal and mining law states that the government shall openly inform mining activities planning in the mining business permit area to the public (article 64). However,	Public consultation is a crucial thing during the siting, as it will build trust between stakeholders. However, to date the public consultation in the siting process mechanism seems to be weakened. This is due to the weakening of spatial planning instruments, mainly to promote national strategic projects. Currently, the public oftenly engaged during the environmental permit process, which seems to be late. Whereas, it is crucial to engage the public during the determination of mining area, to ensure environmental protection, minimize conflicts, and respect the rights of affected

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	those of other industrial developments) either by preparing environmental impact statements or by other comprehensive assessment methods.	how the public participation mechanism works during the determination of mining business permit areas is still unclear. Less public participation in the siting process also may happen in the activities classified as national strategic projects.[2] In this case, if the planned projects violate spatial planning, the central government could grant recommendation letter, so that the project could move forward without early public participation and notification (the revision of Law No. 26 year 2007 under Job Creation Law, article 34A)	communities since the very beginning of the process.
OECD DAC Declaration on a new approach to align development cooperation with the goals of the Paris Agreement on Climate Change	The primary climate objectives of DAC members' Official Development Assistance (ODA) are: a) to support partner countries' own just transitions to sustainable pathways and to achieve global net zero emissions; and b) to increase their ability to adapt to the adverse impacts of climate change and improve resilience. Alignment with the Paris Agreement will recognise the unique circumstances of partner countries and support their own low carbon, climate resilient development pathways and transition towards net zero economies, while minimising the risk of creating stranded assets.	The provision of grants to foreign governments or foreign institutions has been regulated under Indonesian law through Government Regulation (PP) No. 57 of 2019, which amends Government Regulation No. 48 of 2018 concerning the Procedures for Granting Aid to Foreign Governments/Institutions. The management of these grants is carried out by a working unit under the Ministry of Finance in the form of a public service agency (Badan Layanan Umum or BLU), namely Lembaga Dana Kerjasama Pembangunan Internasional (LDKPI) Article 2 of Government Regulation No. 57/2019 outlines the responsibilities of the	Although Indonesia has established mechanisms and institutions to manage Official Development Assistance (ODA), it remains crucial to ensure that the objectives of such assistance, including just transition and resilience to climate change, are aligned with the goals outlined in the Paris Agreement.

2 Based on Coordinating Ministry of Economic Affairs Regulation No. 8 year 2023, Coal activities that classified as National Strategic Project is coal gasification in Tanjung Enim, South Sumatera and East Kutai, East Kalimantan

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	a) We will prioritise support to technologies focused on accelerating progress towards net zero systems, in particular renewable energy and energy efficiency. We could also consider carbon capture, utilisation and storage. We all make the same commitment as the G7 commitment to end new ODA for unabated international thermal coal power generation by the end of 2021. b) We will examine the type of power generation facilities that could be supported by ODA to meet the increasing demand from partner countries, including cost-effectiveness considerations. c) Based on thorough analysis of power generation needs and the role of ODA, we will develop henceforth an approach to transitioning ODA investments toward net zero. This will take account of developing countries' needs and NDC commitments, and be in line with the Paris Agreement, 1.5°C goal and best available science.	Indonesia Aid Agency (Lembaga Dana Kerja Sama Pembangunan Internasional or LDKPI), which include managing international development cooperation funds and grants to foreign governments and institutions. The designation of LDKPI as a Public Service Agency is further confirmed by the Ministry of Finance Decree No. 927/KMK.05/2019 on the Establishment of the Indonesia Aid Agency at the Ministry of Finance as a Government Institution Implementing Public Financial Management Standards. The organizational structure and working procedures of the LDKPI are governed by the Ministry of Finance Regulation No. 143/PMK.01/2019.	
	We commit to greater accountability and transparency in how we define, account for and report ODA related to climate, biodiversity and the environment, and in climate finance more broadly. By the end of 2022, we will:		

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	a) Be more transparent in how we track our development and climate finance and the amount of climate-related development finance; b) Review the DAC's relevant statistical reporting and data sharing processes to make them more accessible to developing countries and more easily understood; c) Enhance the compatibility of DAC data, national databases and aid transparency initiatives; d) Harmonise DAC members' reporting in our Creditor Reporting System (CRS), especially with regard to the Rio markers; e) Develop a method for the CRS to measure specifically donor efforts on sustainable energy transition, in recognition of the importance of supporting transitions in sustainable development.		
	We recognise the urgent need to support investments in adaptation and resilience that are nature positive, locally led, inclusive, transparent and gender-responsive, including through nature based solutions, climate information services, technology development and transfer, and monitoring and evaluation. Adaptation to the impacts of climate change is integral to sustainable and inclusive development, safeguarding gains		

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	made to date and preventing future plosses.		
	The Paris Agreement recognises the importance of averting, minimising, and addressing loss and damage associated with the adverse effects of climate change. To maximise effectiveness for developing countries, action should align with existing mechanisms, such as the Sendai Framework for Disaster Risk Reduction and the DAC's Humanitarian-Development-Peace Nexus Recommendation. This includes being risk-informed, tailored to specific circumstances, integrated with adaptation, humanitarian aid, and emergency preparedness and response.		
	We underscore our commitment to supporting developing countries in their just, managed, climate resilient, inclusive and equitable transitions. Increased quantity and improved quality of finance from all sources is needed to support climate and environment objectives. It must be aligned with partner countries' own national plans and priorities. We will work across our governments to ensure the visibility of developing countries' needs in international climate discussions. We remain committed to continue scaling up climate finance from a wide variety of sources. We remain committed to the goal of mobilising		

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	USD 100 billion a year, from a wide variety of public and private sources to address the needs of developing countries, in the context of mitigation and adaptation actions.		
OECD Recommendation of the Council on Environmental Compliance Assurance	**Enforcement** RECOMMENDS that Adherents use appropriate administrative, civil and criminal enforcement tools in a timely manner to restore compliance, punish the offender proportionately to the severity of non-compliance and provide deterrence against future violations. To this effect, Adherents should: 1. Adopt, make available to all relevant actors and implement formal non-compliance response policies and guidance accounting for severity of the offence, aggravating and mitigating factors, and aiming at deterrence of violations, from an informal warning and directions for corrective actions to issuing administrative notices and penalties, to prosecution with increasingly serious consequences. 2. Allow, in cases of non-criminal infractions, offenders an opportunity to correct the violation before a sanction is imposed; consider the possibility of an alternative environmentally beneficial expenditure to replace part or whole of a monetary penalty.	Law Number 32 of 2009 on Environmental Protection and Management not only outlines the fundamental principles of environmental law but also provides a comprehensive framework for administrative, civil, and criminal sanctions in response to environmental violations. The application of these sanctions is determined based on the severity (degree of offense) of the violation. Administrative sanctions, as regulated in Article 76, may include written warnings, government-imposed coercive measures, suspension of environmental permits, or the revocation of such permits. Importantly, the imposition of administrative sanctions does not absolve the offender from obligations related to environmental restoration or from potential criminal liability, as stipulated in Article 87. Civil liability, including compensation for environmental damages, is also governed under Article 87, while the principle of strict liability—which holds a party accountable regardless of fault—is set out in	In practice, the implementation of environmental supervision by the Environmental Protection and Management (PPLH) through environmental inspectors continues to face significant challenges. One major issue is the imbalance between the number of inspectors and the volume of environmental permits and approvals. A study by ICEL found that, as of July 2023, there were at least 545,710 environmental approvals and 660,824 UKL-UPL (Environmental Management and Monitoring Documents) recorded by the Ministry of Environment and Forestry (KLHK). In contrast, the number of regional PPLH officers stood at only 726. Upon closer examination, this issue stems from problems in recruitment and staffing, the status of functional positions, and budgetary commitments. Furthermore, a more comprehensive cross-sectoral coordination is urgently needed.

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	3. Provide for criminal prosecution of wilful, knowing or negligent unlawful behaviour that causes serious damage to, or endangerment of, human health or the environment, or in cases where other enforcement instruments have not been sufficient to ensure compliance; depending on the country's legal tradition, consider alternatives to prosecution under civil or administrative law. 4. Ensure that monetary penalties (fines) provide sufficient deterrence from violating the law by removing the economic benefit of non-compliance for the offender; and that such penalties are determined consistently, using the same approach, methods and factors, including those accounting for the gravity of the offence. 5. Create an effective mechanism to enforce payment of imposed monetary penalties in collaboration with fiscal authorities.	Article 88. Criminal sanctions are specifically detailed in Chapter XV of the law. Notably, criminal penalties function as ultimum remedium—a measure of last resort. This means that enforcement typically begins with administrative sanctions, followed by civil remedies. Criminal prosecution is only pursued when these measures prove insufficient or in cases of serious offenses. To ensure effective enforcement of monetary penalties, Article 81 provides that any business operator or activity manager who fails to comply with government-imposed coercive measures may be subject to daily fines for delays in executing such sanctions.	
	Institutional aspects of compliance assurance RECOMMENDS that Adherents take measures to address the challenges of multi-level governance, engage all stakeholders having compliance-related competencies, build institutional capacity and measure performance of environmental enforcement authorities. To this	As part of efforts to build the capacity of Environmental Enforcement Authorities, a Certification Program in Environmental Law has been established for judges specializing in environmental matters. This certification is an initiative resulting from the Memorandum of Understanding between	

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	effect, Adherents should: 1. Ensure nationwide consistency of environmental enforcement and a level playing field for regulated entities by defining compliance monitoring and enforcement priorities and approaches in formal or informal partnership between national and subnational environmental enforcement authorities; and, as appropriate, providing for oversight of lower-level authorities by higher-level ones. 2. Co-ordinate compliance monitoring activities and share relevant data across regulatory agencies that have authority in areas that affect, or are affected by, environmental policy implementation, including food safety, occupational health and safety, natural resource management, land-use planning and emergency response. 3. Strengthen collaboration between environmental enforcement authorities, the police, customs and prosecutors in fighting environmental crime; ensure that police officers, prosecutors and judges in charge of environmental cases receive proper training; consider establishing specialised environmental police and prosecution units	the Ministry of Environment and the Supreme Court of the Republic of Indonesia, signed on June 18, 2009, regarding the Strengthening of Environmental Judicial Capacity. It is further reinforced by the Chief Justice's Decree No. 134/KMA/SK/IX/2011 dated September 5, 2011, concerning the Certification of Environmental Judges.	

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	and/or dedicated environmental courts, as appropriate. 4. Build capacity of environmental enforcement authorities by developing standard operating procedures or guidance and offering formal training to inspectors to ensure they accumulate sufficient knowledge and practical experience; promote peer learning through national and international networks of environmental compliance assurance professionals. 5. Conduct regular performance assessments of environmental enforcement authorities using input (resource), output (activity) and outcome (result) indicators; emphasise outcome performance measures that characterise changes in compliance knowledge and behaviour of the regulated community to enable policy makers and the public to see the impact of compliance assurance activities on the state of the environment and draw conclusions on the quality of regulations.		
	Compliance monitoring RECOMMENDS that Adherents ensure effective and efficient compliance monitoring, adapting it to regulatory priorities and the profile	Under the Environmental Protection and Management Law (*UUPPLH*), the responsibility for	

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	of the regulated community while reducing unnecessary administrative burden on regulated entities. To this effect, Adherents should: 1. Collect, maintain and analyse information on the regulated community and share it with all relevant regulatory bodies. 2. Focus compliance monitoring on areas of known or suspected non-compliance and/or activities that are of higher risk to human health or the environment, calibrating the frequency of inspections and the resources employed with the risk posed by potential infractions; as part of risk-based inspection planning, systematically consider, among other factors, the inherent environmental risk of the regulated activity, its location and the operator's compliance record. 3. While maintaining the priority of proactive, planned compliance monitoring, implement adequate procedures to respond to citizens' complaints and facilitate citizen participation in compliance assurance efforts through various information technology tools; set up a mechanism to filter complaints to avoid overburdening the competent authority. 4. Complement, as appropriate, integrated, cross-	supervising and ensuring compliance of business and/or activity operators with environmental permits and related regulations lies with the central government, provincial governments, and regency/municipal governments. In addition, the oversight of compliance with preventive instruments—specifically environmental permits—is the responsibility of the Minister, Governor, or Regent/Mayor, as stipulated in Article 72 of the *UUPPLH*. In carrying out this oversight, the Minister, Governor, or Regent/Mayor appoints environmental supervisors, who are functional officials. According to Article 62 of the *UUPPLH*, the government and regional governments are also responsible for establishing an integrated and coordinated environmental information system. This system is intended to support the implementation and development of environmental protection and management policies and must be made publicly accessible. The public also plays a role in environmental protection and management through social oversight, providing suggestions, opinions, objections, complaints, and/or submitting information or reports.	

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	media site inspections with in-depth compliance assessments to identify root causes of non-compliance rather than only detect it, and thematic or sector-specific inspection campaigns for low-risk activities.	Furthermore, procedures for lodging complaints related to suspected environmental pollution and/or damage—as well as forest destruction—are governed by Minister of Environment and Forestry Regulation No. 22 of 2017 (*Permen LHK 22/2017*). Article 1, point 1 of this regulation outlines that the subjects of complaints may include businesses and/or activities operating without or in violation of environmental and/or forestry permits, as well as incidents of environmental pollution, degradation, or forest destruction.	
Declaration on Promoting and Enabling Responsible Business Conduct in the Global Economy	This declaration resulted in several key points that became the commitment of member states, including the following: 1. The recognition of the important role of businesses, social partners, and civil society as enablers in achieving the Sustainable Development Goals (SDGs), the Paris Agreement (UNFCCC), and the Kunming-Montreal Global Biodiversity Framework. 2. The rights of marginalized groups and human rights and environmental defenders, as well as the need to promote and protect civic space.	Regulations related to aspects of responsible business conduct: 1. Article 74 of Law No. 40 of 2007 on Limited Liability Companies, which regulates Corporate Social and Environmental Responsibility. 2. Government Regulation No. 47 of 2012 on Corporate Social and Environmental Responsibility for Limited Liability Companies. 3. Article 13 of Law No. 6 of 2023 on Job Creation, which regulates the simplification of business licensing, including spatial utilization conformity, environmental approval, building approval, and certificate of proper function. 4. Article 221 paragraph (2) of Government Regulation No. 5 of 2021, which regulates indicators for routine	• Corporate social and environmental responsibility as regulated in laws and government regulations has not specifically involved civil society as an enabler that can play an active role in ensuring the implementation of responsible business practices. • Various key indicators in the Sustainable Development Goals (SDGs), the Paris Agreement (UNFCCC), and the Kunming-Montreal Global Biodiversity Framework have not been integrated into laws governing limited liability companies and corporate responsibility. • Business licensing processes in Indonesia do not recognize the strategic role of social partners, civil society, and marginalized groups as

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
		government supervision of business actors.	stakeholders who face risks that should be considered as a basis for licensing decisions.
Declaration on Transformative Solutions for Sustainable Agriculture and Food Systems	This declaration resulted in several key points for member states, including a commitment to: 1. Promote the importance of Indigenous and traditional knowledge. 2. Enhance efforts to mitigate climate change by reducing emissions from agriculture. 3. Work together to halt and reverse forest loss and land degradation by 2030. 4. Promote agricultural activities and food systems that strengthen rural development. A call for member states to establish data and evidence for assessment and monitoring, as well as to manage trade-offs related to the unique challenges faced by underrepresented and marginalized groups.	**Regulations related to agriculture and food in Indonesia:** **Land Use:** • Article 31 of Law No. 6 of 2023 on Job Creation, which amends provisions regarding the conversion of agricultural land for business activities and national strategic projects. **Farmer Protection:** • Article 31 of Law No. 6 of 2023 on Job Creation, which amends Law No. 19 of 2013 on the Protection and Empowerment of Farmers. **Agriculture and Climate:** • Law No. 22 of 2019 on the Sustainable Agricultural Cultivation System, which regulates sustainable agriculture and incorporates climate-related considerations.	**Land Conversion:** • The conversion of agricultural land for business activities and National Strategic Projects is still permitted. **Local Knowledge:** • There is no clear regulation emphasizing the importance of Indigenous and traditional knowledge in agricultural activities. **Impact on Emissions and Land:** • Emission mitigation measures in the agricultural sector are not regulated. • There are no provisions addressing the need to prevent potential forest and land degradation for agricultural purposes. • Agricultural systems aimed at strengthening rural development are not clearly emphasized. • The obligation of central and local governments to increase agricultural production does not include variables related to forest protection and climate threats. • There is no regulation concerning data management for the assessment and monitoring of negative risks affecting underrepresented and marginalized groups.
Recommendation of the Council on the	The OECD Council Recommendation produced several key	**Several regulations related to energy demand management:**	**Conservation:** • There is no emphasis on the strategic role of

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
Reduction of Environmental Impacts from Energy Use in the Household and Commercial Sectors	points, including: 1. Energy demand management should be a central element of environmental policy. 2. National and regional energy goals should be considered alongside broader environmental and social objectives in land-use planning. 3. The primary focus of research should be on forecasting the social, economic, energy, and environmental consequences of energy conservation and supply measures.	**Conservation:** • Article 25 of Law No. 30 of 2007 on Energy regulates energy conservation at a macro level, including efficiency measures, incentives, and disincentives. • Government Regulation No. 33 of 2023 also addresses energy conservation, covering implementation, facilitation, incentives, disincentives, information dissemination, and supervision. **Environmental, Social Goals, and Land-Use Planning:** • Article 8 of Law No. 30 of 2007 on Energy stipulates that energy management must take environmental considerations into account. **Research:** • Articles 29 and 30 of Law No. 30 of 2007 on Energy regulate research and development in the energy sector, with a focus on the development of new and renewable energy as well as energy-related industries.	demand-side management as a tool to achieve environmental and decarbonization goals. • Energy demand management should be positioned as a core environmental strategy—for example, to reduce emissions, address climate change, and protect ecosystems. **Environmental, Social Goals, and Land-Use Planning:** • The current provisions do not explicitly take into account social and land-related aspects such as population displacement, unequal access, land conflicts, and the rights of Indigenous and local communities. These should be considered as key variables in energy planning. **Research:** • There is no explicit mandate for research on social, economic, and ecological aspects related to energy conservation or energy supply policies. • The current Energy Law does not position research as a tool to predict and mitigate the social and environmental impacts of energy policies.
Recommendation of the Council on Environmentally Favourable Energy Options and their Implementation	The OECD Council Recommendation produced several key points, including: 1. The establishment of an "early warning system" for environmental policies to identify and communicate potential strategic	**Various related regulations:** **Early Warning System:** • Article 47 of Law No. 32 of 2009 regulates environmental risk analysis as a preventive instrument for environmental damage.	**Early Warning System:** • There is no explicit provision regarding an environmental policy early warning system at the national level. • There is a lack of integration between the Environmental Risk Analysis (ERA) system and early

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
	issues to energy policymakers from the outset, before these issues evolve into serious problems. 2. Improved transparency regarding the costs of energy-using equipment (e.g., operational cost specifications) and environmental performance (e.g., specific pollutant emissions) to enable consumers to make informed and environmentally friendly decisions. 3. Better integration of regulatory procedures at both the national and local levels. 4. Advance notice of environmental regulation changes, whenever possible, with adequate time provided to comply with these regulations. 5. Early-stage consultations with stakeholders on environmental issues that may require regulatory changes.	**Product Information:** • Article 7(b) of Law No. 8 of 1999 on Consumer Protection regulates the obligation of business actors to provide information about the condition of goods, as well as instructions for usage, repair, and maintenance. **Regulation Formulation:** • Article 44 of Law No. 32 of 2009 stipulates that central and regional regulations must consider the protection of environmental functions. • Article 96 of Law No. 13 of 2022 regulates meaningful participation in the formulation of regulations.	warning systems for policies. • There are no regulations concerning public or civil society involvement in early warning mechanisms. **Product Information:** • There is no explicit mention of environmental and energy indicators. • There is no mechanism requiring business actors to provide information on energy consumption and emissions in a measurable and standardized manner. • There is no synergy between sectors. **Regulation Formulation:** • There is no legally binding early notification or early warning system that mandates advance notice of environmental regulation changes to stakeholders (business actors, the public, local governments). • There are no explicit provisions regarding regulatory coherence between the central and regional governments. Law No. 32/2009 only requires "consideration of environmental functions," but does not regulate coordination procedures between the central and regional governments in environmental regulation formulation.

Table 2. **Comparison between OECD Legal Instruments and Indonesian Regulatory Framework**

V Recommendations

V1. Regulatory Reform Strategy for OECD Accession

Based on the analysis presented above, several recommendations can be made to strengthen Indonesia's regulatory framework in the energy and environment sectors, particularly in alignment with OECD standards and best practices.

1 Indonesia needs to improve its public participation process, in particular local community engagement, during energy projects

Our analysis indicates that nearly all OECD legal instruments relevant to energy transition and environmental protection emphasize inclusive public participation—beginning at the planning stage and continuing through implementation and monitoring. However, meaningful public involvement remains one of the most pressing challenges in Indonesia, especially for projects designated as National Strategic Projects (*Proyek Strategis Nasional* or PSNs). These projects often prioritize expediency over consultation, while the technical complexity of documents and limited outreach efforts undermine transparency and hinder informed community consent.

Indonesia's energy governance framework also suffers from a predominantly top-down planning approach, wherein local governments and communities are frequently treated as passive recipients rather than active stakeholders.

Moreover, gender equality and social inclusion are often overlooked in energy decision-making processes, leading to the systematic exclusion of marginalized groups. Indigenous peoples and local communities are frequently excluded, even when projects directly impact their lands or livelihoods. This exclusion results in the failure to incorporate local knowledge and perspectives into decision-making. Compounding this problem is the absence of a strong legal mandate for free, prior, and informed consent (FPIC), particularly in the context of renewable energy development.

To address these challenges and align more closely with OECD principles, Indonesia should consider the following reforms:

a. Revise Regulations to Mandate Inclusive Public Participation.

In terms of the planning process, Indonesia needs to mandate inclusive and public participation during the energy and electricity planning process. For example, under Presidential Regulation No. 73 year 2023, only individuals who have expertise in the energy sector could participate in the drafting process of national and local general energy plans (RUEN and RUED).[3] Additionally, there is no public participation mechanism during the drafting process of general electricity plan (RUKN/RUKD) and PLN business planning (RUPTL). However, the newest constitutional court decision mandates hearings with parliament prior to enacting the general electricity plan.[4] Lastly, it is also essential to revise public participation mechanisms under national strategic projects which are shrinking the public participation process in order to streamline the permitting process.

b. Decentralize Energy Governance.

While Presidential Regulation No. 11/2023 outlines some local government authority in the energy sector, the scope remains limited. Most energy permitting continues to fall under central government jurisdiction—excluding certain biofuel with maximum capacity of 10.000 ton per year and geothermal for non-electricity use. In the electricity sector, the monopoly of PLN further restricts local government roles in planning and implementation. Thus, promoting more decentralized energy governance will be a crucial pinpoint to promote more public participation. Greater devolution of authority would enable decision-making processes that are closer to affected communities, fostering local ownership and accountability in energy planning and project management.

c. Enhance environmental impact assessment to be a more inclusive instrument.

Government Regulation No. 22/2021 requires public participation in the EIA process to consider vulnerable groups, indigenous peoples, and gender equality. However, the lack of detailed guidance undermines effective implementation. To ensure meaningful inclusion, environmental feasibility teams (*Tim Uji Kelayakan Lingkungan Hidup*) must assess whether developers have adequately considered the needs and perspectives of these groups. Additionally, the EIA process should incorporate analytical tools that systematically integrate gender and vulnerability lenses to identify and mitigate differentiated impacts across communities.

d. Strong Mandate to Free, Prior, and Informed Consent (FPIC).

Although FPIC is recognized under the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), Indonesian law lacks a binding requirement to implement it. As a result, indigenous communities are frequently excluded from decision-making, even when energy projects affect their territories and livelihoods. To address this, a strong legal foundation for FPIC should be established—preferably within the draft Renewable Energy Bill currently under discussion—to guarantee the rights of indigenous peoples and ensure socially just energy transitions.

3 *See*, article 9, Presidential Regulation No. 73 year 2023.
4 Constitutional Court Decision No.

e. Create Inclusive Channels for Grievance Mechanisms.

It is important to have an accessible, transparent and multi-tiered grievance mechanism. Developers should be required to establish site-level grievance mechanisms, while the Ministry of Energy and Mineral Resources (MEMR) should enhance its institutional capacity, especially at the regional level, to serve as grievance facilitators. As the MEMR has recently established a Directorate General for Law Enforcement, it is important to also develop a centralized grievance portal that include case tracking, feedback mechanisms, reporting dashboard, clarity of timeline and procedures, as well as accessibility for people with disabilities and low digital literacy.

2 Indonesia needs to Improve its Access to Information Regulatory Framework in Energy Sector

Based on the analysis, the OECD Framework emphasized greater accountability and transparency. In order to improve the framework of access to information in energy transition agenda, Indonesia needs to:

a. Increase Transparency in Energy Price Components.

Law No. 30 year 2007 on Energy mandates that energy price components should reflect production cost, including environmental cost and conservation cost, and be determined with consideration of public affordability. However, the energy and electricity pricing in Indonesia is still partially transparent. Aside from published tariffs, and the MEMR Regulations that define tariff-setting procedures, the price formulation mechanisms are not transparent. How fuel mix, operating costs and efficiency influence final prices is not fully disclosed to the public

Moreover, the allocation and targeting of energy subsidies lack clarity. The criteria for identifying subsidy beneficiaries, the accuracy of targeting mechanisms, and the fiscal implications of these subsidies are often opaque. Transparency is further compromised by the limited disclosure of PLN's financial data and the confidential nature of power purchase agreements (PPAs) with Independent Power Producers (IPPs), especially those involving coal power plants. Therefore, promoting a regulatory framework which enables energy cost transparency and cost of electricity procurement is important.

b. More Transparent in Emission Data.

To date, there are multiple interpretations of whether emission data is public information. However, Article 65 of Law No. 32/2009 on Environmental Protection and Management affirms the public's right to access environmental information, including environmental quality monitoring. This provision should be interpreted to ensure that emissions data—especially data related to greenhouse gas emissions and pollutants from energy production—are publicly accessible. Additionally, it is also important to provide specific mandates on ambient air quality monitoring surrounding the coal mining area, as we are still absent in regulating this.

3 Indonesia needs to update its Environmental Standards and enhance its Environmental Instruments in Energy Sector

Based on the analysis, OECD legal framework emphasizes the importance of robust assessment related to environmental consequences and costs from coal mining and plant activities and how to strictly control the produced pollutants. Currently, a thorough environmental and social assessment shall be conducted through Environmental Impact Assessment prior to securing the environmental and business license. However, there is no specific guidance on what should be assessed for coal mining activities. This has resulted in many EIA documents failing to fully examine the comprehensive environmental and social impacts of such operations.

Moreover, Indonesia's environmental standards—especially those governing emissions—tend to be less stringent than those of other countriesTo better protect public health and the environment and to align with OECD expectations, Indonesia should update its standards based on the best available science and technology. The OECD also promotes the use of Best Available Techniques (BAT) in regulatory decision-making, reinforcing the need for Indonesia to modernize its environmental instruments accordingly.

To align with the OECD legal framework, the following recommendations are proposed:

a. Ensure the Most Cost Effective Technology Alternatives Internalize Environmental and Social Costs.

It is critical that Indonesia's energy and electricity planning documents—such as the National Energy Plan (RUEN), the National Electricity General Plan (RUKN), and PLN's Electricity Supply Business Plan (RUPTL)—reflect the full range of externalities in technology selection. These include environmental degradation, deforestation, public health impacts, climate risks, land-use change, and community displacement.

Thus far, RUPTL PLN document has already described risks and the mitigation of environmental and social aspects. However, how these factors influence technology selection is still unclear. Meanwhile, RUEN and RUKN only focus on emission factors in selecting the technology. ITo address this, Strategic Environmental Assessments (SEAs) should be utilized systematically to inform the development of RUEN and RUKN, ensuring a more holistic and sustainability-oriented approach to planning.

b. Update the Environmental Standards Based on the Best Available Science/Standards.

It is recommended to strengthen the emission standards for coal plants with the revision of the Ministry of Environment and Forestry No. 15 year 2019. Comparatively, Indonesia's current limits are more lenient than international norms. For example:

Nitrogen Oxides (Nox)		
Indonesia **200 mg/Nm^3**	China **100 mg/Nm^3**	US **117 mg/Nm^3**
Particulate Matter (PM)50 mg/Nm^3		
China **30 mg/Nm^3**	EU **50–100 mg/Nm^3** (depending on coal quality)	US **22.5 mg/Nm^3**

c. Additionally, Indonesia needs to strengthen its environmental standards for the coal industry specifically, by revising Ministry of Environment Regulation No. 4 year 2014 and Ministry of Environment Regulation No. 14 year 2014. 4. These revised standards should cover: (1) Water pollutant discharge limits from coal mining and washing; (2) Emission limits for air pollutants from coal processing systems; and (3) Regulation of coal storage and loading/unloading operations.

d. Strengthen the Environmental Impact Assessment (EIA) process to ensure comprehensive evaluation of impacts and risk management measures for coal-related activities.

It is recommended to ensure that the EIA assessment team (*Tim Uji Kelayakan Lingkungan Hidup*), both at the national and local level, has deep understanding about the overall business process, impacts and mitigation measures of coal mining and coal plants. This could be done by developing specific technical guidelines to the assessment team to review the EIA application.

4 Indonesia Needs to Strengthen Land-Use Governance in the Energy Sector

Our analysis highlights that the OECD legal framework places significant emphasis on the governance of siting processes in energy infrastructure projects. In light of the identified regulatory gaps, we recommend the following reforms to improve Indonesia's land-use governance in the energy sector:

a. Revise Regulations that diminish public participation and weaken spatial planning by disregarding environmental carrying activity.

The regulations include:

Law No. 26 year 2007 on Spatial Planning as revised under Job Creation Law and its implementing regulations (i.e. Governmental Regulation No. 21 year 2021), Law No. 27 year 2007 on Coastal Zone as revised under Job Creation Law and its implementing regulations that allows the Central Government to issue recommendations for national strategic projects, even when the project is not in accordance with the spatial planning.

> Law No. 2 year 2025 regarding coal and mineral mining that allows guarantee of no changes to zoning and spatial plans in mining areas without considering environmental carrying capacity.

b. Incorporate siting consideration from the early stage of energy and electricity planning.

It is essential to ensure there is a system to assess the environmental impacts of energy facilities, through comprehensive assessment methods during site selection. Thus far, the environmental assessment will be conducted through the environmental impact assessment process. However, this consideration may be too late, as the developer already secured several permits / approval prior to the assessment. To address this, Indonesia should adopt Strategic Environmental Assessment (SEA) as part of the development of national energy and electricity plans (e.g., RUEN, RUKN, RUPTL). Integrating SEA at this upstream stage would ensure that environmental and spatial planning considerations—including siting, ecological risks, and land-use conflicts—are embedded in the earliest phases of energy infrastructure planning.

5 Indonesia Needs to Strengthen Its Climate Commitments to Enhance the Effectiveness of ODA Mechanisms

Indonesia has established institutional mechanisms for managing Official Development Assistance (ODA), notably through the Lembaga Dana Kerja Sama Pembangunan Internasional (LDKPI)—a public service agency under the Ministry of Finance that oversees grant administration. While this framework provides a foundation for ODA governance, there remains a need to better align ODA objectives with the country's climate goals under the Paris Agreement.

Currently, grants are governed by Government Regulation (PP) No. 57 of 2019, which amends Government Regulation No. 48 of 2018 on Procedures for Granting Aid to Foreign Governments/Institutions. Article 4 paragraph (2) states that aid should primarily be directed to developing countries, taking into account the level of diplomatic relations with the recipient country. However, the regulation does not explicitly define the specific purposes for which such grants can be allocated. Article 4, paragraph (3) Article 4(3) outlines prohibitions—such as the use of grants for inciting conflict or supporting criminal activity—but does not specify positive objectives or climate-related criteria for disbursement.

Thus, we recommend that the Indonesian government increases its climate ambition target in the upcoming second Nationally Determined Contribution (NDC), particularly in the energy sector to ensure alignment of ODA grants and/or technical assistance towards the achievement of Paris Agreement's objectives. Furthermore, it is also necessary for the government to consider the provisions under the Paris Rulebook when designing and implementing ODAs, particularly the decisions related to means of implementation to ensure that Indonesia's ODA will significantly address the implementation gap as stated in the UNFCCC's synthesis report.

6 Indonesia Needs to Enhance Demand-Side Management Strategy in National Energy Conservation Narrative

Government Regulation No. 33 of 2023 on Energy Conservation fails to position demand-side management (DSM) as a core strategy in achieving environmental and decarbonization goals. The regulation remains heavily focused on technical efficiency and energy audits, yet lacks a policy framework that promotes systemic shifts in energy consumption behavior. In the context of the climate crisis and ecological degradation, managing energy demand should serve as a central pillar of conservation strategy, not merely a complementary measure to supply-side management.

Although the regulation identifies key sectors such as households, industry, transportation, and buildings as conservation targets, it does not incorporate structured DSM mechanisms supported by behavioral incentives and disincentives. For instance, there are no concrete policies that encourage household electricity reduction through emission-based progressive tariffs or binding green building regulations. As a result, energy conservation is framed as a voluntary and administrative effort, rather than a collective behavioral transformation essential for emission reduction and environmental protection.

While Government Regulation No. 33/2023 opens the door for fiscal and non-fiscal incentives, these mechanisms remain generic and are not yet designed to drive measurable emission reductions or directly support environmental objectives. Without a national DSM strategy that is measurable and integrated into broader climate and environmental policies, energy conservation risks losing its strategic role as a key instrument for decarbonization and ecosystem preservation.

7 Indonesia Needs to Enhance Research as a Tool for Predicting and Mitigating the Social and Environmental Impacts of Energy Policy

The national legal framework, particularly Law No. 30 of 2007 on Energy, has yet to position research as a strategic tool for anticipating and mitigating the social and environmental impacts of energy policies. Article 29 merely stipulates that the government shall facilitate research for the development of new and renewable energy (NRE) to achieve energy self-sufficiency. However, it does not explicitly mandate interdisciplinary research that encompasses social, economic, and ecological dimensions. In contrast, the OECD principles emphasize the importance of research that can predict the social and environmental consequences of energy conservation and supply measures. This reflects a substantive gap, as the Energy Law narrowly focuses on technology and energy supply dimensions.

The absence of a legal mandate for social and environmental research in the Energy Law results in regulatory weaknesses in preventing social conflicts, environmental degradation, and the neglect of rights of affected communities in the implementation of energy policies and projects.While Article 44 of Law No. 32 of

2009 on Environmental Protection and Management requires that national and regional regulatory frameworks safeguard environmental functions, and Article 96 of Law No. 13 of 2022 on Lawmaking affirms the public's right to participate from the early stages of regulation drafting, these normative guarantees have yet to be operationalized within the energy sector in a way that bridges research findings with policy cycles and technical regulations.

To address this regulatory gap, a revision of the Energy Law and/or the formulation of implementing government regulations is necessary. These should explicitly stipulate that:

a. Energy research activities must include analysis of the social, economic, and environmental impacts of energy policies and projects;
b. Research findings must be incorporated into the foundational documents for the formulation of national and regional energy policies;
c. Energy research must be carried out through interdisciplinary and inclusive approaches, involving academics, civil society, and affected communities; and
d. Strongly mandate the establishment of dedicated and sustainable funding for research that assesses the broader impacts of energy policies on social, economic, and environment.

By institutionalizing these provisions, research would move beyond a purely technical function to become a predictive and preventive instrument—ensuring that energy policies are not only efficient and sustainable, but also socially equitable, ecologically sound, and accountable to the public.

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V2. Recommendations for Institutional Strengthening and Energy Transition Governance

Following the regulatory gap analysis and the formulation of proposals for regulatory enhancement, this study turns to institutional strengthening strategies. These recommendations are grounded in a comparative assessment of eight selected OECD[5] legal instruments vis-à-vis 22 Indonesian regulations and two legal rulings.

From an institutional perspective, this study examines key policies and decisions made by the Indonesian government to prepare for and accelerate the accession process to OECD membership. Two major decisions serve as reference points. **First**, Presidential Decree No. 17 of 2024 concerning the National Team for the Preparation and Acceleration of Indonesia's Membership in the OECD[6], which establishes the organizational structure of this cross-agency team and outlines its duties and authorities.

Second, the Decree of the Coordinating Minister for Economic Affairs, acting as the Chair of the National Team, assigns several state institutions to represent Indonesia in 26 OECD committees. However, a significant institutional gap remains: no dedicated representation has been assigned to address energy transition issues. The government has only appointed delegates to the OECD Environment Committee, with participation limited to the Ministry of Environment and Forestry and Bappenas (the Ministry of National Development Planning). This composition indicates that the energy transition has not yet been treated as a strategic priority in Indonesia's OECD accession process. The lack of involvement from key ministries poses the risk of framing the energy transition merely as an environmental issue, rather than as a cross-sectoral structural transformation that is vital to national development.

Institutional challenges are also evident in the ongoing implementation of Indonesia's energy transition initiatives, particularly concerning the evolving status of the National Energy Transition Task Force and the Secretariat of the Just Energy Transition Partnership (JETP)[7]. The task force was originally established under Decree No. 144 of 2023 issued by the Coordinating Minister for Maritime Affairs and Investment. However, following the dissolution of the coordinating ministry, the institutional clarity and continuity of the task force's mandate have become uncertain.

From the outset, the institutional status of this task force has not been sufficiently robust, as it was established merely through a ministerial decree rather than a higher-level regulation such as a Presidential Regulation. In 2025, without adequate public explanation, the government formed a new task force through the Decree of

5 Presidential Decree of the Republic of Indonesia Number 17 of 2024 Concerning the National Team for the Preparation and Acceleration of Indonesia's Membership in the OECD

6 Decree of the Coordinating Minister for Economic Affairs of the Republic of Indonesia as Chair of the National Team for the Preparation and Acceleration of Indonesia's Membership in the OECD Number 232 of 2024 Concerning the Coordinators and Secretariat of the National Team for the Preparation and Acceleration of Indonesia's Membership in the OECD.

7 JETP. Comprehensive Investment and Policy Plan (CIPP). Jakarta, 2023. Accessed from: https://id.jetp-id.org/cipp

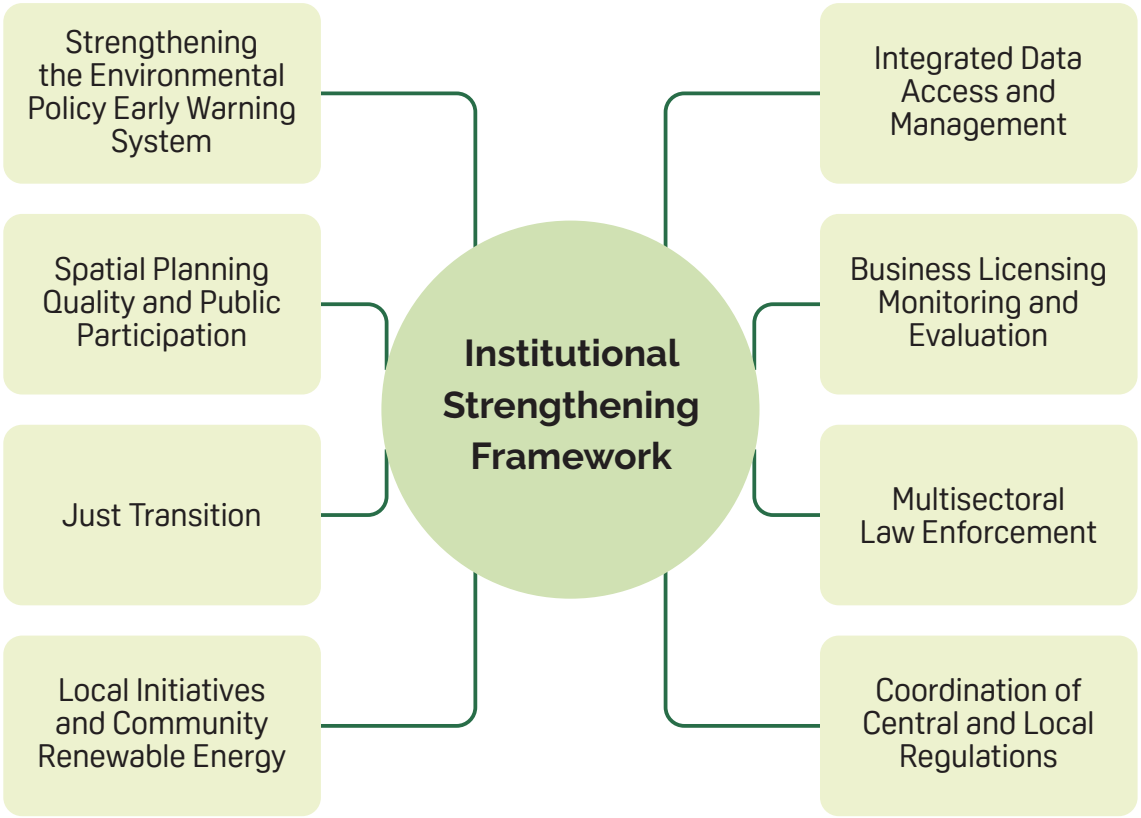
the Coordinating Minister for Economic Affairs No. 141 of 2025 concerning the Task Force for Energy Transition and Green Economy. Although this new task force carries out essentially the same duties and functions as its predecessor, there is no clarity regarding the fate and institutional position of the JETP Secretariat, which had previously played a key role in managing and coordinating energy transition programs based on international partnerships.

This lack of clarity reinforces the impression that cross-agency coordination and institutional consistency in energy transition policy remain weak, and are not yet part of a planned and sustainable governance architecture. The regulatory gaps between OECD instruments and Indonesian regulations also result in institutional performance issues, which this study identifies in several forms, including:

1. The absence of an integrated, cross-sectoral socio-ecological and emissions data system;
2. Weak environmental permit monitoring and reclamation oversight, which are not performance-based;
3. Ineffective and slow enforcement of sectoral environmental laws;
4. Poor harmonization and coherence across environmental regulations;
5. Spatial planning (RTRW) that disregards environmental carrying capacity;
6. No early warning system for environmental policy changes;
7. The absence of a regulatory framework for workers affected by the transition;
8. Local energy initiatives are not legally recognized.

Therefore, institutional strengthening for Indonesia's OECD Accession Acceleration in the energy transition and environmental sectors is necessary. This strengthening refers to a strategic process aimed at enhancing and restructuring the roles, structures, and working mechanisms of institutions. The strengthening[8] framework is formulated into eight pillars, as a response to systemic challenges in the governance of the energy and environmental sectors.

8 Wibisono, Y. (2021). Institutional strengthening and capacity building: A case study in Indonesia. Journal of Asian Finance, Economics and Business, 8(3), 629–635. https://doi.org/10.13106/jafeb.2021.vol8.no3.0629



Institutional and Governance Focus	Focus on Institutional Improvement	Relevant Institutions
Integrated Data Access and Management	• Develop an Integrated National Data Platform • Real-time Emission Reporting Based on Sensors	• Ministry of Environment • Ministry of Forestry • Ministry of Energy and Mineral Resources • National Development Planning Agency (Bappenas) • National Research and Innovation Agency (BRIN) • Regional Government (Local Government)
Business Licensing Monitoring and Evaluation	• Implement Performance-Based Permitting • Periodic Environmental Permit Audits	• Ministry of Energy and Mineral Resources (ESDM) • Ministry of Environment • Ministry of Forestry • Ministry of Investment • Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) • Regional Government (Investment and One-Stop Integrated Service Office - DPMPTSP)
Multisectoral Law Enforcement	• Establish an Energy Transition Law Enforcement Task Force • Social Audit of Strategic Projects	• Ministry of Environment • Corruption Eradication Commission (KPK) • Attorney General's Office • Audit Board of Indonesia (BPK) • Indonesian National Police (POLRI) • Regional Government (Local Government)

Institutional and Governance Focus	Focus on Institutional Improvement	Relevant Institutions
Coordination of Central and Local Regulations	• One Green Regulation Platform • Emission Standards Harmonization Forum	• Coordinating Ministry for Economic Affairs • Ministry of Environment • Ministry of Forestry • Ministry of Home Affairs • Ministry of Law and Human Rights • Regional Government (Local Government)
Strengthening the Environmental Policy Early Warning System	Establish an Early Warning System for Policies Based on Environmental Risk Analysis (ERA)	• Ministry of Environment • Ministry of Forestry • National Research and Innovation Agency (BRIN) • National Development Planning Agency (Bappenas)
Quality of Spatial Planning and Public Participation	Strict Carrying Capacity-Based Spatial Plan (RTRW) Audit, with Independent Review for National Strategic Projects (PSN)	• Ministry of Agrarian Affairs and Spatial Planning / National Land Agency (ATR/BPN) • Ministry of Environment • Ministry of Forestry • National Development Planning Agency (Bappenas)
Just Transition	Establish National and Regional Committees for Just Transition	• Ministry of Manpower • Ministry of Energy and Mineral Resources (ESDM) • Ministry of Social Affairs • Ministry of Environment • Ministry of Forestry • Ministry of State-Owned Enterprises (SOEs) • Regional Government (Local Government)
Local Energy Initiatives and Community-Based Renewable Energy	Local Energy Accreditation and Incentive Program	• Ministry of Energy and Mineral Resources (ESDM) • Ministry of Villages, Development of Disadvantaged Regions, and Transmigration • Regional Government (Local Government)

Table 3. **Core Recommendations for Institutional Strengthening and Governance**

V3. Danantara and Investment Vehicle for Energy Transition

A new investment vehicle has been introduced, with total assets under management reaching more than US$ 982 billion, positioning *Danantara* as a strategic opportunity for energy financing. *Danantara* consolidates assets from all state-owned enterprises (SOEs), more than 844 companies including PLN, Pertamina, as well as those in the mining and banking sectors. Its presence is expected to attract more investment into Indonesia.

Several investment scenarios can be facilitated through *Danantara*, such as funding renewable energy (RE) projects. Investors may channel their capital through blended finance instruments or debt securities issued by *Danantara*. The funds raised will then be allocated to finance renewable energy projects to accelerate the energy transition in Indonesia.

Danantara is also expected to be a key driver in boosting economic growth to 8%—a figure that aligns with Indonesia's informal target for accession to the OECD. However, the OECD has explicitly stated that sovereign wealth fund (SWF) governance must be transparent and free from political objectives. Therefore, the government must exercise caution in leveraging major state assets for strategic projects. Several concerns arise related to legal and governance risks associated with *Danantara*, particularly when conducting a regulatory gap analysis against OECD legal instruments.

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
Recommendation of the Council on Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises	• Be subject to conflict of interest rules that sufficiently address conflicts that may arise directly in the governance of particular SOEs or portfolios of SOEs • Separating ownership from other government functions to minimise conflict of interest, and opportunities for political intervention (non-strategic or operational in nature) and other undue influence by the state, serving politicians or politically-connected third parties in SOEs	• Article 33 of Government Regulation No. 10 of 2025 allows dual office holding by state officials within the *Danantara* entity. • Article 3X paragraph (1) of the State-Owned Enterprises Law states that the organs and employees of *Danantara* are not considered state administrators	• The appointment of several ministers and deputy ministers to hold concurrent positions within *Danantara* contradicts the *Guidelines on Anti-Corruption and Integrity in State-Owned Enterprises*. • This policy creates a potential conflict of interest and undermines the principle of checks and balances in state governance, as the same officials act both as regulators and investment managers. • Due to their status, *Danantara* officials are not required to submit asset declarations to the LHKPN (Public Officials' Wealth Report), are not bound by the code of ethics for state officials, and are not subject to oversight by institutions such as the Corruption Eradication Commission (KPK), the Attorney General's Office, or the Audit Board of Indonesia (BPK), all of

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
			which play critical roles in preventing abuse of power. • This arrangement creates a dangerous legal loophole, whereby officials managing substantial public funds and state assets are exempt from public accountability obligations.
Recommendation of the Council for Development Co-operation Actors on Managing the Risk of Corruption	• Corruption risk management refers to the elements of an institution's (public or private) policy and practice that identify, assess, and seek to mitigate the internal and external risks of corruption for its activities • Internal integrity and anti-corruption system refers to those elements of an agency's ethics, control, and risk management systems (laws, regulations and policies) that relate to corruption risk, including both prevention and enforcement elements • Integrate corruption risk assessment into all programme planning and management cycles in formalised ways	• Article 3H paragraph (2) of Law No. 1 of 2025 on State-Owned Enterprises stipulates that "Any profit or loss incurred by the Entity in conducting investments shall be deemed the profit or loss of the Entity." • Article 3Y of the SOE Law grants legal immunity to ministers, board members, and employees of the Entity if they can demonstrate that the losses incurred were not the result of their fault or negligence, and that they acted in good faith.	• This arrangement has the potential to obstruct legal processes and hinder anti-corruption efforts, as it allows officials to evade accountability based on subjective justifications. It also weakens the legal construct of abuse of power. • The mechanism may be used as a form of liability evasion or deliberate obfuscation, where officials intentionally obscure their legal responsibilities under the guise of administrative or procedural justifications. • Excluding *Danantara*'s losses from the definition of state finances poses a risk of creating a legal grey area in public fund management (including taxpayers' money), which could be exploited for particular interests without adequate oversight. • *Danantara* manages the assets of state-owned banks such as Bank Mandiri, Bank BNI, and Bank BRI, which hold substantial assets and play a strategic role in the national

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
			economy. However, there is currently no specific regulation addressing the potential impact of this asset management on financial sector stability, particularly in the context of default risk. • There is still no clear protection mechanism for Third-Party Funds (DPK) managed by state-owned banks. In the event of disruption in asset management, no regulation currently outlines the applicable risk mitigation scheme or identifies the responsible parties for addressing the consequences.

In addition to enhancing governance that is independent of political interests, professional, and equipped with anti-corruption safeguards, *Danantara* requires a clearer strategic direction to guide energy transition investments. *Danantara* with the support of the OECD should develop a 2050 Energy Transition Investment Roadmap.

This roadmap would serve not only to align *Danantara*'s operations with OECD standards and codes of conduct, but also to accelerate the development of bankable and sustainable investment-grade projects in the energy sector. In forming the Energy Transition Investment Roadmap, the OECD must ensure that *Danantara* not only prioritizes the financial viability aspect of the investment plan but is also inclusive in involving affected communities.

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The OECD Principle of Competitive Neutrality and the Monopoly Challenge of Indonesia's State Electricity Company (PLN)

The concept of state monopoly over natural resources is largely influenced by the belief that energy is a "strategic sector" of the economy. As a result, government intervention is considered necessary to ensure the continuous availability and provision of energy. This rationale is often used to justify government activities that are seen as natural monopolies, such as the transmission and distribution of energy, which lead to vertical integration across upstream and downstream sectors.[9] The monopoly and vertical integration of such activities are predominantly implemented through state-owned enterprises. These entities supply electricity and gas services commonly deemed "essential to public welfare" thereby justifying continued government intervention.[10]

In fact, PLN's monopoly is a pseudo monopoly. Some power plants are handed over to the private sector or IPP (Independent Power Producer), so PLN needs to buy electricity with a take or pay scheme. PLN only plays a monopoly on the transmission side which hinders the acceleration of the energy transition from the private sector and community initiatives. In addition, the discussion of power wheeling in the Renewable Energy bill draft is often rejected on the grounds that PLN holds an absolute monopoly in the electricity sector. This situation makes PLN's monopoly not contribute to the energy transition.

The implementation of this state monopoly framework has been disproportionately practiced, as meaningful public participation and contribution in the energy sector are often lacking in transparency. Communities are not actively involved in the planning and management of energy resources, and access to quality and affordable energy services remains uneven particularly in rural and remote areas.

Regulatory Gaps
OECD Principles and PLN-Electricity SOE Monopoly Structure

OECD Legal Instruments	Clauses under OECD Legal Instruments	Clauses under Indonesian Regulation	Regulatory Gap
Recommendation of the Council on Guidelines on Corporate Governance of State-Owned Enterprises	• The state should not exempt SOEs, when engaging in economic activities, from the application and enforcement of laws, regulations and market-based mechanisms • SOEs and their private competitors should generally be treated equally, including under national treatment and market access rules.	Article 11 letter b of Law Number 6 of 2023 on Job Creation and Article 9 Government Regulation of the Republic of Indonesia Number 14 of 2012 concerning Electricity Supply Business Activities *State-owned enterprises are granted primary priority in conducting electricity supply activities for the public interest.*	Although the OECD does not explicitly prohibit state-owned monopolies, principles such as competitive neutrality, equal market access, and regulatory impact assessment implicitly criticize monopolistic practices. Indonesia has yet to fully adopt these principles in the electricity sector, as various regulations continue to reinforce the dominance of PLN.

9 Willis P, Hughes P (2008). Structural remedies in Article 82 energy cases. Compet Law Rev. 4(2):147- 174.
10 Trujillo E (2010). State action antitrust exemption collides with regulation: Rehabilitating the foreseeability doctrine. Fordham J Corp Finan Law. 11(2).

The OECD encourages that every policy be evaluated for its impact on competition and emphasizes the importance of transparency and accountability in the governance of state-owned enterprises (SOEs). However, in Indonesia, there is no systematic mechanism to assess the competitive impact of energy regulations, and PLN continues to enjoy a dominant position. The absence of such assessments, coupled with limited public participation, widens the gap between Indonesia's regulatory practices and OECD principles, prolonging reliance on an inefficient monopoly model that hinders innovation.

The monopolistic policy model is sustained through several mechanisms: a) **Regulations and policies** that reinforce the dominance of state-owned enterprises and centralize licensing processes. For example, regulations that grant exclusive authority to SOEs to carry out certain activities within the energy sector; b) **Ownership**, in which several SOEs maintain dominant control over the energy sector; c) **Political influence**, where the energy industry becomes a space for oligarchic power-brokering, turning the government into an object of influence-trading; and d) **Restrictions on public access** to the energy sector, enforced through laws and policies.[11]

As a result, the government lacks transparency in managing the energy sector, creating space for corruption, nepotism, or collusion that benefits certain actors and preserves their monopolies. Monopoly also prolongs dependence on fossil fuels. The dominance of fossil energy such as coal deepens this dependency, with negative consequences for the environment and public health. Ultimately, such monopolistic structures hinder innovation and progress in the energy sector, as the absence of competitive pressure reduces incentives to improve efficiency, lower costs, or develop new technologies.

11 Muhamad Saleh, 2024, Merebut Kendali Transisi Energi: Tragedi Otonomi Daerah dalam Kebijakan Transisi Energi, CELIOS. hlm. 8

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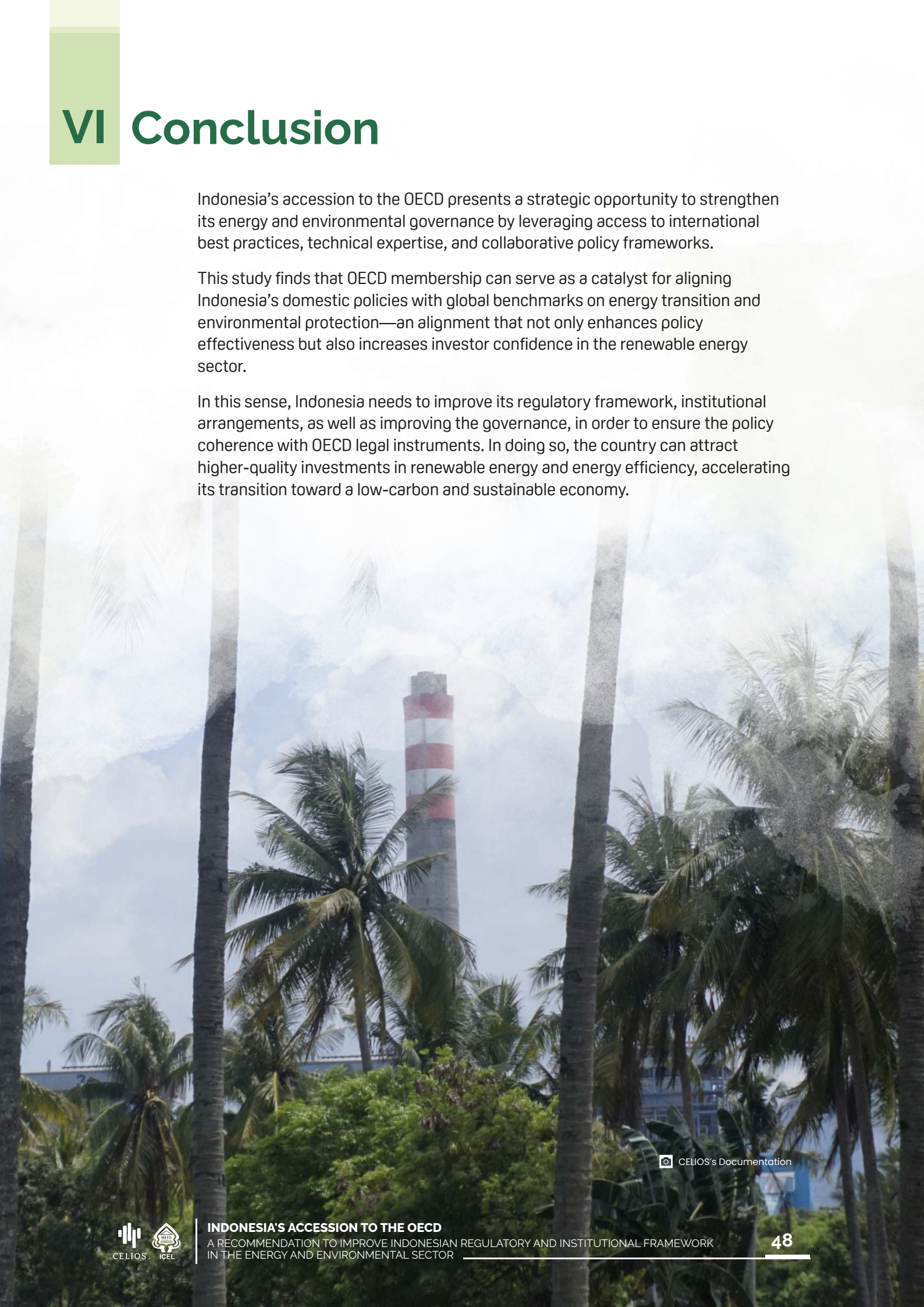
VI Conclusion

Indonesia's accession to the OECD presents a strategic opportunity to strengthen its energy and environmental governance by leveraging access to international best practices, technical expertise, and collaborative policy frameworks.

This study finds that OECD membership can serve as a catalyst for aligning Indonesia's domestic policies with global benchmarks on energy transition and environmental protection—an alignment that not only enhances policy effectiveness but also increases investor confidence in the renewable energy sector.

In this sense, Indonesia needs to improve its regulatory framework, institutional arrangements, as well as improving the governance, in order to ensure the policy coherence with OECD legal instruments. In doing so, the country can attract higher-quality investments in renewable energy and energy efficiency, accelerating its transition toward a low-carbon and sustainable economy.



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