



BUSINESSatOECD

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Committee to the OECD

OECD Accession Process: Indonesia

Business Priorities for OECD Review

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Executive Summary

Indonesia's accession to the OECD requires comprehensive reforms across various sectors to align with OECD standards, principles and best practices. This document outlines business priorities and includes initial recommendations from OECD business for review during the OECD accession process:

Economic, Financial, and Structural Reform:

The Omnibus Law on Financial Sector Reform aims to streamline regulations, enhance financial sector stability, and improve market conditions in the financial sector, but investors have expressed concerns that the bill erodes the autonomy of the central bank. At the same time, the market size and penetration rate of certain financial sectors is comparatively lower than those of OECD member countries.

Taxation:

The Coretax system integrates all core business processes of tax administration, but further steps are needed on its implementation. The VAT scheme for the freight forwarding industry leads to double tax payments for the same component.

Trade and Investment:

Significant concerns remain on import tariffs and taxes on certain goods and services, additional import levy increases, as well as Indonesia's unique importation withholding tax regime. Export and import restrictions impact several sectors and may not be in line with Indonesia's WTO commitments. The Commodity Balance raises trade policy concerns. Protectionist regulations, product certification requirements, and local content requirements are applied to various key sectors and industries. Data localization measures and restrictions on foreign e-commerce create undue market barriers. Indonesia's permanent approval of the WTO moratorium on electronic transactions must be secured. While high import tariffs incentivize illicit trade in specific sectors, supervision and enforcement can generally be improved. While comprehensive trade

barriers are bottlenecks for attracting foreign investment in various industries, foreign ownership caps and capital requirements are applied to several sectors.

Regulation and Standards:

Indonesia's standardization framework, particularly the Indonesian National Standard (SNI), raises concerns due to complex and costly certification processes, and its function as a barrier to trade. The use of internationally harmonized measures should be promoted. Specific regulatory policies should be reviewed in various sectors, including for electronic payments, electronic systems providers, marketing and trademarks, media and entertainment, and reinsurance.

Public Governance and Bureaucratic Hurdles:

Frequent and unpredictable regulatory changes – especially in tax, trade, and digital sectors – create uncertainty for businesses. Lack of clarity in digital platform registration and Bank Indonesia's dual role as regulator and market participant raise transparency and neutrality concerns. On public procurement, more flexible and innovative systems should be explored. Inconsistencies between national and regional regulations, along with persistent corruption risks, further undermine investor confidence. Greater use of regulatory impact assessments and stakeholder engagement is essential to promote a stable, transparent, and business-friendly environment.

Inclusive Growth:

Uncertainty persists around the Omnibus Law on Job Creation, including the obligation of employers to prioritize Indonesian workers for certain job positions, and provisions on severance pay and minimum wage calculation. Industry-specific concerns relating to the Omnibus Law on Health include content restrictions, local content requirements, pricing controls, restrictions on advertising

and sales, and the transition period of its implementation.

Intellectual Property Rights:

Indonesia's IP rights and enforcement remains limited, with key challenges including restricted access to the IP Recordation System for foreign entities, ongoing concerns about local patent working requirements, and weak enforcement against counterfeiting and parallel imports. Reforms to allow equal access for foreign rights holders, ensure TRIPS compliance, and strengthen IPR enforcement would improve investor confidence.

Innovation and Digital Economy:

Indonesia's evolving digital regulations – such as the new Personal Data Protection Law, data localization mandates, and digital VAT – raise significant concerns for foreign businesses. Complexities in cross-border data transfers, restrictions on cloud use in financial services, and domestic processing requirements limit innovation and market access. The pending Cybersecurity Law may further disadvantage foreign providers, while new rules requiring platforms to pay for news content raise neutrality and transparency issues.

Environment, Energy and Climate Change:

Indonesia's efforts to meet global climate commitments require stronger alignment with international standards and more effective policy implementation. Priorities include the development and implementation of effective blended finance schemes. While the government promotes renewables and net-zero goals, challenges persist—such as misalignment between regulators and utilities, high fossil fuel subsidies, and delays in carbon tax implementation.

Quality Infrastructure:

Subsea cable regulations mandate restrictive routes and local ownership requirements, limiting foreign investment and flexibility. In the power sector, slow progress on the RUPTL, rigid tariff structures, and high exploration risks—especially in hydropower and geothermal—discourage renewable energy investment. More transparent tenders, risk-

sharing mechanisms, and tariff reforms are needed to attract infrastructure investors.

Introduction

Lorem The desire for a better future and wellbeing through economic prosperity and competitiveness unites people across the world. To broaden the reach of established standards, principles and good practices for the governance of markets, the enlargement of the Organisation for Economic Co-operation and Development (OECD) provides an essential opportunity.

In 2024, the OECD and Indonesia decided to start engaging in an accession process. This implies a transformative, in-depth, multi-year opportunity for Indonesia to enhance its international standing and raise the bar for economic and social governance. For the business community operating in and with Indonesia, the accession process should result in an enabling environment and yield tangible benefits, including

- stronger economic growth;
- more trade and foreign investment;
- closer regulatory alignment and harmonization;
- better performing governments;
- higher financial stability and lower borrowing costs; and
- a more active, educated and healthy workforce.

To this end, the trusted, long-term alignment with OECD standards and principles must take

priority over political considerations. To ensure the ability, capacity, willingness and responsibility of Indonesia to fully implement all OECD standards and principles, a thorough OECD assessment of the current economic and legal environment is indispensable.

As the OECD's institutional private sector stakeholder, Business at OECD (BIAC) stands ready to support this effort as the informed, trusted, and collaborative focal point for business during Indonesia's OECD accession process. This document provides an initial non-exhaustive compilation of business priorities for reform, drawing on the on-the-ground insights of our regionally and sectorally diverse private sector constituency.

In the context of the country's accession process, we encourage the OECD and the Indonesian government to review the below mentioned issues in greater detail and resolve any related business concerns. While these issues are structured below under eight main headings, we underline the cross-cutting nature and potential relevance to various policy communities of these priorities. [Key Message] At this time of systemic uncertainty, Business at OECD (BIAC) calls for closer collaboration between governments and the private sector on trade policy at the OECD.

Business Priorities for Country Reform

Economic, Financial and Structural Reform

Omnibus Law on Financial Sector Reform

The Financial Sector Omnibus Law was signed in 2023 and targeted financial sector reform through improved governance and coordination of institutions such as the Financial Sector Stability Committee (KSSK) and bank and non-bank financial service institutions. It revised 17 different laws in the financial sector and was intended to strengthen financial sector authorities, improve governance, support long-term financial sector deepening, and enhance consumer protection and financial innovation.

Investors have expressed concerns that the bill will erode the autonomy of the central bank. In response, US companies provided input to the Ministry of Finance and OJK on the initial drafts of the bill. The Government created the corresponding implementing regulations in the form of Government Regulations (PP) and regulations from Bank Indonesia, the Financial Services Authority (OJK), and the Deposit Insurance Corporation (LPS), with the aim of completing the regulations within two years.

Market conditions in the Financial Sector

Financial service is a core component of national infrastructure that supports economic growth and development and is a key industry to be prioritized in the OECD Accession Process. However, the market size and penetration rate of certain financial sectors is comparatively lower than those of OECD member countries.

It is necessary to promote growth and development by accepting support, such as know-how and capital, from foreign countries. However, certain financial sectors are hindered by outdated entry barriers and

restrictions on foreign ownership ratios, which impede the healthy environment of the market.

Furthermore, it is also crucial to establish an environment in which foreign companies can pursue long-term and sustainable growth. However, the business environment in financial sectors remains unstable due to sudden regulatory changes that are not adequately explained.

Existing regulations and systems should be reviewed to promote market development and create a fair competitive environment. Attention should be paid to OECD standards, such as the OECD Code of Liberalization of Capital Movements, each country's context (culture, customs, etc.), and the intentions of foreign companies and investors.

Clear regulatory and audit standards and transparent policy enforcement processes should be publicly disclosed. A new framework should be established that would allow foreign companies to be involved in policymaking.

Taxation

VAT for Freight Forwarding Industry

On March 30, 2022, the Minister of Finance stipulated Minister of Finance Regulation No. 71/PMK.03/2022 of 2022 on VAT on the Delivery of Certain Taxable Services ("MoF Reg. 71/2022"), which became effective on April 1, 2022. MoF Reg. 71/2022 is an implementing regulation of Law No. 7 of 2021 on Tax Regulations Harmonization ("Law 7/2021"), which revokes:

Article 2 j, k, and m of Minister of Finance Regulation No. 121/PMK.03/2015

Article 8 of Minister of Finance Regulation No. 92/PMK.03/2020 Article 13 paragraph (5) b and Article 16 paragraph (4) b of Minister of Finance Regulation No. 6/PMK.03/2021.

MoF Reg. 71/2022 applies to taxable services such as courier services and freight forwarding services that include freight charges in the invoice.

In terms of freight forwarding services, the government is authorized to collect 10% from the VAT rate of 11% or 1.1% for any freight forwarding services that include freight charges. However, companies still experience issues in terms of its implementation. The following is an illustration of a simple import transaction scheme for freight forwarding services.

Processes in points 1-6 occurred outside the customs area, among others, public land transportation services, warehousing, packaging, public air transportation services, etc. Such processes are managed by foreign freight forwarding companies and will be billed to the domestic ones. Whereas processes in points 7-11 occurred inside the customs area, including port loading and unloading, warehousing, public land transportation services, etc. Processes in the given point 7-11 are managed by domestic freight forwarding companies.

Domestic freight forwarding companies will combine points 1-6 and 7-11 to bill all points 1-11 to customers inside the customs area.

Hence, companies will bill consignees with the VAT rate of 1.1% as mentioned in MoF Reg. 71/2022. On the other hand, consignees also pay for import taxes in the import declaration, namely PPh 22 consisting of 2,5% tariff (with Import Identification Number) or 7,5% (without Import Identification Number), VAT with 11% tariff, import duty, where the tax base for PPh 22 and VAT is CIF (Cost, Insurance, Freight) and import duty.

VAT for overseas services should not be payable on invoices that are billed by overseas freight forwarding companies to the domestic freight forwarding companies due to all VAT in points 1-6 have been paid by the consignee with details as follows:

- VAT 1.1% in points 1-11 that are collected by domestic freight forwarding companies and paid by the consignee as the last customer.
- VAT 11% from the freight component which has also been paid by the consignee as included in the import declaration.

There will be a double tax payment of the same component if VAT for overseas services in points 1-6 should be repaid by domestic freight forwarding companies. Moreover, such VAT for overseas services that are part of incoming tax shall be paid by the domestic freight forwarding companies but cannot be credited to the outgoing tax with a 1.1% rate. This causes additional costs for domestic freight forwarding companies. Such costs may negatively affect the cash flow management resulting in potentially increasing the aggregate of logistics costs.

Subsequently, the provision of VAT for overseas services in Minister of Finance Regulation No. 40/PMK.03/2010 on the Procedures for Calculation, Collection, Deposit, and Reporting of VAT on the Use of Intangible Taxable Goods and/or Taxable Services from Outside the Customs Area ("MoF Reg. 40/2010") is not applicable to points 1-6 above. This is because MoF Reg.40/2010 regulates payable VAT for overseas services, whereas points 1-6 are services outside the customs area which are

included in the tax-exempt services according to Law 7/2021.

International Commercial Terms (Incoterms) governs rights and obligations of buyers and sellers for goods delivery in the international shipment, including shipping goods process, subjects who are responsible for the import-export process, subjects whom are responsible for the costs incurred and risk mitigation for changes in the goods that occurred due to delivery process. Incoterms were established by the International Chamber of Commerce (ICC) in 1980 and updated periodically every decade, with the latest one in 2020.

If importers used Incoterms like EXW, FCA, FAS, or FOB for shipment, the importer will pay the international freight and be billed to VAT twice for the same component; from the Import Declaration and freight charges from the domestic freight forwarder. This scheme will increase the importers' overall costs and highly likely lead importers to shift into other freight options in Incoterms such as CFR, CIF, CPT, CIP, CPU, DAP, or DPP with international freight paid by sellers overseas if given with competitive prices or even lower. As a result, freight forwarding companies will find it increasingly difficult to maintain their business and profitability due to the increasing uncompetitiveness. Lower freight forwarders' profitability will significantly impact the corporate income tax payment, which can decrease Indonesia's tax revenue from the transportation and logistics sector. Recommendations include:

1. We propose the government amend MoF Reg. 40/2010 or issue a new specific regulation that governs VAT of freight forwarding services is not payable on bills for freight forwarding activities services billed by partnering overseas freight forwarding companies.
2. We highly encourage the government to ease doing business for existing companies, considering that the transportation and logistics sector is the 5th largest contributor to

Indonesia's GDP. The aggregate increase of logistics costs may result in the reduction of tax contribution and uncompetitiveness within the sector.

Implementation of the Coretax System

The main objective of Coretax development is to modernize the current tax administration system. Coretax integrates all core business processes of tax administration, from taxpayer registration, tax reporting, tax payments, to tax audits and collection. The Coretax System has been implemented for all taxpayers in Indonesia effective 1st January 2025. Ministry of Finance and Directorate General of Tax in Indonesia should be more active in socializing the System to all taxpayers in order to achieve the successful implementation of Coretax as part of economic and structural reform in Indonesia.

Trade and Investment

Tariffs and Taxes

Import Tariffs and Taxes on Spirits

Indonesia, while being a signatory to FTAs both independently and as an ASEAN member, has continued to exclude alcohol products from its schedule of tariff reductions. The import tariff on spirits reaches 150% and is the highest in the APAC region and along with restrictive import quotas constrains market access. Meanwhile, the tariff on wine is 90% and on beer is IDR 14,000 per liter.

Indonesia's excise tax also unfairly differentiates between domestic products and imported products:

- for products with an alcohol content of up to 5%, the excise rate is IDR16,500 for both domestic and imported products;
- for products with an alcohol content of between 5% to 20%, the excise rate is IDR42,500 for domestic products and IDR53,000 for imported products; and
- for products with an alcohol content of more than 20%, the excise rate is IDR101,000 for domestic products and IDR1523,000 for imported products.

Import Levy Increases

Indonesia's current account deficit in previous years (2.9% of GDP in 2018), as well as the depreciation of its currency, prompted the authorities to take corrective measures. Among them, the increase in the import levy known as import income tax, effective from 1 March 2017, stands out. This tax on imports is additional to the usual tariffs and must be paid by the importer but acts as an indirect tariff. The government's measures have proved effective, with Indonesia recording a current account surplus of 0.3% of GDP in 2021 and 1% in 2022. Despite this, the import levy

increase remains in place. However, in 2023 the current account balance in terms of GDP was -0.25% and in 2024, the forecast is -0.7%.

Importation Withholding Tax

This is a unique tax regime in Indonesia, a tax-to-be-paid-in-advance obligation, as required by Article 22 under the income tax law. Under this article, the impacted industry is required to pay an importation withholding tax "upfront" based on importation value and a specific tax rate. The tax rate for imports of electronic products (notebooks and monitors) increased to ten percent, up from 2.5 percent in 2014.

Although Article 22 Importation Withholding Tax can be utilized as a credit on the Corporate Income Tax return and any overpayment shall be refundable to the taxpayer, such prepayment will normally exceed the company's actual corporate income tax liability:

- Tax returns filed with a net refundable position will automatically trigger a tax audit by the tax authorities;
- Tax auditors tend to issue unreasonable assessments to keep the refunds; and
- Entire tax audits/litigations take up to eight years to complete, with cash being held by the Indonesian Government.

Inconsistent Import Duty Classification

A significant issue faced by importers in Indonesia is the inconsistency in import duty classification. The import duty rate applied to the same goods under a given Harmonized System (HS) code can vary depending on the customs officer handling the clearance process. Moreover, even when there is no official change in tariff rates, importers have reported unexpected increases in duty rates on previously imported goods, leading to higher import costs and uncertainty in trade operations.

To address this issue, it is essential for the Indonesian government to establish and enforce clear, consistent, and fair regulations regarding import duty classification and tariff application. Implementing standardized procedures and ensuring transparent enforcement will help eliminate ambiguities in trade and import/export processes, fostering a more predictable and business-friendly environment.

Non-Compliance with WTO Information Technology Agreement

Indonesia continues to contravene its WTO binding tariff commitments by charging tariffs on a range of imported technology products that are covered by Indonesia's commitments under the Information Technology Agreement (ITA) and should receive duty free treatment. Indonesia has implemented few of its ITA commitments and has sought to re-classify technology goods that have similar functions into dutiable HS codes that are outside ITA categories as a means to raise revenue, but in most cases the reclassified HS codes are also themselves covered by Indonesia's ITA commitments. For example, Indonesia continues to impose duties on printers and related parts, data center and networking equipment (e.g., routers, switches, servers and server racks, optical modules, and optical cables), and other ICT products, such as solid-state drives, that are covered by the ITA. This practice widely affects the IT industry and negatively impacts US investors and their workers.

Safeguard Duties on Textile Imports

Indonesia has imposed safeguards (i.e., textile import duties) to curb importers from other countries. Since November 12, 2021, safeguard measures have been implemented following a claim submitted by the Indonesian Textile Association (API) against the importation of "Articles of Apparel and Clothing Accessories." This has resulted in significant increases in import duties, rising from 24% to 42%, effectively doubling the tariffs on these goods.

The regulation governing this safeguard is the Regulation of the Minister of Finance of the Republic of Indonesia No. 142/PMK.010/2021, which applies to all origins, not just those identified as problematic, such as China, Morocco, Bangladesh, and Cambodia. As a result, the safeguard measures are classified as "erga omnes," impacting imports from 124 countries. The safeguard instrument, being the most restrictive of all trade remedies, should only be resorted to under exceptional circumstances.

Despite these measures, the anticipated outcomes have not materialized after three years of implementation, prompting a request for an extension beyond the scheduled expiration in November 2024. On November 8, 2024, we were informed of a new petition by API to extend the safeguard measures to 131 HS codes of apparel and accessories. This situation is particularly concerning, as the extra duties paid over the past three years have been among the highest worldwide. The current safeguard duties are intended to protect local industry from the influx of cheaper imports, primarily from China. The measures took effect on August 9, 2024, and are valid for three years, applying to imports of five types of fabrics, thus significantly affecting countries such as China, Hong Kong, and South Korea.

Furthermore, it is essential to note that OECD imports do not compete with local production in specific segments, and thus, non-competing products should be excluded from the investigation related to these safeguard measures.

Safeguard Duties on Cigarette Paper Imports

Similar to the issue of Safeguard Duties on Textile Imports, as of March 2025, Indonesia's safeguard measure on imports of cigarette paper, initially imposed for 3 years from October 12, 2018, to October 11, 2021, and extended for 3 years from November 18, 2021, to November 17, 2024, is proposed for a further extension of 2 years, from November 18, 2024, to November 17, 2026.

The proposed extension is concerning as it appears the safeguard duties in the past 6 years were not effective in giving the local industry time to improve its competitiveness while creating an unfavorable precedent in using safeguard duties as a resort under exceptional circumstances. In order to ensure and maintain fair trade measures with OECD members, it is recommended that the trade remedies on cigarette paper is lifted and/or changed into more country-specific measures.

Export Restrictions

The prohibited goods (together with their respective tariffs and remarks) are exhaustively listed in Annex I of MoF Regulation 22/2023, which lists 398 products, 123 more than in MoF Regulation No. 18/2021. The products concerned are in the sectors of forestry, agriculture, subsidized fertilizers, mining, cultural heritage, waste and metal waste. Pursuant to Article 2 of Ministry of Finance Regulation 22/2023, as of 1 June 2024, the ban on goods in the mining sector including:

- Lateritic iron concentrate (goethite, hematite, magnetite) with levels $\geq$ 50%;
- Copper concentrate with a content $\geq$ 15%;
- Lead concentrate with a content $\geq$ 56%;
- Zinc concentrates with a content $\geq$ 51%;
- Anode slime¹.

Import Restrictions

Overview

Indonesia's trade balance had a surplus value of around US Dollar 36.93 billion in 2023, a decline from the US Dollar 54.45 billion surplus in the same period the previous year,

representing a 33% decline in trade balance value. On a year-on-year basis, there was a 5.76% decline in exports and a 3.81% decline in imports from December 2022 to December 2023.

Since 2015, successive regulations have been introduced that renew, almost in their entirety, the legal framework regarding importation requirements. Notably, Regulation No. 75 of 2018 invalidated previous regulations and aimed to align with changes introduced in Regulation 24 of 2018 on the electronic business licensing service, or One Stop Shop (OSS), relating to Importer Identification Numbers (API). This framework was further amended in 2021 by Ministry of Trade Regulation No. 20 and in 2023 by Regulation No. 36. Although barriers linked to import licensing remain significant, the process of simplifying licensing regulations represents an improvement compared to previous periods.

The Minister of Trade enacted Regulation No. 36 of 2023 on Import Policy and Regulation, designed to strengthen the effectiveness of import controls, which revokes the import provisions under Regulation No. 20 of 2021. Effective implementation began on 10 March 2024. Businesses intending to import goods into Indonesia must obtain Business License Numbers (NIB), which also serve as an Import Registration Number (API), categorized into API-U (general importers for trading) and API-P (producer importers to support the production process).

To import specific categories of goods, MoT Reg. 36/2023 mandates importers to obtain technical considerations from the relevant technical ministry and a Surveyor Report. Business permits in the import sector consist of Registered Importers, Registered Producers, and Import Approvals. The OECD has observed the lengthy bureaucratic process in importing iron and steel, tires, textiles, chemicals, and electronics under MoT Reg. 36/2023; all of which require a technical

¹ Anode slime is a by-product of the electrolytic refining of metals, primarily in the production of copper, silver,

and gold. It is a sediment or residue that collects at the bottom of electrolytic cells during the refining process.

consideration mandated by their respective regulations under the Ministry of Industry.

In this regard, obtaining Import Approval from the Ministry of Trade for these goods requires a technical recommendation from the Ministry of Industry, which determines the import quota based on national supply and demand data, local absorption, and business compliance. However, the lack of transparency in quota determination, as well as the unpreparedness of infrastructure for verification, application submission, and timely processing, may potentially disrupt business operations and the availability and continuity of domestic supply.

This situation creates uncertainty for API-U companies that often cooperate with API-P companies to support production and after-sales services. For example, the importation of parts in the automotive industry by API-U companies is critical to support production, particularly as these parts are imported in small quantities to meet economic scale due to a lack of domestic availability.

Additionally, thousands of containers containing raw materials have experienced congestion in many Indonesian ports. Approximately 17,304 containers were detained in Tanjung Priok Port and 9,111 in Tanjung Perak Port due to unreleased import licenses and technical recommendations. This phenomenon has caused companies to incur losses due to more restrained importation policies. In response to such cases, the Ministry of Trade amended the regulation for the third time under Regulation No. 8 of 2024 ("MoT Reg. 8/2024").

We appreciate the government's efforts in providing relaxation by revoking commodity import approval requirements from the Ministry of Industry for complementary, market testing, and after-sales goods for producer importers while exempting technical considerations for textiles and electronics. However, we find that the import exemptions of multiple sectors for Importer Identification Number holders in the Appendix of MoT Reg. 8/2024 are set with certain terms and conditions. Although the exemptions apply to all types of importers,

iron and steel provisions only accommodate Producer Importer Identification Number (API-P) holders and are not applicable to General Importer Identification Number (API-U) holders. Some iron and steel products that are not locally available must be imported by manufacturers, even in small quantities, for after-sales services. These constraints will negatively impact manufacturers' service performance to their customers and overall business operations.

Recommendations include:

1. Business advocates for certainty regarding the duration and timeline of the overall process for acquiring import licenses and/or in case of submission rollbacks by the Ministry of Trade and Ministry of Industry.
2. Business encourages transparency, predictability, and accountability in the calculation system for determining import quotas for businesses. For importer producers (API-P), the lack of transparency in quota determination may disrupt the supply chain, affect the production process, and lead to potential shortages of critical components.
3. Business recommends that the government also provide continued support for API-U companies in importing goods. Manufacturers relying on imported inputs might face production delays or increased costs due to unclear import quotas, affecting their ability to compete both locally and internationally. Moreover, unpredictable import quotas can limit the variety of products available in the domestic market, reducing consumer choice and potentially impacting the quality of available goods.
4. Business encourages the government to provide relaxation by applying the import exemptions of iron and steel products for General Importer Identification Number (API-U) holders. These relaxations would tremendously support importers who

import for after-sales services and maintain their business operations.

Surveyor Report Requirements

MOT Regulation No. 87/2015 (Reg 2015) applies to imports of goods classified in specific HS codes including servers. The importer is required to appoint a company accredited by the Indonesian Government (known as the "Surveyor") to inspect its shipment in the origin prior to Indonesian Customs (Customs) clearance. The Survey Report (SR) requirement was initially enforced by Customs until MOT Regulation No. 51/2020 (Reg 2020) introduced a post-entry SR inspection process administered by the Directorate General of Consumer Protection and Trade Compliance of MOT, effective August 2020. Reg 2015 was repealed and replaced by MOT Regulation No. 20/2021 (Reg 2021) effective November 2021, to introduce new HS codes requiring SR. The product scope covers imports including servers, cooling equipment, hard disk drives, network interface cards and battery back-up units. The SR can cost up to US \$1,600 per shipment and significantly increase supply chain costs. Although both Reg 2015 and Reg 2021 allow capital goods to be imported without SR if an exemption letter from the MOT is obtained, there has been limited transparency and timeline provided for applying and issuing such exemption.

Import Licensing

In February 2022, the Indonesian Ministry of Trade created the Commodity Balance system, integrated within the Indonesian National Single Window (INSW) to centralize data on the supply and demand of key commodities and streamline import and export licensing (through Presidential Regulation No. 32/2022, later amended with Presidential Regulation 61/2024). At the end of 2023, the Government subsequently issued Regulation 36/2023 (Reg 36), imposing stringent import requirements on approximately 4,000 HS codes, covering 70 percent of the \$9.3 billion in annual US

exports to Indonesia, and impacting such categories as consumer goods and electronics, information communication technology goods, etc.

This proposal remains a real concern for foreign companies from various sectors. The regulation was initially adopted only with respect to agricultural products but was subsequently expanded to cover all ranges of consumer goods and electronics.

The system looks narrowly at economic data related to exports and imports, supply and demand without consideration of the broader social impacts of various consumer products (such as health products). The system also does not offer credit for companies that are manufacturing locally and exporting in consideration of quotas. The regulation allows the Government to determine whether it will approve permits for the importation of the covered goods. The Government's decision is based on an assessment of whether imports of a particular product exceed exports of that product - where such a trade balance is negative, the Government may reject import permits. The mechanism creates a de facto import quota on these products.

Separate from the fact that imposition of import quotas or other restrictions on these products would breach Indonesia's WTO commitments, the uncertainty caused by this regulation being in place is massively disruptive on its own. Indonesia's regime for administering import restraints is also highly opaque - they ask for "import plans" in advance, then issue import licenses based on those plans (and the licensing requirement is itself WTO noncompliant).

In addition, this led to massive disruptions including significant delays in issuing import licenses under the Commodity Balance system due to a lack of reliable data on the supply and demand of key commodities as well as insufficient preparation by the technical ministries. This resulted in the effective restriction of imports on goods such as electronics, ICT goods, traditional medicines, cosmetics, and footwear. Following business outcry, Reg 36 was amended multiple times in less than three

months, with the latest MOT Regulation 8/2024 (Reg 8), providing relaxations to seven commodities including chemical, textile, electronics, and footwear.

Companies also report significant procedural and data challenges with the database, including gaps in data entry and verification, the lack of clear information conveyed to stakeholders around data collection and inadequate coordination between agencies that lead to long delays in permitting decisions.

The Ministry of Trade has announced plans to review Reg 8 following widespread protests from domestic textile manufacturers. Coordinating Minister for Economic Affairs Airlangga Hartarto plans to form a task force to discuss the revision of the regulation with the ministries of industry and trade. The Government will also strengthen other measures such as Anti-Dumping Duties (BMAD) and Safeguard Duties (BMTP) and explore options to relocate import gates to eastern Indonesia.

Importation of goods and materials is primarily regulated by the Ministry of Trade under Minister of Trade Regulation No. 36 of 2023, which has undergone multiple amendments, causing uncertainty for businesses. The regulation imposes stringent border supervision and technical requirements for obtaining Import Approval from the Ministry of Trade. Please see below the industry-specific issues.

Chemicals

Importation of certain upstream chemicals from Europe has been affected by the Red Sea Crisis, causing delays and increased costs due to shipping reroutes. MoT Regulation 36/2023 requires importers to obtain technical recommendations from the Ministry of Industry, further delaying import processes and impacting stock availability in Indonesia.

The limited appointment of surveyor agencies for the inspection of certain chemical goods has hindered importers from processing their applications, creating additional bottlenecks.

Iron & Steel

The import of iron, steel and their derivatives into Indonesia is restricted by Regulation No. 110/2018 of the Ministry of Trade of the Republic of Indonesia (Kementerian Perdagangan); this regulation, published on 20 December 2018, the main barrier relates to the need to inspect the goods. For iron, steel and their derivative products to be imported into Indonesia they must pass inspection/assessment prior to use within Indonesia.

The importation of iron and steel by general importers, for items valued at less than USD 1,500 FOB or in low volumes, now requires Import Approval from the Ministry of Trade. Previously, these small volume imports were exempt from such requirements.

These imports typically involve low quantities (e.g., 50 pieces) of specialised products like bolts, screws, springs, and washers (HS Code 73**), which are not available locally due to specialized manufacturing requirements.

Tyres

MoT Regulation 36/2023 has restricted the import of tyres for after-sales purposes to companies classified as producer-importers. General importers are no longer allowed to import tyres for aftersales use.

General-importer companies importing tyres for manufacturing purposes are supporting high quality products that are partly manufactured in Indonesia, though they must ensure product warranties and replacement availability. The regulation hinders general importers from participating in the aftersales market that would provide consumers with a broader selection of high-quality products at competitive prices.

Pharmaceuticals

The importation of medicines and pharmaceuticals into Indonesia is restricted by Regulation No. 14/2020 of the Food and Drug Supervisory Agency (Badan Pengawas Obat dan Makanan - BPOM). The main barrier relates to registration. For imported

pharmaceuticals to be registered and marketed in Indonesia, the foreign laboratory that manufactures them must commit to transferring technology so that it is possible to manufacture them in Indonesia within five years, except for medicines that enjoy patent protection, or whose manufacture in Indonesia is 'not possible.' Regulation 16/2020 of the Ministry of Industry sets out the provisions for the calculation of the local component level of pharmaceutical products. It reflects the Government's position to encourage the stimulation of domestic production of pharmaceuticals to reduce the current import dependency in the sector.

Registration of Commercial Distribution Agreements

The Indonesian Ministry of Trade requires registration of agreements between foreign exporters and Indonesian importers or distributors in order to be valid in Indonesia and to cover the imports concerned. The provision concerning the need for registration of Commercial Distribution Agreements in Indonesia is contained in the Decree of the Ministry of Trade 24/2021 on Distribution Agreements and Registration.

Registration of Alcohol Business

For alcohol businesses, importers must obtain both Registered Importer of Machinery and Goods status as well as an Alcoholic Beverage Trading License, which involves very stringent requirements and annual quota allocations that are governed by the Ministry of Trade.

Import Restrictions on Fruit and Vegetable Products

The export of fruit and vegetable products to Indonesia is regulated by Ministry of Agriculture Decree 55 of 2016, which complements in certain aspects and replaces in others the previous legislation, Decree 4 of 2015. The regulation regulates a total of 100 fruit and vegetable products, defining three possible export routes, the last one introduced as an alternative to the first two by Regulation 55/2016. The approval of these

routes is requested and obtained for each product and its management is slow, which generates a complex legislative framework.

Import Restrictions on Certain Goods

An amendment to the Minister of Commerce Regulation on Import Restrictions on Certain Goods, which took effect on August 28, 2020, introduced a mandatory online application process (INATRADE) for certain imported products. This regulation requires importers to obtain import approval in advance from the Ministry of Commerce before bringing goods into Indonesia.

Further changes were introduced on October 9, 2023, with the issuance of Minister of Commerce Order 36, which expanded the scope of import approval inspections. The regulation now requires certain LCD TVs, audio products, and camera products to undergo inspection at the border, rather than post-border, along with an advance online application. These new requirements came into effect on March 10, 2024.

To ensure a smooth transition and implementation of the expanded import approval process, the Indonesian authorities should:

- Provide clear and detailed guidance on the new online application procedures.
- Allow sufficient preparation time for businesses to comply with the requirements.
- Ensure timely notifications and consultations with stakeholders before expanding the scope of import approvals in the future.

Indonesia also prohibits the import of refurbished products. Such products are essential to providing support to customers on products under warranty but have reached end-of-sale and are no longer available as new products.

Commodity Balance

Commodity Balance is a trade policy established by the Indonesian government in 2021 (under Government Regulation No. 28 of 2021) to manage the import and export of certain commodities, as well as ensuring the balance between domestic supply and demand. This regulation aims to strengthen national economic resilience by regulating the flow of commodities that are crucial to the country's economic stability. It refers to national data and information on the supply and demand of certain commodities of the industry, which the government utilizes as a reference/basis to issue companies' import and export approval (implemented in conjunction with MoT Reg. 36/2023).

The government collects and analyzes data of businesses on the production, consumption, and trade of specific commodities to determine whether imports or exports are necessary. Based on the analysis, the government may set quotas for the import or export of certain commodities to avoid oversupply or shortage in the domestic market. Various ministries and government agencies, such as the Ministry of Trade, Ministry of Agriculture, and Ministry of Industry, coordinate to implement the Commodity Balance.

Initially, the system is carried out in several phases for 56 groups of commodities that require Export-Import Approval from the Ministry of Trade. In the first phase (2021 and will be valid 2022),⁵ determined commodities are sugar, salt, meat, rice, and fish products. In the second phase (determined in 2022 and valid in 2023), consists of 19 commodity groups. Since its implementation, businesses have faced delays in acquiring import/export approvals, due to delays in technical ministry approval as well as system failures, leading to uncertainty and disruption in business activities, including export goods production, caused by a lack of raw or auxiliary materials. Such disruptions will shrink export numbers, as well as limit consumer access to a variety of quality products. With the challenges faced by industry and evaluation by the government, the government enacted Presidential

Regulation No. 61 of 2024 on Commodity Balance, revoking and replacing the previous framework under Regulation No. 32 of 2022. The determination of commodity groups that are to be implemented for the commodity balance system will now be dependent on the readiness of the technical ministries to prevent bottlenecks during the verification process, as experienced by companies before. Moreover, further procedural provisions are stipulated and clarified to ensure certainty of implementation. Recommendations include the following:

1. We recommend that the Indonesian government involve the private sector when stipulating commodity balance, as well as provide the private sector access to the system so as to promote transparency. Regular consultation with relevant stakeholders, including industry representatives, and other business associations, will ensure that policy adjustments are informed by practical business insights and the needs of different sectors.
2. We suggest the government of Indonesia provide clarity in regards to the timeline for the inclusion of the list of goods or commodities into the Commodity Balance program, as member companies currently do not have a complete picture on the goods or commodities included or to be included in the Commodity Balance program through the INSW system.
3. Regarding companies' consumption data submissions, we propose that the government ease the implementation by eliminating details that can be found in the Import Realization report. We hope the government can enhance the system by recognizing companies that often import goods of a certain quality or specification.
4. The commodity balance is expected to be fully integrated with data from relevant government institutions, including Customs, the Investment Coordinating Board, and the National

Agency of Food and Drug Control to ensure the availability of real data that can be used as a single reference for companies to determine their export and import

Product Certification Requirements

Mandatory Halal Certification

In December 2023, Indonesia was populated by approximately 280.73 million people as recorded by the Ministry of Home Affairs. Indonesia tops as the most populous Muslim majority country across the globe, with the Muslim population reaching up to 244.41 million people or equivalent to 87.1% of the overall population. As reiterated by the Coordinating Minister for Economic Affairs, Airlangga Hartarto, Indonesia has become the highest consumer of halal products globally and its halal consumption is projected to reach IDR 281.6 billion in 2025. This robust potential of becoming the largest global halal market can contribute greatly to the national economy.

Given the abundant growth, multiple business sectors have been dominating the halal industry, among others, food and beverage, modest fashion, pharmaceuticals, cosmetics, and Islamic finance. Hence, it is critical to ensure the halalness of products or services by meeting certain standards. Halal implementation is regulated by Law No. 33 of 2014 on Halal Product Guarantee ("Halal Law"), which the regulation aims to provide protection and guarantee the halalness of the products consumed. The technical aspects of Halal Law are further regulated in Government Regulation No. 39 of 2021 on the Implementation of Halal Product Guarantees ("GR 39/2021"). Due to the enactment of Law No. 11 of 2020 on Job Creation ("Job Creation Law"), which was later amended by Government Regulation in Lieu of Law No. 2 of 2022 jo. Law No. 6 of 2023, Halal Law has been amended accordingly, and its implementing regulations have been mandated to be amended so. However, its draft of amendment is still in process.

GR 39/2021 mandates products be halal certified that consist of goods and/or services that are entered, circulated, and traded within Indonesia territory. Services that shall be halal certified include slaughtering, processing, storage, packing, distribution, sales, and/or serving. The halal certification is carried out in phases, as for food, beverages, slaughter products, and slaughtering started from 17 October 2019 to 17 October 2024 (first phase). Whereas phases for other products are further regulated in Article 141 of GR 39/2021. As reaching to the end of the first phase, our member companies still experience difficulties on the practical level.

On 22 July 2024, the Minister of Religious Affairs stipulated Decree No. 816 of 2024 on Harmonized Code System for Mandatory for Types of Food and Beverage Products that Must be Certified Halal. This decree serves as a guidance for importers and/or official business representatives in application for foreign halal certification registration and could be updated periodically by the Halal Product Assurance Organizing Body (BPJPH). The HS Code will be integrated in the SiHalal and INSW system for food and beverage products; the foreign halal certification registration shall be submitted in SiHalal while the halal certification from upstream and downstream will be required as a supporting document for import clearance.

System integration within relevant ministries/agencies and adequate human resources who are trained to manage and review halal certified products would be important. System unreadiness, lack of trained human resources, combined with complicated bureaucracy, could cause obstruction during the imported goods release process including additional costs and dwelling time in the port. Indonesia also displayed its heavy reliance on food importation; from January-August 2024, the amount of imported food skyrocketed compared to the previous year of the same period, with wheat, meslin, sugar, and rice grains as dominating commodities. Any issues occurring within the import process to an extent will disrupt the national food supply.

Given the halal provision above, transport and logistics companies that provide storage, packing, and distribution services are also bound by the mandatory halal certification for the goods that fall in the first phase. However, the government has not yet issued any technical regulations for transport and logistics services. Provisions on whether different management for storage and processing facilities, including x-ray machines, material handling systems, weighing; as well as transport equipment and vehicles, including containers, unit load equipment, packaging materials, and forklifts, have not been regulated by the government.

The cooperation between the international Halal Certification Body (HCB) with BPJPH is still in the process. Until 2024, there are 58 Mutual Recognition Arrangements (MRA) signed between BPJPH and HCB, of which only 10 HCB are from Europe, including those from Italy, Poland, France, Austria, Germany, the UK, and Belarus. The limited number of HCB from Europe remains a challenge for businesses, as most of the raw materials and production processes are still centered in Europe. If this issue is not resolved quickly, it could potentially lead to a shortage of raw materials in Indonesia. Recommendations include:

1. We strongly encourage the government to ensure the halal integration system to run smoothly and human resources that are properly trained to handle the halal management system before the policy implementation.
2. We also hope that BPJPH could fasten the process of MRA with HCB to ease the importation for products and raw material. This would help prevent shortages of raw materials and ensure that producers can adhere to their production schedules.
3. To ease the implementation of halal certification, we encourage the government to involve the business sector in drafting the implementation regulations. Business sectors can help

the government and relevant stakeholders by sharing their expertise in formulating the technical aspects and how to align the regulatory framework with business practices.

Product Certification Requirements: SDPPI

KOMINFO promulgated Regulation No. 3 of 2024 concerning the Certification of Telecommunications Equipment and/or Telecommunication Equipment. All telecommunications equipment and equipment certificates issued as of May 23, 2024, must comply with this new regulation.

There have been several updates and modifications to the previous certification regulations. These include the addition of new types of certificates and an extension of the due date for Payment Notification Letters to 14 calendar days, providing more flexibility in the certificate application process. Furthermore, there are also new labelling requirements such as customer identity/certificate owner (PLG ID), QR code, and warning signs. The regulator requires the applicant to be the Importer of Record (IOR) instead of allowing IORs to use certificates approved for brand holders. The application process for certification by the brand holder is already rigorous, involving the submission of accredited test reports and product samples. Separate certificates are also required when there is a different Country of Origin for the same product, resulting in multiple certifications for the same product. Labelling is also required both on the equipment and the packaging, and with the certification is tied to the IOR, it requires the IOR to open the package to relabel the product. This is impractical as the IOR may not have the legal right to open a package. Validity of certificates is only for 3 years, and re-testing of products that have already been previously subject to testing and certification is required. Spare parts of components also require separate certification, which is a challenge when these parts are needed for warranty support but are no longer available as new components after reaching end-of-sale. Therefore, companies should be permitted to utilize the already

approved product certifications for brand holders to facilitate the smooth flow of goods into the country and not place undue compliance burdens on importers.

Indonesia also requires in-country testing for many products. KOMDIGI Ministerial Regulation 12/2025 requires product compliance test reports to be issued by a domestic test center or in countries with mutual recognition arrangement (MRA). KOMDIGI Ministerial Regulation 13/2025 further announced the intention to enforce mandatory MRA requirement from December 31, 2026, phasing out the current scheme of a recognized list of foreign accredited laboratories from around the world. Indonesia has only one MRA with another country to date.

Local Content Requirements

Overview

Since 2014, there has been an increase in protectionist regulations and local content requirements in different key sectors and industries for Indonesia, including in telecommunications, pharmaceuticals, oil and gas, retail, franchising, insurance, defense, industry, construction, electricity and shipping.

The implementation of Local Content Requirements (LCRs) has been encouraged by the government throughout the years. Presidential Regulation No. 12 of 2021 on Government Procurement of Goods and Services, amending Presidential Regulation No. 16 of 2018, requires central and local governments, as well as agencies, to use domestic products with a combined Local Content Requirement (LCR) and Company Benefit Weighting (BMP) of at least 40%. This policy is also supported by Presidential Instruction No. 2 of 2022.

Implementing regulations have been enacted or are currently in the drafting process that would require mandatory local content calculation to execute such an objective, such as for automotive products. In the automotive sector, for example, manufacturers

participating in the BEV acceleration program are required to prioritize local content use, starting from 35% between 2019 and 2021, and gradually increasing to 80% by 2030 and beyond. In the telecommunications sector, Minister of Communication and Informatics Regulation No. 13 of 2021 also stipulates the obligation for telecom equipment providers to fulfill the LCR of 35% for 4G and 5G Subscriber Station Equipment intended for distribution and use in Indonesia. With this provision, the LCR value of 4G and 5G Subscriber Station devices increases from the previous requirement of 30%.

Meanwhile, in the pharmaceutical and medical device sector, LCRs also affected 79 categories of imported medical devices that are listed in the government's National Healthcare Insurance (JKN) program through the freezing of imported products in the government procurement system. In the case where locally manufactured products are available, the government prohibits the purchase of imported items. Local content requirement calculation for medical devices has been recently regulated under Minister of Industry Regulation No. 31 of 2022, which mandates 80% manufacturing and 20% development from the LCR value. Although LCRs are not mandatory for this sector, government hospitals are mandated to prioritize the procurement of medical devices that are above 25% in local content value, which impacts businesses as they cannot fulfill the local content value due to the lack of availability of domestic materials.

In the renewables sector, Minister of Industry Regulation No.34 of 2024 on Local Content Requirements Calculation of Solar Modules, along with Minister of Energy and Mineral Resources Regulation No. 11 of 2024 on the Use of Domestic Products for Electricity Infrastructure Development, aims to strengthen Indonesia's domestic solar market by promoting the use of locally manufactured components, such as PV panels and inverters. These regulations establish local content requirements while providing developers with temporary flexibility to address supply challenges. Projects with Power Purchase Agreements (PPAs) signed by 2024 and

operational by mid-2026 will benefit from relaxed standards set at 40% to 50%. After this initial period, local content targets will progressively increase to 60% by 2026, 70% by 2030, and 80% or higher by 2035, as the domestic market develops.

Overall, while local content requirements continue to be developed and amended across various industries and sectors, OECD companies find that the percentage of local content required remains relatively high and challenging to fulfill, as the necessary raw materials are not yet available for local sourcing. Consequently, our members are still required to obtain raw materials from a global supply chain from different countries. Companies that are able to supply competitive and high-quality goods/services face difficulties participating in government procurement. Recommendations include:

1. Local Content policies that seek to promote localization through long-term investments, like technology transfer, must be paired with an environment that supports innovation, including human resource readiness, legislation, national infrastructure, and intellectual property protection.
2. We recommend the government provide more flexibility and offer incentives as opposed to punitive measures in terms of local content requirements.
3. We recommend the government take into account products and services that lack availability in raw materials or still require imports, before implementing or expanding local content policy to other industry sectors. In this regard, we further recommend the government develop a roadmap and involve the private sector in implementing local content policy.

Electronics and Telematics

With respect to hardware, software, and public procurement, *Indonesia's Ministry of Industry*

issued regulation No.22/2020 (IR22) on the Calculation of Local Content Requirements for Electronics and Telematics, with a government target to achieve 35 percent import substitution by 2025. IR22 provides specific and extensive requirements for manufacturing and development for both digital and non-digital physical products. The policy will have an additional administrative burden to physical ICT products that are needed for ICT companies to operate in Indonesia. There are also indications that the Indonesian Government may also introduce an importation threshold for ICT equipment. The Government has repeatedly used IR22 to force foreign companies to substantially raise investment levels in order to maintain market access, in a manner likely inconsistent with Indonesia's obligations under the WTO's Agreement on Trade-Related Investment Measures, as well as existing best practices among OECD member states. The requirement cannot be met without vendors establishing a manufacturing presence in Indonesia. Electronic procurement in the public sector in Indonesia also requires a bidder to pre-obtain a certificate demonstrating that the local content requirements are met by the bidder.

It has to be noted that questions about local content have been received by some cloud services providers in public procurement processes despite the fact there are no regulatory requirements imposed on such companies. Also, the Ministry of ICT indicated that the revision of *Government Regulation No. 71/2019* will include the LCR requirement for the data center industry. In addition to that, *Presidential Instruction Number 2 Year 2022* requires government agencies to plan, allocate, and realize at least 40 percent of the national budget for goods/services to utilize MSMEs and Cooperative products from domestic production.

Digital TVs

Due to the TKDN (Tingkat Komponen Dalam Negeri) regulation, which is being implemented as a measure to support local manufacturing, digital TVs of 42 inches or less are subject to local content requirements. In

order to import these models, they must be certified by the certification authority SDPPI (Direktorat Jenderal Sumber Daya Dan Perangkat Pos Dan Informatika = Directorate General of Information and Communications Resources Standards, Ministry of Communications and Information), which imposes a large burden on them and increases costs, hindering competitiveness.²

Revision of SNI was announced on December 2, 2024 (75/2024). The outline is as follows.

1. Among the products subject to regulation (Audio • TV) , the scope of TVs has been expanded to 55 inches or less.
2. Registration of the producer's trademark is required, assuming it is including OEM/ODM maker.
3. Registration of a certified representative of the producer is required.
4. Enforcement date: June 2, 2025

Telecommunications Industry

Ministry of Communication and Informatics Regulation No. 13 of 2021 increased local content requirements for 4G and 5G subscriber stations from 30% to 35%. The higher local content requirements for 5G devices have impacted the adoption rate of 5G technologies in Indonesia. The production of key active components, such as radio equipment for Radio Base Station systems, currently requires importing due to their technological complexity and the absence of domestic production capabilities. Indonesia's relatively small local demand volume and insufficient local production capacity have led to higher prices for operators and elevated service costs for consumers, as the country lacks a cost-competitive manufacturing baseline to support rapid technological advancements.

Automotive

Manufacturers in the Battery Electric Vehicle (BEV) acceleration program must meet a progressively increasing LCR, starting at 35% between 2019 and 2021 and reaching 80% by 2030. The main challenges include the limited availability of local components and the lack of domestic battery cell production.

Renewable Energy Sector

Minister of Industry Regulation No. 34 of 2024 and Minister of Energy and Mineral Resources Regulation No. 11 of 2024 set LCR targets for solar modules. Projects with Power Purchase Agreements (PPAs) signed by 2024 and operational by mid-2026 will benefit from relaxed standards set at 40% to 50%. After this initial period, local content targets will progressively increase to 60% by 2026, 70% by 2030, and 80% or higher by 2035. Insufficient domestic production capacity for solar components presents a challenge, requiring interim flexibility.

Medical Device Industry

Ministry of Industry Regulation No. 31 of 2022 mandates the calculation of local content for medical devices using a cost-based approach. This calculation is based on the accumulation of local content representing the production costs incurred to produce one unit of a product. Production costs include manufacturing aspects with a weight of 80% (the majority of which the materials must originate from Indonesia) with the local content value and development aspect with a weight of 20%.

In practice, fulfilling local content requirements for foreign medical devices has proven difficult due to the limited availability of domestic materials.

Additionally, the Ministry of Health has implemented policies requiring government hospitals to prioritise the procurement of medical devices with a certain local content percentage. Companies face unfair

² <https://paralegal.id/peraturan/peraturan-menteri-perindustrian-nomor-75-tahun-2024/>

competition due to the prioritization of products with high local content value fulfilment, amounting to full restriction of imported products without any local content.

Pharmaceutical Industry

The Ministry of Industry, Ministry of Health, and the National Public Procurement Agency (LKPP) have begun to encourage pharmaceutical companies participating in the e-catalogue – the online platform for procuring certain medicines and medical devices in Indonesia – to begin preparing local content (TKDN) certificates. OECD companies are concerned that TKDN certificates will be used as mandatory requirements or key criteria for inclusion in the e-catalogue for products where local substitutes are already available. This practice will limit pharmaceutical companies' participation in the e-catalogue, thereby limiting patient access to innovative drugs and treatments.

Digital Trade

Import Duty Collection on Electronic Transmission of Digital Goods

Indonesia entry into the OECD is an opportunity to convince national authorities of the implications of the approval of the permanent moratorium on electronic transactions, as well as on joint initiatives on e-commerce. We recall that at the 13th WTO Ministerial Conference (February 2024), this moratorium was extended, keeping international digital transactions duty-free until the next Ministerial Conference.

In 2018, the Indonesian Ministry of Finance issued Regulation 17/2018, which established five Harmonized Schedule (HS) lines at the 8-digit level (with import duty rates currently set at zero percent) in Indonesia's domestic tariff provisions (i.e., Chapter 98 or 99) for software and other digital products transmitted electronically, including applications, software, video, and audio (intangible goods). In December 2022, the MOF issued Regulation No. 190/PMK.04/2022 (MOF Regulation 190), which came into force in January 2023, introducing the new import

declaration procedure for intangible goods. This measure effectively established a customs administrative regime that would enable Indonesia to start collecting duties on intangible goods and would result in significant compliance costs and administrative burdens for businesses of all sizes operating in Indonesia.

Imposition of any duties on digital products under this regulation would raise serious concerns regarding Indonesia's longstanding WTO commitment renewed in March 2024, not to impose duties on electronic transmissions. In addition, using the domestic tariff schedule provisions for the application of such duties on non-physical products raises fundamental questions as it relates to the role of customs administrations in the digital space – most customs authorities do not have jurisdiction over digital goods, for example. There are many other technical questions related to challenges Indonesia's actions raise in the global sense related to, amongst others, valuation and origin. If implemented on a mandatory basis, these customs duties would be levied on the same electronically supplied services (ESS) that are subject to a VAT in Indonesia. All OECD members and accession candidates should fully support the moratorium to be in alignment with OECD research, principles, and best practices. In addition to the WTO moratorium, a prohibition on the application of customs formalities to digital goods as well as a prohibition on post-clearance audits and customs enforcement mechanisms to digital goods should be maintained.

Data Localization

Indonesia's GR80/2019 on E-Commerce draws a clear distinction between domestic and foreign e-commerce business actors and prohibits personal data from being sent offshore unless otherwise approved by the Ministry of Trade through a list of countries which can store Indonesian e-commerce data. This effectively requires e-commerce business actors to locally store personal data for e-commerce customers. Trade Regulation 50/2020 (TR50) on E-Commerce, an implementing regulation of GR80, also

requires e-commerce providers with more than 1,000 domestic transactions annually to appoint local representatives, promote domestic products on their platform, and share corporate statistical data with the Government. Both GR80 and TR50 pose de facto data localization measures and local content requirements, which increase overhead costs for foreign entities and create undue market barriers.

Restrictions on Foreign E-Commerce

In September 2023, the MOT issued *Regulation No. 31/2023 (Reg 2023)*, which prohibits foreign merchants from selling goods valued below \$100 to Indonesian customers via online marketplaces and includes several other discriminatory requirements that will restrict imports and foreign investment in Indonesia. For example, the regulation requires foreign e-commerce platforms to receive a permit from the MOT in order to conduct business activities in Indonesia and mandates that platforms that meet certain criteria appoint a locally based representative. Additionally, it prohibits companies with a marketplace business model from acting as manufacturers and selling their own branded products. Reg 2023 appears to violate Indonesia's international trade commitments, including under the WTO.

Additionally, it prohibits companies with a marketplace business model from acting as manufacturers and selling their own branded products. Reg 2023 appears to violate Indonesia's international trade commitments, including under the WTO.

Local Representation Requirements for Foreign E-Commerce Providers

Indonesia's GR80/2019 on Electronic Commerce (followed by the Trade Minister Regulation No. 50/2020) requires any e-commerce provider surpassing a set of thresholds (i.e., more than 1,000 transactions or more than 1,000 delivery packages in one year) to set up or appoint a local trade representative to act on behalf of the foreign entity and apply for an e-commerce license.

The definition of what constitutes an e-commerce provider is broad, ranging from ads to marketplace platforms to price comparison services. The local trade representative office is then required to handle consumer protection, promotion of domestic products, and dispute resolution locally. This requirement effectively forces US businesses to establish a local presence without a direct business need, which also triggers unintentional tax consequences. To strengthen consumer protection, Indonesia should consider alternative measures to ensure consumer protection without forcing a local presence for digital products and services.

Trade Facilitation for Electronic Device Imports

One of the challenges in Indonesia's import policy is the periodic suspension of imports for certain electronic devices, such as mobile phones, tablets, and color printers, due to the biannual import permit application process. During this period, which lasts approximately two to three weeks, importers are unable to bring these goods into the country, leading to potential supply shortages and market disruptions. Such regulatory bottlenecks can hinder business operations and consumer access to essential electronic products. To address this issue and ensure a stable supply chain, Indonesia should consider allowing imports to continue while permit applications are being processed. Implementing a permit-pending import allowance would align with international best practices and reduce unnecessary trade barriers, supporting Indonesia's broader efforts toward OECD accession by fostering a more predictable and business-friendly trade environment.

Countering Illicit Trade

Illicit Trade in Spirits

Indonesia's high import tariff incentivises the illicit trade in spirits. While there is legislation in place that seeks to guard against this illicit trade, enforcement and actions to suppress illicit alcohol are insufficient and inadequate.

Illicit Trade in Textile Products, Tobacco and Wildlife

Illicit trade of goods such as textile products, tobacco and wildlife is still an issue for the government to solve. Weak supervision and enforcement, which is highly related to corruption, are not helpful in dealing with the problem. For example, the domestic production of illicit kretek (clove) cigarettes is significant, resulting in a high domestic non-duty paid volume (c.18 billion sticks or ~6-7% of total industry volume) impairing the ability of legitimate tobacco businesses in expanding their investment, hurting the government's excise tax revenue, and making it more difficult in protecting the hundred-thousands of existing jobs as tobacco sector is one of the labor-intensive sectors in Indonesia. This production also represents a major source of outflow of illicit tobacco products, predominantly to the Philippines and other nearby countries in the region. The Indonesian government needs to put it into considerations related policies such as tax, trade and border protection. It is also important to initiate partnership with all stakeholders i.e. government, civil society, brand owners, etc.

Illicit Trade in Online Marketplaces

Counterfeiters have also exploited the rise of e-commerce and online marketplaces and platforms in Indonesia. The local platform Bukalapak is prominently featured on the USTR Notorious Markets List 2024 due to its role in facilitating the sale of counterfeit goods, including apparel, electronics, and pharmaceuticals. Its current filtering systems and penalty measures are insufficient to deter repeat offenders, underscoring an urgent need for enhanced regulatory controls and enforcement mechanisms. Several other local platforms, including Tokopedia, Shopee and Lazada, dominate the Indonesian market and face similar challenges in curbing illicit trade.

The Indonesian government and its enforcement agencies need to intensify their efforts to address the challenges posed by

illicit trade in counterfeit goods via e-commerce and online marketplaces. Business at OECD (BIAC) supports the OECD's comprehensive exercise led by the Working Party on Countering Illicit Trade (WP-CIT) to provide evidence-based analysis and policy recommendations for policymakers to address illicit trade in counterfeit goods on online marketplaces. We welcome the recent development of "Draft Voluntary Guidelines for Countering Illicit Trade in Counterfeit Goods on Online Marketplaces [TAD/TC/WPCIT/RD(2024)]" and encourage the OECD to engage with the Indonesian government as part of Phase 3 of the project and in the context of its accession discussions.

Foreign Investment Regulations and Ownership Caps

Overview

A key principle of the OECD is the creation of a transparent and predictable regulatory environment to attract and retain investment.

Open, transparent and non-discriminatory investment policies and agreements, ensuring a predictable and fair treatment of investors and protecting investors against arbitrary behavior of host states or a possible bias of local courts, are essential for business and for countries to stimulate inward investment. International Investment Agreements (IIAs) such as Bilateral Investment Treaties (BITs) are essential in that regard as they oblige state parties to these agreements to apply to foreign investors the same basic principles that apply to their own companies.

Indonesia's critical stance towards BIT and investment protection mechanisms is in that regard alarming. As Indonesia has started systemically reviewing and terminating its BITs since 2014, this situation creates unpredictability for foreign private investors and pave the way for potential abuses. This will also likely have a negative effect on the stock of Foreign Direct Investment towards Indonesia.

In the actual international investment climate of today, investors are confronted with increasing uncertainty. Business needs

therefore, maybe more than ever, International Investment agreements (IIAs) and the transparency as well as the certainty they provide.

In addition, some positive regulatory changes, for instance to modernize Investor-State Dispute Settlement (ISDS) mechanisms already took place (e.g.: the 2014 UN Convention on Transparency in Treaty-based Investor-State Arbitration).

In light of the OECD-UNCTAD-UNCITRAL Investment Treaty Conference that took place on 31 March 2025, Business at OECD calls on the OECD to ensure that Indonesia provides robust and efficient investment protection mechanisms for foreign private investors.

Omnibus Law

The Omnibus Law enacted in November 2020 is over 1200 pages long, revising the content of more than 80 national laws and has required further development through 54 regulations. Despite the expansion and measures taken through the Omnibus Law to improve the climate for attracting foreign investment, Indonesia continues to maintain an intricate web of (increasing) trade barriers that make it difficult for foreign companies to operate and access the market. Investment usually follows export trade, so the barriers to export trade function as a bottleneck that is preventing the Omnibus Law from achieving the expected results in terms of attracting investment for the time being.

Regulation on Business Fields Investment

In March 2021, the Indonesian Government released *Presidential Regulation 10/2021* on Business Fields Investment. This regulation created a "Positive Investment List," allowed for foreign investment in over 200 lines of business, and repealed the 2016 Investment Negative List. The regulation classifies the types of businesses that are open for investment into four categories: priority business lines; business lines that are allocated for or required for partnerships with cooperatives and micro, small and medium enterprises; business lines open with certain requirements; and other businesses not included above, which are to be open for all investors. Only six sectors are closed to

domestic and foreign investment: narcotics, gambling and/or casinos, harvesting of fish listed in the *Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES)*, utilization or harvesting of coral, chemical weapons, and chemicals that might destroy the ozone layer.

While the Regulation allows foreign companies to own 100 percent of their investment in certain sectors, there are technical and sectoral regulations that might stipulate different or conflicting requirements. In some sectors, foreign companies are still not able to own 100 percent of their investment due to equity caps. We encourage the Indonesian Government to continue to engage with investors to address sector-specific laws and regulations that conflict with *Presidential Regulation 10/2021*.

Foreign Ownership Caps in Telecommunications

Current regulations impose a cap (ranging from 49-65 percent) on foreign ownership for telecommunication network and service providers. These foreign ownership caps present significant and often insurmountable barriers for foreign businesses seeking to enter the Indonesian market from an operational and economic perspective. Service providers are unable to establish operational control, protect their brand, and deliver services in Indonesia that are seamlessly integrated in the service providers global network offerings. The service providers also become a horizontal competitor of the local telecom operator provider, further eroding the value of the investment. Indonesia should remove this provision and allow foreign companies to offer services with any legally operating telecom entity they find suitable.

Capital Requirements for Maritime Transportation Services

Indonesia's shipping terms have been regulated under Law No. 17 of 2008 on Shipping ("Shipping Law") which was amended by Law No. 11 of 2020 on Job Creation ("Job Creation Law") and Government Regulation in Lieu of Law No. 2 of 2022 on Job Creation ("GRL 2/2022"). Parliament and government have taken efforts

in reforming the regulation through the drafting process of the amendment bill as it was listed as one of the bills in the Priority National Legislative Programs List for 2024.

Businesses believe the amendment will conform to current shipping advancements and accommodate the private sector's needs for business certainty and sustainability. We note that the Amendment Bill of Shipping Law emphasizes the challenges in national transportation system performance due to inefficient and high logistics costs, unclear institutional roles that cause overlapping to shipping security and safety, and maritime law enforcement. Minister of Transportation, Budi Karya Sumadi, mentioned one of Indonesia's logistics developments in 2024-

2025 is transportation costs reduction from 14.29% to 8%.⁸ The Amendment Bill also highlights the consistent implementation of cabotage principles.

In Article 33A of the Amendment Bill of Shipping Law, maritime transportation services like container depot, ship management, ship manning agency, and ship agency performed by foreign maritime transport companies; foreign legal entities; or foreigners shall cooperate with domestic maritime transportation companies through a joint venture, with majority of the shares are owned by domestic maritime transportation companies that are wholly owned by Indonesians.

This can be a big hurdle to foreign shipping companies to invest in Indonesia, especially in supporting national logistics through increasing the number of direct call export containers from overseas ports. This policy raises concern to increase logistics costs and affect the productivity of export activities in Indonesia. Given the decline of Indonesia's Logistics Performance Index 2023 by the World Bank, the government should consider businesses' concerns before implementing this policy that may negatively affect the sector at the national and international levels. Recommendations include:

1. We propose the government give discretion to foreign shipping companies to determine the business type and share ownership for every maritime transportation service. This

flexibility helps retain the existing investors and support to achieve Indonesia's target in lowering the logistics costs.

2. We encourage the government to involve business as a stakeholder from the private sector in drafting regulations to gain insights from the business perspective before they are being implemented.

Regulation and Standards

Indonesian National Standardization (SNI)

Overview

The Indonesian National Standard (SNI) plays a crucial role in enhancing industrial competitiveness globally while ensuring consumer safety. Compliance with these standards is essential for market access, particularly in international trade, where quality is a significant concern under frameworks like the World Trade Organization (WTO) and applicable Mutual Recognition Agreements (MRA).

Minister of Industry Regulation No. 45 of 2022 on Industrial Standardization (Mol Reg. 45/2022), which implements Government Regulation No. 28 of 2021, serves as the legal framework for national standardization. This regulation, which impacts various industries, particularly the automotive sector, introduces significant reforms to the SNI certification process. Certification now requires approval from the Industrial Standardization and Services Policy Agency (BSKJI) after a conformity assessment by the Conformity Assessment Body (LPK). Applications for certification are processed through the National Industrial Information System (SIINas), and mandatory SNI application is determined by the Mol, evaluated by BSKJI, and notified to the Technical Barriers to Trade of the WTO (TBTWTO) through the National Standardization Agency (BSN).

The mandatory SNI certification process for imported goods, which includes pre-shipment inspection and factory audits, can be complex and costly, potentially causing delays in product delivery. Moreover, LPKs domiciled outside Indonesia are only recognized if an intermediate MRA in technical regulations exists, requiring all testing to be conducted in Indonesia in the absence of such an agreement. The limited number of LPKs with adequate expertise further complicates the process.

Currently, 124 products from various industrial sectors, including plantation products, chemicals, automotive components, and non-metallic minerals, are subject to mandatory SNI. As mandated by Mol Reg. 45/2022, all existing ministerial regulations on mandatory SNI must be amended by November 4, 2024, providing an opportunity for the government and industry to revisit regulations that may hinder business and to ensure the readiness and availability of infrastructure, such as conformity assessment bodies and accredited testing laboratories.

While the government's efforts to protect consumers and ensure the quality and safety of goods are commendable, it is crucial to ensure that standards fulfill their intended purpose without impeding trade and investment. Recommendations include the following:

1. We encourage the Ministry of Industry to involve importers, including multinational companies, in the formulation and revision of ministerial regulations on mandatory SNI implementation. This involvement will help ensure a smooth transition and business continuity in Indonesia.
2. We recommend that the government ensure infrastructure readiness in the SNI certification process by accelerating the accreditation of conformity assessment bodies. This will provide businesses with more options and help prevent bottlenecks and delays.
3. To support market growth and protect consumers while ensuring quality, we suggest revising regulations on mandatory SNI to allow exemptions for non-SNI products that cannot be produced in Indonesia due to high specifications or economies of scale. This exemption should apply to both producers importing components and general importers of parts for after-sales purposes. Simplifying labeling requirements and expediting SNI testing procedures will also

reduce costs and streamline the process.

4. We recommend providing clarification or revision on the requirement for conducting one audit per factory for overseas audits. Additionally, we suggest that Indonesia allow manufacturers to conduct sampling and permit testing by any accredited laboratory recognized by the International Laboratory Accreditation Cooperation (ILAC).
5. To further enhance industry potential in international markets, the development and implementation of SNI should be aligned with international standards, such as UNECE. Encouraging self-regulation, voluntary testing, and supporting Indonesian laboratories in obtaining ILAC accreditation will also contribute to industry growth and compliance.

SNI Regulations for Toys

Sectoral regulations, including one for toys, to support the implementation of the new regulation are underway. Inability to comply with the SNI regulation for toys will prevent importation of our products into the country.

As raised at the WTO TBT Committee:

- A sufficient public consultation period for the implementing regulation would help enable a stronger implementation of the new regulations;
- The revision of SNI regulation should also provide incentives for business to comply by streamlining procedures, rather than overcomplicating the process which by the way could increase illegal smuggling of toys;
- We welcome a whole set of options on where to place the QR code and the SNI mark (i.e. leaflets, primary or secondary packaging).

- In the ongoing discussion, the Ministry of Industry of Indonesia has proposed for toy contract manufacturers (OEMs) to have their own independent official representative and brand. This requirement will cause significant issues and does not align with how the global toy supply chain operates. We believe that such a concept will not enhance the full traceability principle as intended by the Ministry.

Sampling should be conducted in a location that does not disrupt the production process, considering the complexity of the toy supply chain. Moreover, contract manufacturers should not be required to have an official representative and their own brand. They should be represented by the brands they are manufacturing for, which will be sold in Indonesia. The Government could consider more efficient alternatives to ensure full traceability

SNI Regulations for Plastic Raw Materials

Indonesia has previously imposed safeguards and proposed drafts on Indonesian National Standard (SNI) to be mandated for plastic raw materials, which OECD companies have successfully advocated to be put on hold so far. The Indonesian Government must continue to refrain from implementing mandatory SNI for plastic raw materials.

SNI Regulations for Industrial Products

The import of industrial products into Indonesia is affected by the NIS (Indonesian National Standard) certifications, whose need for accreditation by foreign companies complicates the entry and marketing of imported products in Indonesia. The purpose of the NIS certifications is twofold: to ensure the quality of products entering the country and to protect the local industry. The Ministry of Industry is also responsible for approving these certifications, in coordination with the Ministry of Trade.

Regulatory Coherence for Hazardous and Toxic Materials Controls

Additionally, the Indonesian Government is currently working to review the regulations for *Hazardous and Toxic Materials* controls, which will impact the chemical industry. OECD companies urge relevant ministries to align the control and management of these materials with the international conventions ratified by the Indonesian Government.

Regulatory Barriers for Electronic Payments

Bank Indonesia (BI) issued its *2030 Payment System Blueprint* (BSPI 2030), a continuation of the *Indonesia Payment Systems Blueprint* (IPS) 2025. BSPI 2030's vision and mission remain similar to IPS 2025, although its focus shifts from growing to protecting the ecosystem, with heavy emphasis on risk and security from its 21 deliverables. Restrictions that were presented in implementing regulations to the IPS 2025, however, persist in the BSPI 2030, with measures mandating initiation, authorization, clearing, and settlement of transactions to take place locally. While 100 percent foreign ownership of EPS companies is grandfathered, BI regulations of 23/6/2021, 23/7/2021, and PADG 24/7/2022 all reiterate BI's authority to expand the domestic processing mandate to credit and e-commerce, which are currently still allowed to be processed offshore.

The inability for foreign EPS companies to access data from transactions presents substantial challenges to investment and innovation which are beneficial to improving and securing the ecosystem. This is counterintuitive to the objectives of the BSPI 2030 which aims to improve fraud detection systems and security of transactions as digitization has significantly increased volumes of electronic payments.

Domestic Processing Requirements

Indonesia mandates that all initiation, authorization/authentication, clearing, and settlement (IACS) activities related to payment

transactions be processed domestically. This requirement conflicts with the OECD's Recommendation on the Protection of Privacy and Transborder Flows of Personal Data, which highlights the need to protect personal data while enabling its international flow. Within the OECD's Data Free Flow with Trust program, payment flows are considered non-personal data.

Due to these restrictions, foreign electronic payment service providers cannot offer these services across borders. They must either divest 80 percent of their ownership or partner with a domestic entity within the National Payment Gateway (NPG). Currently, onshore processing of IACS is limited to face-to-face domestic debit transactions. Although recent regulations provide exemptions for onshore processing of IACS, it is expected that onshore processing requirements will eventually extend to credit and e-commerce transactions.

According to Bank Indonesia Regulation No. 23/11/2021, all debit transactions must use the National Standard Indonesia Chip Card Specification (NSICCS), which is not compatible with the internationally recognized EMVCo standard. Full adoption of the OECD's Recommendation on Digital Security Risk Management for Economic and Social Activities is necessary, as cybersecurity risks are cross-border in nature and current national systems may not be robust enough to handle evolving global threats.

Risk-Based Self-Assessment for Product Approvals

PBI SP (Bank Indonesia's regulation on Payment System (PBI 23/6/PBI/2021) introduces a risk-based approach for product approvals. BI categorizes three levels of risk when assessing companies' request for approval (Low, Medium, and High). Low requires notification to BI, while medium and high requires approval from BI.

Pricing

The regulation also gives authority to the regulator to broadly determine pricing and

fees, including determining network membership fees.

Reporting Requirements and Integrated Data Hub

PJP and PIP are required to share data and/or information related to payment system via periodic and incidental reporting to BI. BI may also require other parties who work with PJP and PIP to share their data and/or information related to information when necessary. The regulation also outlines provisions for real-time capture of data through a data infrastructure organized by BI or integrated payments interface (yet to be developed).

Regulations on Private Electronic Systems Providers

Registration and Local Point of Contact Requirements

The ICT Ministry regulations on private electronic systems providers (ESP) require foreign and local ESPs to register with the Government and appoint a local point of contact to share access to data and systems to the Government for supervisory and law enforcement purposes upon request. ESPs are required to comply with very strict 24-hour turnaround time (TAT) for regular content removal requests and four hours for urgent removal requests. ESPs are also expected to provide the Indonesian Government with access to data and systems for “supervisory and law enforcement purposes” within five calendar days upon request. Failure to meet these requirements could result in fines and/or product blockage. The broad and vague definitions mean that in theory many US services suppliers would be entirely in scope. The lack of clear definitions also could be potentially abused since a court order is not required for data access requests by the Government.

Enforcement of TAT Requirements

Additionally, as part of the enforcement of the TAT requirements, previously known as Ministry of Communications & Informatics

issued *Minister’s Decree 172* (which then was amended by Decree 522/2024) on the *Guideline for Implementation of Non-Tax State Revenue (PNBP) that Comes from Imposition of Administrative Fine for Violation of a UGC ESP’s Obligation to Terminate Access*, which includes sanctions imposition, including administrative tariff, the mechanism to challenge a stipulation of an administrative fine, the mechanism to pay an administrative fine, and how the authority would monitor the compliance of a UGC ESP.

Impact of Content Takedown Requests and Internet Shutdowns

Indonesia’s excessive content takedown requests and Internet shutdowns have affected foreign firms financially and implicate broader concerns of freedom of expression online. Outside observers estimated \$82.2 million in economic losses in Indonesia due to the shutdown of the Internet in 2019 affecting Facebook, Instagram, YouTube, and Twitter between 2019-2021. The phenomenon of content restrictions continues to expand – between July 2023 and December 2023, Meta reported that the company restricted access to “47 million items allegedly violating local laws on gambling such as the Electronic Information and Transactions (EIT) Law and KOMINFO Regulation 5/2020 on Private Electronic Services Operator” – compared to 1,458 items removed over the same period in 2022.

Draft Bill on Broadcasting

Additionally, the Government continues to move forward with the 2019 draft *Bill on Broadcasting* that would place Internet streaming platforms under the oversight of the Broadcasting Law, subjecting them to licensing and censorship laws. In March 2024, legislators amended the draft to include greater state control and stricter content standards, sparking alarm from civil society. The law would have implications both for the delivery of online services and the open Internet as well as freedom of expression online.

New Criminal Code

After a decade-long revision process, the Parliament passed a new Criminal Code on December 6, 2022, which increases liability for digital platforms, including provisions relating to religious blasphemy, insulting the President and the Vice President, and expressing views counter to the national ideology (Pancasila). Corporations are now subject to criminal law under the code. The draft includes provisions subjecting corporations to criminal law, meaning business decisions, administrative issues, and negligent behavior that could be penalized criminally (Article 45- Article 50). There is much ambiguity and uncertainty about the interpretation of the clauses and how they will be enforced (i.e., if all Indonesian laws applicable to individuals will then be applied to corporations). Detailed provisions will be stipulated in the implementing regulations. The new provisions could potentially impact how platforms moderate content for topics such as misinformation and slander (such as insults to the President and Vice President).

Content Moderation Compliance System (SAMAN)

Under Decree 172, KOMINFO is mandated to operate a "content moderation compliance system" (Sistem Kepatuhan Moderasi Konten) to implement content takedown notices and issue corresponding fines. The Ministry stated publicly that the system - carried out via a platform called SAMAN - is live and enforced as of September 2024. Industry remains concerned about the lack of clear directives from the Ministry on the platform's operational readiness - including a lack of information about the appeal mechanism, turn-around-time and fair fine calculation, questionable security, and absence of an industry accepted technical guidelines.

Regulatory Barriers for Marketing and Trademarks

Indonesia Law on Food (the Law) imposes additional restrictions on the use of trademarked brand names, packaging, and

symbols, and educational, promotional, and marketing activities for pediatric nutrition products for older infants and young children. The restrictions raise WTO concerns:

- Restricts the use of trademarks, including by restricting the size of master brands; prohibiting the use of trademarked brand names, icons, and mascots; and requiring a different look and feel for background designs, icons, and lay-outs for pediatric nutrition products;
- Prohibits marketing and promotional activities for pediatric nutrition and dairy foods products producers by expanding the Law to cover any activities by manufacturers and distributors of such products that "directly or indirectly" promote the use of pediatric nutrition products through the marketing, promotion, packaging, and branding of non-covered products for toddlers and young children;
- Prohibits the labelling or promotion of any pediatric nutrition products in such a way as to promote designated products directly or indirectly, including activities "to promote or create an association with a designated product." Thus, marketing with respect to non-designated commercial child nutrition or children's products could trigger penalties if it somehow creates an "association" with products covered under the Law; and,
- Prohibits educational activities relating to use and feeding, e.g., demonstrations of how to safely mix and prepare infant formula.

Trademark Restrictions in Other FMCG Sectors

In general, the policy-making process in Indonesia should adhere the principles of the WTO TRIPS agreement and recognize trademarks' essential function to allow consumers to understand and be able to distinguish the goods and services available for them to choose. In terms of labeling and health warnings, it is also important for policy

makers to review and consider the different risk profiles of the products, even though they may belong to the same category, to avoid unintended misconception by the consumers to generalize a product category with similar health risks. Indonesia policy makers should encourage data and science-driven analysis for product-specific health warnings that reflect the factual risks of FMCG products.

Regulatory Barriers for Media and Entertainment Sectors

Indonesia maintains a variety of barriers in its media and entertainment sectors, significantly curtailing the growth potential of this sector and limiting the legal entertainment options of its citizens. Indonesia's film law technically imposes a 60 percent screen quota for Indonesian films – a quota so impractically high that it would cripple Indonesia's movie theater sector if it were ever enforced. Other policies seek to limit the import of and market for foreign films – e.g., a prohibition on dubbing imported films into local languages, a local replication requirement that has not been enforced since it is unnecessary and impractical.

Regulatory Barriers for Reinsurance

In 2016, Indonesia's *Financial Services Regulatory Authority* (OJK) required insurers to place all simple risk reinsurance with domestic reinsurers, mainly state-owned. However, domestic reinsurers lacked the capacity and capability to handle all risks and therefore engaged offshore reinsurers. In essence, domestic reinsurers simply became middlemen. This arrangement added costs and inefficiencies, harming consumers and the industry.

Indonesia announced in 2020 a phased removal of mandatory domestic cessions, aiming to open 100 percent of simple lines by the end of 2020 and remove all restrictions by the end of 2022, meaning that domestic insurers could obtain reinsurance directly from overseas providers. However, in 2021, OJK stated that reinsurance support could only come from reinsurers in countries with bilateral agreements with Indonesia,

excluding subsidiaries in other countries, thus limiting the ability of US branches in third countries to participate in the market.

Following discussions between the two Governments, US business raised this issue again with OJK in March 2023. The OJK Chair indicates that under the agreement reached with the US, Indonesia would treat US companies' branches in three countries as US entities. The issue therefore appears to be resolved, though as of this writing we are not aware that this clarification has been put in writing, nor have any third-country branches of US insurers tried to utilize the agreement.

Use of Internationally Harmonised Measure for Alcohol

All drinks, whether fermented or distilled contain the same type of alcohol called ethanol. It's the ethanol in these drinks that affects your mood and reactions - and ethanol affects you in the same way, regardless of what type of drink you choose. This applies to a can of beer, a measure of a spirit or a glass of wine. Currently in Indonesia there is no dine rule, which indicates the appropriate measure of alcohol according to the cultural and consumption patterns of the country.

Public Governance and Bureaucratic Hurdles

Regulatory Stability, Predictability and Transparent Public Consultation Mechanisms

The frequency of changes to any rules, including tax practice, import, and export, is generally very high. Additionally, sometimes details of new regulations remain up in the air, and laws are implemented but they do not fit reality. Prior notice of any changes to laws and regulations would be helpful, preferably 3-6 months in advance. Regulatory certainty and consistency should be enhanced by establishing clear guidelines and predictable frameworks for policy implementation. Policies should promote transparency in their implementation and be grounded in evidence through regulatory impact assessments. Actively involving the private sector in the regulatory process is essential, as it enhances clarity and accountability, leading to more informed decision-making and a stronger alignment between policy goals and business realities.

There are urgent needs to reinforce the current policy and regulatory-making process to secure a meaningful, timely, and inclusive of private sectors involvement so it can provide equal playing field for business and fair competition in driving more trade, investment, and contribution to the overall economic growth of Indonesia.

Public Procurement for Medical Devices

Over the years, industry has repeatedly raised concerns about the public procurement process for medicines and medical devices. It has made a number of recommendations, such as a better e-catalogue system for medical devices, more frequent and consistent medical device product listing in

the e-catalogue, and alternative procurement pathways.

Industry has argued that government agencies should have the ability to access high-quality medical products and ensure patients can receive innovative drugs and treatments. An e-catalogue system that facilitates easier access to the latest medical technologies can ensure that healthcare providers quickly find and procure the tools to deliver lifesaving care. In addition to revitalizing the e-catalogue system, alternative procurement pathways can make procurement more flexible, lowers costs, and encourage innovation in the healthcare sector to the benefit of individual patients as well as the wider public. Industry continues to advocate for more flexible, innovative procurement systems for the benefit of Indonesian patients.

Regulatory Neutrality in Payment Systems

As a regulator of the payment system, BI has issued a regulation that classifies itself as a Payment System Infrastructure Provider. BI operates, regulates and sets prices of a real-time payment system (BI-FAST) and a QR Code Standard for Payment (QRIS) for retail payment transactions. Given that BI regulates private companies offering payment systems, this is not in line with OECD's Recommendation on Competitive Neutrality.

Clarity and Fairness in Digital Platform Registration

The Ministry of Communications and Information Technology (KOMINFO) requires all foreign electronic system operators (ESO) serving Indonesian customers to register locally.³ KOMINFO requires substantial paperwork to meet this requirement such as translation of the company's deed of establishment and legalization by the Indonesian consulate. The process for registering and subsequent punishment for failing to do so is excessively opaque, and

³ Regulation No. 5/2020 and No. 10/2021

enforcement procedures lack transparency. The law stated that ESOs would be given six months of transition time to register in Indonesia's database, but KOMINFO did not provide guidance until June 14, 2022, for compliance set for July 20. The regulatory uncertainty led to several major US, French, and Japanese companies failing to register and being blocked in Indonesia, such as Yahoo, PayPal, Valve, Nintendo, Ubisoft, and others, although several of these companies were eventually unblocked.

Integrity and Anti-Corruption

Since the 1998 political reforms, Indonesia has been implementing regional autonomy as mandated by Law No. 22 of 1999, which took effect in 2001. The goal of decentralization is to grant greater authority to regional governments, particularly in budget management and lawmaking. While this shift has contributed to economic development and better resource allocation, there remain challenges that need to be addressed, particularly in public policy consistency and corruption prevention.

Corruption remains a significant issue, with numerous cases involving regional leaders and lawmakers. Additionally, inconsistencies between regional and national regulations are common, often due to the lack of Regulatory Impact Assessment (RIA) before policies are enacted. These inconsistencies can create legal uncertainty, hinder investment, and affect business operations.

To address these challenges, the following measures are recommended:

- Strengthening corruption prevention and enforcement at both the national and regional levels to enhance governance and public trust.
- Adopting Good Regulatory Practices (GRP) at all levels of government to ensure policy coherence, improve transparency, and promote evidence-based policymaking through rigorous RIA implementation.

Inclusive Growth

Omnibus Law: Job Creation

The Omnibus Law on Job Creation was signed in November 2020, changing more than 70 labor, tax, and other laws, and combining them into one cluster, to increase efficiency and ease foreign investment. This includes simplification of business licenses, labor regulations, protections for small and medium enterprises, land procurement, and investment requirements.

OECD companies did not feel sufficiently included in the process to develop the law but were hopeful it would bring positive changes to Indonesia's investment environment. Critics of the law have cited its provisions that negatively affect workers, including articles harmful to workers such as those dealing with lifetime outsourcing, simplified layoffs, reduced severance pay, and weakened labor protections.

The law has faced numerous legal challenges. Initially ruled "conditionally unconstitutional," due to procedural flaws, former president Joko Widodo signed a 2022 regulation in lieu of law (Perppu) on Job Creation to replace the original 2020 Omnibus Law. On October 31, 2024, the Constitutional Court ruled that 21 of the law's labor-related provisions were unconstitutional and must be revised by lawmakers. While the law still permits qualified foreign workers to work in Indonesia, the ruling obligates employers to prioritize Indonesian workers for certain job positions, allowing foreign hires only when no qualified Indonesians are available. The Court's ruling also changes provisions on severance pay and minimum wage calculation, for which the Ministry of Manpower will draft a new regulation. This ruling could create regulatory uncertainty and complicate long-term investment planning for business and investors.

Omnibus Law: Health

The severe impact of the COVID-19 pandemic prompted the Indonesian Government to overhaul the nation's healthcare system via the Omnibus Law on Health, which was drafted in early 2023 and covered industry resilience, technology, medical professionals, universal health coverage, and more. The bill was approved by Parliament in July 2023. The Ministry of Health subsequently drafted an implementing regulation (Government regulation) as its derivative, which was passed in July 2024. Despite the regulation's positive reforms in the areas of advancing public health service standards, developing the healthcare workforce, simplifying licensing requirements for Indonesian doctors, and encouraging foreign doctors to practice in the country, businesses have expressed concerns over the lack of transparency, limited public engagement, and insufficient coordination with relevant ministries in the policymaking process. Industry-specific concerns include, among others, restrictions on sugar, salt, and fat (GGL) content in processed foods and beverages, the complications in the implementing regulation related to addictive substances, local content requirements, pricing controls, restrictions on advertising and sales of infant formula milk, and the transition period of its implementation. OECD business encourages the Government to align existing BPOM standards with international guidelines.

Intellectual Property

IP Recordation System

Indonesia's IP Recordation System is designed to prevent the importation and exportation of goods that infringe on intellectual property (IP) rights at the country's borders. However, the current system is only accessible to business entities domiciled in Indonesia, effectively excluding foreign companies without a local subsidiary from registering their IP rights for border enforcement. This restriction limits the ability of foreign rights holders to take preventive measures against IP infringement and raises concerns regarding Indonesia's compliance with Article 3 of the TRIPS Agreement, which requires equal treatment for foreign and domestic IP rights holders. To align with international standards and strengthen IP protection, Indonesia should consider abolishing the domicile requirement and allowing any registered IP rights holder—regardless of their location—to access the IP Recordation System. This reform would enhance investor confidence, improve trade facilitation, and demonstrate Indonesia's commitment to a fair and transparent IP enforcement regime in line with OECD principles.⁴

Patent Law & Compulsory Licensing

Indonesia's patent law update from 2016 was problematic in many respects, particularly Article 20, which mandated that all patent holders manufacture or use their patents in Indonesia. Due to business pressure, in July 2018, the Ministry agreed to delay the implementation of Article 20, allowing patent holders to request a delay of the local manufacturing requirement for five years – which could be renewed indefinitely.

The overall patent law revision was circulated in September 2021 with the intent to adjust the Patent Law to provisions contained in the *Omnibus Job Creation Law*, adhere to

international standards, and improve patent services. The *Omnibus Law on Job Creation* made several acceptable changes to the patent law, including local manufacturing requirements, compulsory licenses, and simple patent.

President Prabowo Subianto ratified Law 65/2024 on the *Third Amendment to Law 13/2016 concerning Patent*, on October 28, 2024. Article 20 of the Law reflects the changes from the Omnibus Law on Health regarding local patent working requirements but still mandates patent holders to submit a statement on the implementation of their patent in Indonesia.

Key areas of strength for Indonesia patent laws are revisions in the Omnibus Job Creation Bill 2020 that eliminate localization requirements and general technology transfer; weaknesses include the Government-use license issued in 2021 for patents related to COVID-19 treatment and a challenging copyright environment leading to high levels of piracy.

Enforcement of IPR Legislation

Enforcement of IPR legislation and actions to target IP infringements (counterfeit products/ parallel imports) remains weak.

⁴ Links to further Information:
<https://ustr.gov/sites/default/files/2024%20Special%2001%20Report.pdf>

<https://www.trade.gov/country-commercial-guides/indonesia-protecting-intellectual-property>

Innovation and Digital Economy

Personal Data Protection Law

The Personal Data Protection (PDP) Law took effect in October 2024. It provides legal definitions for forms of data processing, checklists for determining that each form of data processing complies with the law, principles of personal data protection, and the basis for processing personal data. The law establishes rights for data subjects, including access, rectification, deletion, and obligations for the processing of data. Controllers are required to have a legal basis for data processing, such as consent or contractual necessity, implement cybersecurity measures, and report data breaches to authorities within 72 hours.

The bill helpfully differentiates the responsibilities between data controllers and data processors. Data controllers must ensure that any data flows must only go to countries that have equivalent or higher standards of data protection than that available in Indonesia. However, there are no guidelines on assessing the level of data protection across countries, which are set to be the subject of further regulations to dictate the implementation of cross-border data transfers. The law also applies extraterritorially if the data transfer has any legal consequences in Indonesia or to its citizens. This applicability covers more processing activities than typically seen in other data frameworks.

Business has underlined the need for the PDP Law to be consistent with existing legislation as Indonesia develops its data privacy regime. The law should adhere to well-established global and regional standards, such as the OECD's Guidelines on the Protection of Privacy & Transborder Flows of Personal Data and APEC's Privacy Framework and Cross-Border Privacy Rules System. It should also be developed with an emphasis on transparency and continued consultation with stakeholders.

Although the law came into effect October 2024, it is unclear whether revisions have been made to the version of the implementing regulations that were made publicly available to ensure no overlap or conflicting regulations, which can lead to dual compliance burdens for companies.

Restrictions to Cloud Services

According to a regulatory review by the Asia Cloud Computing Association (ACCA), Indonesia's regulatory framework is the least conducive for the adoption of public cloud technology in the financial services industry. The biggest gaps are in the areas of data localization, the requirement to seek prior regulatory approval, and the lack of differentiation in the materiality of workloads.

First, Indonesia's financial institutions are still blocked from using offshore data centers. Bank Indonesia still requires payment transactions to be processed domestically. The Financial Services Authority (OJK) has incrementally allowed some electronic systems to be processed offshore in the banking and insurance sector, but this has not been permitted in sectors including multi-financing and lending-based technology. Industry reports these rules are motivated in part by regulators' lack of trust in multilateral law enforcement systems.

Second, the OJK requires financial institutions to seek its approval two to three months before moving workloads to the public cloud. For instance, Regulation No. 38/POJK.03/2016 requires commercial banks planning to operate an electronic system outside Indonesia to seek approval from the OJK three months before the arrangement starts. In addition, financial institutions that plan to outsource the operation of their data centers or disaster recovery centers must notify the OJK at least two months before the arrangement starts. Additionally, Bank Indonesia's regulation on Payment System (PBI 23/6/PBI/2021) requires payment service providers to seek approval for any new partnership with a cloud service provider, as it is deemed high risk (Art 257 (1) (c)). This continues to become a roadblock for payment

service providers to migrate easily to the cloud.

Third, Regulation No. 9/POJK.03/2016 only allows commercial banks to outsource “support work” (i.e., activities that are low risk, do not require high banking competency and skills qualification, and do not directly relate to operational decision-making). These workloads that can be outsourced are all subject to the same regulatory requirements, with no differentiation in terms of materiality, unlike in other jurisdictions, such as Australia and Singapore.

Cybersecurity Legislation under Consideration

The Government is considering introducing a Cybersecurity Law that would prioritize domestic products of foreign ones, that would disadvantage international providers. The law would mandate assessment and certification of cybersecurity of products by Indonesian authorities, contrary to Indonesia’s participation in the Common Criteria Recognition Arrangement that required member countries to accept certification from internationally accredited laboratories. The proposed law would also require any AI developed, applied or produced to be notified to the authorities.

Platform Treatment of News Content

In February 2024, the Government signed a Presidential Regulation directing specific digital platforms to pay news organizations for news content that appears on those platforms. Digital platforms that would qualify are those that host content from Indonesian news outlets and make up at least one percent of all Internet traffic within Indonesia, and/or platforms with over one million daily active users in Indonesia in a three-month period. Although these thresholds, albeit arbitrary, are facially neutral, the effects and intent of this measure make clear that foreign companies are primary targets of this regulation. The goal of extracting revenues and subsidizing local news outlets is evident from the explicit goal of the regulation, which states that digital

services companies have a “responsibility” to support news organizations.

The Regulations require platforms to collaborate with media companies, with collaboration entailing paid licenses, profit sharing, data sharing, or other forms of cooperation. It further empowers the Press Council, a third party made up of members of the press and media companies, to implement the regulations, prescribe further regulations, and oversee arbitration between digital platforms – a conflict of interest that greatly compromises any presumption of neutrality and objectivity between disputing parties. Under this regulation, Indonesia’s Press Council can establish the rules of engagement and simultaneously oversee mediation or arbitration if any disputes materialize – an authority they do not currently have under the country’s Press Law. The regulation could also direct digital platforms to share and disclose algorithm changes to news publishers and disclose commercially sensitive user activity to news publishers.

Digital VAT

In April 2020, the Indonesian Government imposed several forms of taxation on digital commerce. These taxes apply to only non-Indonesian businesses with Indonesian customers:

- The Value Added Tax (VAT) was introduced and applied to foreign-originating intangible, taxable goods and services;
- The Government created the new concept of “significant economic presence” to impose income tax on certain foreign suppliers; and,
- The electronic transaction tax was introduced and applied to foreign suppliers whose permanent establishment status cannot be certified under Indonesia’s income tax treaty arrangements.

The Indonesian Government issued these digital tax provisions contrary to previous assertions that it would adhere to the OECD

Inclusive Framework on BEPS and not introduce a unilateral digital services tax. The timeframe within which these expansive new measures were approved allowed for neither the dialogue nor significant structural changes necessary for impacted firms to effectively implement changes of this scope and complexity.

A ten percent digital VAT took effect in 2020. In April 2022, the applicable VAT rate was raised from ten to 11 percent, with a further increase to 12 percent scheduled for January 2025.

Data Localization

In December 2020, the Ministry of Information, Communication, and Technology (MICT) issued Regulation 05/2020 which established various data classifications, such as open, limited, confidential, and highly confidential. All classifications, except for open data, are required to be stored in the National Data Center in Jakarta.

Data localization and the onshore data center requirement rely on a system of data categorization that makes data less secure. They also create administrative burdens for public and private ESOs. US industry recommends a broader approach to evaluating data that allows data to migrate to the cloud, and for more data categories to be managed by third party cloud service providers, such as the open, limited, and confidential categories. Cloud service providers demonstrate their capacity to securely store data through internationally recognized standards and certifications. Indonesia can accelerate its digital transformation and mitigate the risk of future cyberattacks by securely storing data with trusted cloud service providers.

- **Public Security:** MICT has plans to revise the Government Regulation 71/2019 to include provisions that will require, for “public security purposes” certain types of data, e.g., civil registration, immigration, health, or financial data, to be processed and stored within Indonesia. It is important

that MICT engage in a public-private dialogue during the revision process

- **Financial Services:** The Bank of Indonesia still requires core/important financial transactions to be processed domestically. The Financial Services Authority (OJK) has incrementally allowed some electronic processing systems to be based offshore for banking services, insurance services, multi-financing services, and lending based technology, but the policy remains highly restrictive and burdensome for global companies trying to operate within Indonesia.

Environment, Energy and Climate Change

Developing and Implementing Effective Blended Finance Schemes

Indonesia, as rapidly growing and developing economy, emits significant amounts of GHG from power generations for industries and households. Moreover, they experience challenges such as air and water pollution, waste management, and loss of natural resources.

As adherent to the international framework of climate and biodiversity treaties, their policies should be expected to align with internationally harmonized measures such as the Paris Agreement and the Kunming-Montreal Global Biodiversity Framework.

Existing policies, regulations, and standards should be reviewed to ensure the use of internationally harmonized measures on climate and green transition. Attention should be paid to OECD standards, such as the MNE Guidelines and Corporate Governance Principles, the country's specific context (availability of natural resources, structure of energy generation and industries, risk of disasters such as earthquakes, etc.), and transition planning of high-emission sectors.

One concrete area in which we expect progress is developing and implementing effective blended finance schemes. Blended finance is an innovative risk-sharing mechanism between private and public financial institutions that could mitigate a vast risk to a bankable risk, such as addressing climate challenges or accelerating the green transition. It is gaining more attention these days as one of the key promising solutions for emerging countries like Indonesia.

Energy Transition and Renewable Investment Challenges

In the energy sector, the Indonesian Government's pursuit of establishing a sustainable end-to-end supply chain to

support the country's transition to net zero has also been a focus among members. Key areas of interest include alternative energy generation from solar, gas, and hydrogen; financing projects such as the Just Energy Transition Partnership (JETP); adopting technologies such as Carbon Capture Storage (CCS) & Carbon Capture Utilization and Storage (CCUS). With the finalization of the New and Renewable Energy Law (RUU EBT), US business has engaged with Government officials and emphasized expectations for an improved investment landscape, transparent policy development within the sector, and increased opportunities for private sector involvement.

Despite the Government's push for net zero and a supportive regulatory environment, significant challenges remain, notably the disconnect between regulatory agencies, such as the Ministry of Energy and Mineral Resources, and operational entities like PLN, the state electricity company responsible for managing the national grid, which has caused gaps between policy and implementation. High subsidies for fossil fuels also reduce the cost-competitiveness of renewable energy projects. Mechanisms such as power purchase agreements or green utility tariffs can unlock significant corporate demand for renewable energy that is dampened by the current regulatory framework and pricing challenges, while the export market (particularly to Singapore) presents another opportunity for Indonesia to develop its domestic renewable resources and expertise. Although the Government has introduced plans for a carbon tax under the Tax Harmonization Law – designed as part of a cap-tax-trade system to encourage renewable energy use and reduce emissions – its implementation has faced repeated delays. Originally slated for 2022, the carbon tax is now targeted for 2025.

Quality Infrastructure

Regulations on Subsea Cable Corridors

The Minister of Fisheries and Marine Affairs mandates that all subsea cables in Indonesian waters follow 14 prescribed routes and have four pre-determined main landing points in Manado, Kupang, Jayapura, and Batam. This is required even though more than half of existing cables are located out of these prescribed corridors, and there is limited business case to follow such routes and landing points. This restricts the ability of foreign cloud and infrastructure services providers to determine the best business case for such landings and tilts the playing field in favor of domestic players.

Further, subsea cable permits require a series of licenses from several Ministries such as Environment, ICT, Transport, and Investment. The requirement from ICT Ministry specifically asks for (1) foreign operators to partner with a local network operator, (2) the local partner to be part of the consortium, (3) a minimum of five percent stake by the local partner, and (4) obligation to land in Indonesia. Such local rent-seeking requirements are significant market barriers for foreign providers to establish their business operations in Indonesia.

Power Supply Development and Renewable Energy Investment

The development of power supply outlined in Indonesia's Electricity Supply Business Plan (RUPTL) 2021-2030 is not progressing as expected. The growth in power supply capacity has struggled to keep pace with the rising demand for electricity, creating concerns over energy security and investment in the sector.

In the hydropower sector, several challenges hinder investment:

1. Tariff mechanisms in Independent Power Producer (IPP) tenders make it

difficult for developers to recover their invested costs, discouraging participation.

2. Uncertainty regarding the timing and required load (base or peak demand) for hydropower tenders further complicates investment planning.

Similarly, in the geothermal power sector, investors face high exploration risks, particularly in well testing. However, the current system requires tariff setting and profitability assessment at the pre-development stage, making it difficult for developers to take on exploration risks and deterring participation in IPP tenders.

To address these issues and encourage greater investment in renewable energy, the following measures are proposed:

- Reintroducing the Fast Track Program by establishing a special team of external experts within PLN to centralize and streamline tender management. Additionally, increasing the maximum tariff for renewable energy would enhance investment incentives.
- Adopting a tariff mechanism that ensures fixed revenue for a defined period at the beginning of the operation phase, improving financial stability for developers.
- Enhancing transparency in the tendering process by announcing the timing and required load (base, peak) of tenders for the next three years to facilitate better planning and participation.
- Mitigating exploration risks in geothermal power projects by introducing a flexible tariff system that allows tariff adjustments after development is completed, ensuring fair returns for investors.

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Chile	Confederation of Production and Commerce of Chile (CPC)
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Germany	Federation of German Industries (BDI)
Greece	Hellenic Federation of Enterprises (SEV)
Hungary	Confederation of Hungarian Employers and Industrialists (MGYOSZ)
Hungary	National Association of Entrepreneurs and Employers (VOSZ)
Iceland	Confederation of Icelandic Enterprise (SA)
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Mexico	Employers Confederation of the Mexican Republic (COPARMEX)
Netherlands	Confederation of Netherlands Industry and Employers (VNO-NCW)
New Zealand	BusinessNZ
Norway	Confederation of Norwegian Enterprise (NHO)
Portugal	Confederation of Portuguese Business (CIP)
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Slovakia	National Union of Employers (NUE)
Slovenia	Association of Employers of Slovenia (ZDS)
Spain	Confederation of Employers and Industries of Spain (CEOE)
Sweden	Confederation of Swedish Enterprise
Switzerland	economiesuisse - Swiss Business Federation
Switzerland	Swiss Employers Confederation
Türkiye	Turkish Confederation of Employer Associations (TISK)
Türkiye	Union of Chambers and Commodity Exchanges of Türkiye (TOBB)
Türkiye	Turkish Industry and Business Association (TÜSIAD)
United Kingdom	Confederation of British Industry (CBI)
United States	United States Council for International Business (USCIB)

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