***Letter from Indonesian civil society to President Biden and his Administration expressing concerns over the current state of nickel mining in Indonesia***

November 9, 2023

Dear Sir,
US President Joseph Robinette Biden

Next week, President of the Republic of Indonesia Joko Widodo will visit the United States to attend the Asia-Pacific Economic Cooperation (APEC) Summit 2023. Along with this agenda, we have been informed that there will be bilateral meetings between the Governments of Indonesia and the United States to discuss various strategic issues, including regional security and clean energy transition. In addition, there will be many further discussions regarding the collaboration for the use of critical minerals for electric car batteries.[[1]](#footnote-2)

In this regard, we, Indonesian civil society organizations, would like to express some of our concerns about the current situation of nickel mining in Indonesia. In number of [studies that we conducted,](https://drive.google.com/file/d/1O0hHYOABw9MTKmtvGS9t9o94KdTdug0p/view) we identified number of problems, including; 1) The weakness of nickel mining governance in Indonesia; 2) Massive ecological damage arising from mining governance imbalances; and 3) Human rights violations resulting from fragile mining governance.

**Concerns with an Indonesian-US CMA**

*Issues of fragility in nickel mining governance*

The fragility of mining governance in Indonesia can be seen in the following regulations:

* **Law Number 3 of 2020 concerning Minerals and Coal.** One of the problematic provisions in the law, which was revised in 2020, is removing the authority of local governments in mining governance. This cuts off the participation of local communities to submit objections and complaints to the local government, because its authority has been recentralized to the central government. Communities are not given the freedom to reject mining, instead mining-rejecting communities are threatened with criminalization in Article 162 of the law. The provisions of Article 99 paragraph (3) of this regulation also provide leeway for reclamation obligations and post-mining activities for mining entrepreneurs. This has the potential to cause more deadly toxic mine pits. Auriga Nusantara notes that with this policy, the area of ex-mining pits that are threatened with not being reclaimed reaches 87,307 hectares (Auriga Nusantara, 2020). Based on a report from the East Kalimantan Mining Advocacy Network (Jatam), from 2011 to 2021 there were 40 people who drowned in mining pits in East Kalimantan that were not reclamation (Mongabay, 2021).
* **Law Number 6 of 2023 on Job Creation**. This regulation cuts many environmental protections. Among others, it removes the 30% forest area requirement in each province that was previously maintained through the Forestry Law; cuts the involvement of civil society in the preparation of the Environmental Impact Assessment (EIA); in addition to not involving the community in the process of preparing environmental impacts, they also no longer have space to file objections. The Job Creation Law has also issued many problematic derivative regulations, for example Government Regulation No. 22 of 2021 allows miners to dump waste into the deep sea using the Deep Sea Tailing Placement (DSTP) method.
* Our analytical study shows that Indonesia's mining regulations are still very far from the standards of the world's responsible mining initiative, namely: Initiative for Responsible Mining Assurance (IRMA).

*The issue of ecological damage*

* Massive nickel mining activities in Indonesia have led to increased deforestation rates. Open-pit mining to extract laterite nickel reserves in fragile ecosystems risks losing biodiversity and high carbon stock forests.
	+ Monitoring of 330 nickel mining concessions using radar and satellite (GLAD+RADD) from 2000 to the present has recorded deforestation due to nickel mining of 156,281 hectares. This is the deforestation recorded due to legal nickel mining. Three of the 330 concessions we observed: Vale Indonesia in the Soroako Block, Bintang Delapan Mineral, and Aneka Tambang in North Konawe have caused the loss of more than 50% of the High Carbon Forest. Vale and Bintang Delapan Mineral cleared 51,229 hectares of forest categorized as Key Biodiversity Area by IUCN.
	+ Deforestation by mining companies supplying IWIP in North Maluku during the 2021-2023 period has also caused the loss of 5,780 hectares of natural forest and caused damage to the watershed structure in the upstream areas.
* The construction of coal-fired power plants to process Indonesian nickel has resulted in a much higher COS footprint than nickel produced in other countries. Indonesia's coal capacity at 40.6 GW by 2022. The Indonesia Morowali Industrial Park in Sulawesi (IMIP) for example "[will soon have almost as much coal-fired power generation capacity (at least 5 GW) as Mexico, or Pakistan](https://www.nortonrosefulbright.com/en-vn/knowledge/publications/19ccd372/international-support-crucial-to-decarbonization-of-the-indonesian-nickel-supply-chain)".
* The HPAL process produces large amounts of tailings and causes pollution of surrounding waterways and runoff into ocean areas that are important for the livelihoods of indigenous and local communities. One example is the pollution and even destruction of the Sagea watershed, due to the destruction of the forest ecosystem in the upper Sagea River.[[2]](#footnote-3) The results of sea water testing in Weda Bay, Central Halmahera, and Buli Bay, East Halmahera, both in North Maluku Province, in early September, showed this indication. The content of hexavalent chromium (Cr), nickel (Ni) and copper (Cu) exceeded the quality standard threshold set in Government Regulation Number 22 of 2021 concerning the Implementation of Environmental Protection and Management.[[3]](#footnote-4)
* Captive power plant operations and heavy vehicle activities in nickel industry areas, such as [Indonesia Weda Bay Industrial Park (IWIP)](https://www.aeer.or.id/wp-content/uploads/2023/10/Dilema-Halmahera-di-Tengah-Industri-Nikel-Rev-2.pdf) and Indonesia Morowali Industrial Park (IMIP), are thought to have contributed greatly to the high dust concentrations (PM10 and PM2.5 ) in the affected villages. The poor air quality has led to high cases of Acute Respiratory Infection (ARI) in Lelilef Village, Central Halmahera Regency, and in Bahodopi Sub-district, Morowali Regency, as recorded by the local Community Health Center (Puskesmas).

*Human rights violations, no meaningful participation, and manpower issues*

* Conflicts between local communities and nickel mines are increasing the criminalization of local communities and environmental defenders.
* The mining activities of the IWIP supplier company in North Maluku have also driven the Hongana Manyawa ethnic group out of the forest where they live.[[4]](#footnote-5)
* Local villagers in key mining and refining areas expressed concern about the negative impacts they face, particularly in relation to agriculture and access to community infrastructure, such as access to clean water and the threat of natural disasters.[[5]](#footnote-6)
* Riots have occurred and led to the [deaths of](https://www.vice.com/en/article/3ad3n8/china-nickel-smelting-factory-indonesia-gunbuster-belt-and-road) workers due to poor safety and wage conditions; reports detail long working hours without breaks, pay cuts, and lack of adequate safety and respiratory equipment.

*Trade Fairness Issues and Their Impact on Society*

The Government of Indonesia in negotiating various international trade agreements is always exclusive and lacks public participation, including in negotiating issues related to extractive mining. This is even though the extractive issues negotiated have a very broad impact on the lives of small communities.

Indonesia for Global Justice (IGJ) noted that 8 out of 10 international trade agreements involving Indonesia did not involve affected communities in the negotiation process. If there is no community involvement in trade negotiations, where is trade justice for affected communities? In fact, exploitation of natural resources occurs and is even committed to in various trade agreements which do not give the public the opportunity to express "rejection" of unfair trade.

Apart from that, the trade pillar in the Indo-Pacific Economic Framework (IPEF) negotiations should be a screening of raw materials such as nickel and coal which cause environmental damage and socio-social losses. The United States in trade facilitation (trade facilitation) proposes the existence of environmental and labor standards in the trade aspect. This should be strengthened by rejecting all forms of raw material products produced from mining processes that damage the environment and harm society.

Therefore, we urge the United States to strengthen its commitment to environmental standards in the context of trade facilitation that is being negotiated in the Indo-Pacific Economic Framework (IPEF) with Indonesia. In order to prevent nickel trading with Indonesia which results in deforestation and ecological damage as well as social impacts.u

**Demands**

The massive exploitation of natural resources without the development of strong mining governance has serious consequences for ecological damage and human rights violations. The risk of environmental damage and human rights violations in the nickel value chain has been reflected in various nickel mining areas in Indonesia, one of the world's largest nickel producing countries.

The operation of coal-fired power plants in industrial areas also increases the concentration of greenhouse gases (GHG) in the atmosphere and adversely affects global climate change. This is not in line with the Net Zero Emissions (NZE) target by 2060 or sooner. In addition, the emissions released by these power plants have the potential to reduce the health quality of local residents.

Electric vehicle batteries are expected to play an important role in the shift to a carbon-neutral economy. Findings that nickel extraction is fraught with human rights abuses and environmental damage must be addressed and mitigated if a just transition to renewable energy is to be achieved.

Based on the results of civil society coalition monitoring in the field that shows the many environmental risks and human rights impacts of nickel mining activities, it is necessary to reform mining governance policies so that they are responsible and based on human rights. In fact, President Jokowi should place a moratorium on the issuance of critical mineral mining licenses throughout Indonesia.

Therefore, we ask the US Administration under the leadership of President Joe Biden to see and consider these conditions in discussing trade agreements with Indonesia.

Sincerely,

1. Satya Bumi
2. Indonesia for Global Justice (IGJ)
3. Ecological Action and Emancipation of the People (AEER)
4. WALHI National Executive
5. WALHI South Sulawesi
6. WALHI Southeast Sulawesi
7. Forest Watch Indonesia (FWI)

9 November, 2023

Kepada Yth,

Presiden AS Joseph Robinette Biden

Pada pekan depan, Presiden Republik Indonesia Joko Widodo akan berkunjung ke Amerika Serikat untuk menghadiri acara Asia-Pacific Economic Cooperation (APEC) Summit 2023. Bersamaan rangkaian agenda tersebut, kami mendapat informasi bahwa akan ada pertemuan bilateral antara Pemerintah Indonesia dan Amerika Serikat membahas berbagai isu strategis, diantaranya soal regional security dan transisi energi bersih. Selain itu, akan banyak membahas lebih lanjut mengenai rencana kerjasama penggunaan critical minerals untuk baterai mobil listrik.[[6]](#footnote-7)

Berkenaan dengan hal tersebut, kami dari organisasi masyarakat sipil Indonesia ingin menyampaikan beberapa concern kami atas situasi pertambangan nikel di Indonesia saat ini. Dalam sejumlah [kajian yang kami lakukan](https://drive.google.com/open?id=1O0hHYOABw9MTKmtvGS9t9o94KdTdug0p), kami mengidentifikasi sejumlah permasalahan, di antaranya; 1) Kelemahan tata kelola pertambangan nikel di Indonesia; 2) Kerusakan ekologis yang masif yang timbul akibat ketimpangan tata kelola tambang; dan 3) Pelanggaran hak asasi manusia dampak dari tata kelola tambang yang rapuh.

**Concerns with an Indonesian-US CMA**

*Isu kerapuhan tata kelola pertambangan nikel*

Kerapuhan tata kelola pertambangan di Indonesia terlihat dalam beberapa aturan berikut;

* **Undang-Undang Nomor 3 Tahun 2020 tentang Mineral dan Batubara.** Salah satu ketentuan bermasalah dalam undang-undang yang direvisi pada 2020 ini, yakni menghapus kewenangan pemerintah daerah dalam tata kelola pertambangan. Hal ini memotong partisipasi masyarakat daerah untuk mengajukan keberatan dan aduan kepada pemerintah daerah, karena kewenangannya telah desentralisasi ke pemerintah pusat. Masyarakat tidak diberikan keleluasaan untuk menolak tambang, malah masyarakat penolak tambang terancam dikriminalisasi dalam pasal 162 undang-undang tersebut. Ketentuan Pasal 99 ayat (3) aturan ini juga memberikan kelonggaran kewajiban reklamasi dan kegiatan pasca tambang bagi pengusaha tambang. Hal ini berpotensi menimbulkan lebih banyak lubang tambang beracun nan mematikan. Auriga Nusantara mencatat bahwa dengan kebijakan ini maka luasan lubang bekas tambang yang terancam tak direklamasi mencapai 87.307 hektar (Auriga Nusantara, 2020). Berdasarkan laporan dari Jaringan Advokasi Tambang (Jatam) Kalimantan Timur terhitung sejak tahun 2011 hingga tahun 2021 terdapat 40 orang menjadi korban tenggelam di lubang tambang di Kalimantan Timur yang tidak direklamasi (Mongabay, 2021).
* **Undang-Undang Nomor 6 Tahun 2023** tentang Cipta Kerja. Aturan ini banyak memangkas perlindungan lingkungan. Di antaranya, menghapus ketentuan luas hutan sebesar 30% di masing-masing provinsi yang sebelumnya dijaga melalui Undang-undang Kehutanan; memangkas keterlibatan masyarakat sipil dalam penyusunan Analisis Dampak Lingkungan Hidup atau Environmental Impact Assessment (EIA); selain tidak melibatkan masyarakat dalam proses penyusunan dampak lingkungan hidup juga tidak lagi memiliki ruang untuk mengajukan keberatan. Undang-undang Cipta Kerja juga banyak mengeluarkan peraturan turunan yang problematik, misalnya Peraturan Pemerintah Nomor 22 Tahun 2021 memungkinkan penambang membuang limbah ke laut dalam dengan menggunakan metode Deep Sea Tailing Placement (DSTP).
* Kajian analisis yang kami lakukan menunjukkan aturan pertambangan di Indonesia masih sangat jauh dari standar inisiatif pertambangan bertanggung jawab di dunia, yakni; Initiative for Responsible Mining Assurance (IRMA).

*Isu kerusakan ekologis*

* Masifnya aktivitas pertambangan nikel di Indonesia menyebabkan peningkatan laju deforestasi. Penambangan terbuka untuk mengekstraksi cadangan nikel laterit di ekosistem yang rapuh menyebabkan risiko kehilangan biodiversitas dan hutan dengan stok karbon tinggi
	+ Pantauan terhadap 330 konsesi tambang nikel dengan menggunakan radar dan satelit (GLAD+RADD) sejak tahun 2000 hingga saat ini mencatat deforestasi akibat pertambagan nikel mencapai 156,281 hektar. Ini adalah deforestasi yang tercatat karena tambang nikel yang dilakukan secara legal. Tiga dari 330 konsesi yang kami amati: Vale Indonesia di Blok Soroako, Bintang Delapan Mineral, dan Aneka Tambang di Konawe Utara telah menyebabkan hilangnya lebih dari 50% High Carbon Forest. Vale dan Bintang Delapan Mineral membuka 51,229 hektar hutan yang dikategorikan Key Biodiversity Area oleh IUCN.
* Pembangunan pembangkit listrik tenaga batu bara untuk memproses nikel Indonesia telah menghasilkan jejak COS yang jauh lebih tinggi dibandingkan nikel yang diproduksi di negara lain. Kapasitas batubara Indonesia pada 40,6 GW pada tahun 2022. The Indonesia Morowali Industrial Park in Sulawesi (IMIP) misalnya “[akan segera memiliki kapasitas pembangkit listrik tenaga batu bara yang jumlahnya hampir sama (setidaknya 5 GW) seperti Meksiko, atau Pakistan”](https://www.nortonrosefulbright.com/en-vn/knowledge/publications/19ccd372/international-support-crucial-to-decarbonization-of-the-indonesian-nickel-supply-chain)
* Proses HPAL menghasilkan tailing dalam jumlah besar dan menyebabkan pencemaran saluran air di sekitarnya dan limpasan air ke wilayah lautan yang penting bagi penghidupan masyarakat adat dan lokal. Salah satu contohnya, terjadi pencemaran bahkan kerusakan atas Daerah Aliran Sungai (DAS) Sagea, hal ini karena ekosistem hutan di hulu Sungai Sagea rusak.[[7]](#footnote-8) Hasil pengujian air laut di Teluk Weda, Halmahera Tengah, dan Teluk Buli, Halmahera Timur, keduanya di Provinsi Maluku Utara, awal September lalu, menunjukkan indikasi itu. Kandungan krom heksavalen (Cr), nikel (Ni), dan tembaga (Cu) melebihi ambang baku mutu yang diatur di Peraturan Pemerintah Nomor 22 Tahun 2021 tentang Penyelenggaraan Perlindungan dan Pengelolaan Lingkungan Hidup.[[8]](#footnote-9)
* Operasional PLTU kaptif dan aktivitas kendaraan berat di kawasan-kawasan industri nikel, seperti [Indonesia Weda Bay Industrial Park (IWIP)](https://www.aeer.or.id/wp-content/uploads/2023/10/Dilema-Halmahera-di-Tengah-Industri-Nikel-Rev-2.pdf) dan Indonesia Morowali Industrial Park (IMIP), diduga berkontribusi besar atas tingginya konsentrasi debu (PM10 dan PM2.5) di desa-desa terdampak. Buruknya kualitas udara tersebut menyebabkan tingginya kasus Infeksi Saluran Pernapasan Akut (ISPA) di Desa Lelilef, Kabupaten Halmahera Tengah, dan di Kecamatan Bahodopi, Kabupaten Morowali, seperti yang tercatat oleh Pusat Kesehatan Masyarakat (Puskesmas) setempat.

*Pelanggaran hak asasi manusia dan kurangnya keterlibatan masyarakat*

* Konflik antara masyarakat lokal dan tambang nikel meningkatkan kriminalisasi terhadap masyarakat lokal dan pembela lingkungan.
* Penduduk desa setempat di daerah pertambangan dan pengilangan utama menyatakan keprihatinannya mengenai hal ini dampak negatif yang mereka hadapi, khususnya terkait pertanian dan akses terhadap infrastruktur masyarakat, seperti akses air bersih serta ancaman bencana alam.[[9]](#footnote-10)

*Isu Keadilan Perdagangan dan Dampaknya Pada Masyarakat*

Perlu diketahui juga bahwa Pemerintah Indonesia dalam melakukan berbagai perundingan perjanjian perdagangan Internasional selalu eksklusif dan minim partisipasi publik termasuk dalam merundingkan isu-isu terkait pertambangan ekstraktif. Padahal isu-isu ekstraktif yang dirundingkan itu sangat berdampak luas bagi kehidupan masyarakat kecil.

Apabila Amerika Serikat serius dengan komitmen standar lingkungan dalam konteks fasilitasi perdagangan yang sedang dinegosiasikan dalam Indo-Pacific Economic Framework (IPEF) dengan Indonesia. Maka, seharusnya dapat mencegah berdagang nikel dengan Indonesia yang mengakibatkan deforestasi dan kerusakan lingkungan maupun dampak sosial.

Apabila kehadiran Presiden Jokowi ke Amerika Serikat dengan maksud untuk membicarakan terkait perdagangan nikel maupun transisi energi. Maka, perlu diingat bahwa nasib

*Masalah Ketenagakerjaan dan Kerusuhan*

* Kerusuhan telah terjadi dan berujung pada [kematian](https://www.vice.com/en/article/3ad3n8/china-nickel-smelting-factory-indonesia-gunbuster-belt-and-road) pekerja karena kondisi keselamatan dan upah yang buruk; laporan merinci jam kerja yang panjang tanpa istirahat, pemotongan gaji, dan kurangnya peralatan keselamatan dan pernapasan yang memadai.

**Tuntutan**

Eksploitasi besar-besaran sumber daya alam tanpa diikuti upaya pengembangan tata kelola pertambangan yang kuat, memiliki konsekuensi serius akan terjadinya kerusakan ekologis serta pelanggaran hak asasi manusia. Risiko kerusakan lingkungan serta pelanggaran HAM dalam rantai nilai nikel itu telah terefleksikan di berbagai wilayah pertambangan nikel di Indonesia, salah satu negara penghasil cadangan nikel terbesar dunia.

Pengoperasian PLTU batubara dalam kawasan industri juga turut meningkatkan konsentrasi gas rumah kaca (GRK) di atmosfer dan berpengaruh buruk pada perubahan iklim dunia. Hal ini tidak sejalan dengan target Net Zero Emissions (NZE) pada 2060 atau lebih cepat. Selain itu, emisi yang dikeluarkan oleh pembangkit listrik tersebut berpotensi menurunkan kualitas kesehatan warga lokal.

Baterai kendaraan listrik ditengarai akan memainkan peran penting dalam pergeseran menuju ekonomi netral karbon. Temuan mengenai ekstraksi nikel yang penuh dengan pelanggaran hak asasi manusia dan kerusakan lingkungan harus diatasi dan dimitigasi jika transisi yang adil ke energi terbarukan ingin dicapai.

Berdasarkan hasil pemantauan koalisi masyarakat sipil di lapangan yang menunjukkan banyaknya risiko lingkungan dan dampak hak asasi manusia akibat kegiatan tambang nikel tersebut, maka diperlukan reformasi kebijakan tata kelola pertambangan yang bertanggung jawab dan berbasis pada hak asasi manusia. Bahkan, seharusnya Presiden Jokowi melakukan moratorium penerbitan izin-izin tambang mineral kritis di seluruh Indonesia

Oleh karena itu, kami meminta kepada Pemerintahan Amerika Serikat di bawah pimpinan Presiden Joe Biden untuk melihat dan mempertimbangkan berbagai kondisi tersebut dalam membahas perjanjian perdagangan dengan Indonesia.

Hormat kami,

1. Satya Bumi
2. Indonesia for Global Justice (IGJ)
3. Aksi Ekologi dan Emansipasi Rakyat (AEER)
4. WALHI Eksekutif Nasional
5. WALHI Sulawesi Selatan
6. WALHI Sulawesi Tenggara
7. Forest Watch Indonesia (FWI)
1. https://www.reuters.com/world/asia-pacific/indonesia-president-scheduled-meet-us-president-biden- this-month-2023-11-07/ [↑](#footnote-ref-2)
2. https://fwi.or.id/tindak-pelaku-pencemaran-sungai-di-das-sagea/ [↑](#footnote-ref-3)
3. https://www.kompas.id/baca/nusantara/2023/11/06/perairan-halmahera-tercemar-logam-berat [↑](#footnote-ref-4)
4. <https://www.instagram.com/reel/CzVpIjVPQrf/?igshid=djh4YWlyZGpzc25n> [↑](#footnote-ref-5)
5. [Powering electric vehicles: Human rights and environmental abuses in Southeast Asia's nickel supply chains (business-humanrights.org)](https://www.business-humanrights.org/en/from-us/briefings/powering-electric-vehicles-human-rights-and-environmental-abuses-in-southeast-asias-nickel-supply-chains/) [↑](#footnote-ref-6)
6. https://www.reuters.com/world/asia-pacific/indonesia-president-scheduled-meet-us-president-biden-this-month-2023-11-07/ [↑](#footnote-ref-7)
7. https://fwi.or.id/tindak-pelaku-pencemaran-sungai-di-das-sagea/ [↑](#footnote-ref-8)
8. <https://www.kompas.id/baca/nusantara/2023/11/06/perairan-halmahera-tercemar-logam-berat> [↑](#footnote-ref-9)
9. [Powering electric vehicles: Human rights and environmental abuses in Southeast Asia's nickel supply chains (business-humanrights.org)](https://www.business-humanrights.org/en/from-us/briefings/powering-electric-vehicles-human-rights-and-environmental-abuses-in-southeast-asias-nickel-supply-chains/) [↑](#footnote-ref-10)