

Notes on JETP's 2023 Comprehensive Investment and Policy Plan

Submitted for JETP-CIPP Draft Document's Public Consultation on November 14, 2023

MAIN MESSAGE

1. We acknowledge and appreciate the work of the JETP Secretariat and its partners in preparing the draft Comprehensive Investment and Policy Plan (CIPP) for public consultation. We support the overall goal of catalyzing funding for a just energy transition in Indonesia, and we appreciate JETP's role in Indonesia moving forward quickly to achieve this transition.
2. However, the need to complete the CIPP must not come at the expense of the public's basic rights to transparency and meaningful participation. The public is only given 14 days to provide public comments on the draft CIPP (1-14 November 2023), and the draft CIPP in Indonesian was only available on 10 November 2023, three working days before the deadline for submitting input.
3. As a result, we cannot provide a detailed response regarding the substance of the CIPP draft. Our comments primarily focus on issues of public participation in the JETP process, including the lack of time and information for civil society to engage and understand the substantive proposals presented in the draft CIPP. In these comments, we can only express high-level concerns about the policy and investment gaps needed to achieve a just energy transition in Indonesia.
4. As a priority, we urge the JETP Secretariat, IPG and other partners and investors to increase investment in the CIPP public dialogue and dissemination process, as follows:
 - a. Extending the period for information dissemination and public comment, to at least eight weeks from the availability of the official Indonesian translation of the draft CIPP (10 November 2023), to enable meaningful participation;
 - b. Convey CIPP's main messages, both directly in the form of public consultations, as well as in other documented formats, such as fact sheets, infographics, digital content, in language that is easily understood by the most vulnerable stakeholders, including workers, affected communities, people with disabilities, and indigenous communities, especially in locations where JETP priority projects will be implemented, including in remote and rural areas;
 - c. Widely publicize opportunities to participate, at least by using public radio broadcasts in Indonesian, national and regional/provincial newspapers as well as online media outlets and advertising on social media;

- d. Disclose all public consultation records, summaries of responses to objections, input and proposals submitted, as well as conclusions about whether objections, input and proposals can be integrated into the CIPP;
 - e. Appoint a person in charge and a clear communication channel for the public to request the disclosure of the database, information and supporting documents for modeling, as well as the assumptions used in CIPP;
 - f. Expand and accelerate the establishment of a complaints mechanism to cover the resolution of issues arising in the current CIPP public consultation process and future CIPP reviews, in addition to supporting the implementation of JETP-funded projects; And
 - g. Including access to information, participation, and justice as one of the policies supporting the implementation of JETP in CIPP, recognizing that this is important to achieve a just transition.
5. We also ask the JETP Secretariat to create standards and procedures for public participation and make this information accessible to the public, both in the current CIPP process and for the upcoming CIPP biennial review process. This standard at least provides clarity regarding:
- a. Standards for providing information and access to documents to be consulted, including the language used in the documents provided;
 - b. Standards and timescales for providing key information in the documents to be consulted;
 - c. Public consultation period;
 - d. Procedures and criteria for documentation, response, and integration or rejection of public input;
 - e. An objection mechanism that can be taken if there are parties (individuals or bodies) who feel that their rights to information and participation in the CIPP public consultation process have not been fulfilled.
6. Regarding the dissemination of information and participation, we ask the JETP Secretariat to at least focus on the following:
- a. The nature of JETP financing and its financial consequences for state finances. CIPP clearly outlines the nature of JETP financing. However, there are significant gaps in understanding in media communications and public perception regarding JETP, for example the overall characterization of financing as “aid,” which JETP needs to straighten out. In addition, transparency regarding how JETP financing has implications for the medium and long-term state debt burden needs to be communicated clearly;
 - b. JETP's financing priorities and the reasons why JETP allocates the largest amount of funding for accelerating the use of dispatchable energy, and the minimum for early retirement and managed phase-out of coal-fired power plants. Public communication must also clearly convey investment comparisons per investment sector, for example, the acceleration of bioenergy, dam and hydropower plants in aggregate reaches more than 37 times the investment for the managed phase-out of coal-fired power plants;
 - c. List of JETP-funded priority projects along with the environmental and socio-economic consequences of prioritized energy transition solutions, as well as how

JETP's proposed mechanisms can be more protective than mechanisms available in domestic law (i.e. AMDAL and licensing).

7. We also ask the JETP Secretariat to note the main issues and questions we identified in the draft CIPP, keeping in mind that we currently do not have enough time or information to discuss these issues in detail and carry out a meaningful analysis:
 - a. The CIPP draft does not remedy the setbacks in access rights that occur in fossil fuel projects to achieve a just transition;
 - b. The draft CIPP recognizes information gaps as a challenge of some substance, but does not provide information that could help the public formulate meaningful input;
 - c. The on-grid GHG emissions reduction targets in the CIPP design show low climate ambition;
 - d. JETP's investment priority for new power plants raises questions about the adequacy of mitigation analysis for excess supply and worsening of PLN's financial condition;
 - e. There are no adequate policy and investment proposals that can ensure that the road map for early retirement of on-grid coal power plants can run according to target;
 - f. Managed fossil fuel phase-out relies on false solutions;
 - g. CIPP does not activate or propose policies that enable community solutions, such as rooftop solar PV, and leaves these solutions in the status quo;

A. PROCEDURAL ISSUES IN THE PROCESS OF DISSEMINATION AND PUBLIC CONSULTATION OF THE CIPP PLAN

1. We were unable to participate meaningfully in the draft CIPP because the time given for public consultation was insufficient, even though Indonesian, and international law guarantees meaningful public participation as a citizen's right.
2. The two-week public comment period and publication of the draft CIPP in Indonesian only available three working days before the input submission deadline did not allow for meaningful public participation, especially by civil society organizations and affected communities in Indonesia.
3. Consultation is not preceded by optimal information dissemination:
 - a. The public only knows about the existence of the CIPP draft and information about the subsequent process through chain messages on WhatsApp. The JETP Indonesia website which contains CIPP information cannot be found easily via search engines, nor can the CIPP draft.
 - b. Dissemination of the CIPP draft was only carried out once, namely on Friday, November 3, 2023, and then it was announced on Wednesday, November 1, 2023, without clarity whether the forum was held online or face to face. Even though audiovisual recordings of the dissemination are available on the JETP website, finding these recordings is very difficult without having the right link.

4. Representation in dissemination and public consultation is still dominated by the organizer's determination of invitations. This places a very heavy burden on the JETP Secretariat to determine strategic participants appropriately and increases the risk of parties feeling excluded from the participation process.
5. Invitations and information regarding dissemination and face-to-face public consultation forums are delivered within a very short period of time. For example, invitations to disseminate the draft CIPP are only sent one working day before dissemination. The invitation to a new public consultation was received on 11-12 November 2023, one to two days before the consultation. Several invited parties received invitations from networking partners, not from the official JETP Secretariat communication channels. This limited time makes it difficult for regional invitees to make decisions regarding attendance, managing work priorities, and using independent funds to ensure independence.

B. PROBLEMS IN THE CIPP DESIGN DOCUMENT

This section provides a brief overview of the key issues and questions in CIPP design, keeping in mind that we currently do not have sufficient time nor information to discuss these issues in detail.

B.1. The CIPP draft does not remedy the setbacks in access rights that occur in fossil fuel projects to achieve a just transition.

1. A just transition requires a participatory approach. JETP-funded projects must adhere to the highest international standards in terms of access to information and public participation, and not perpetuate or exacerbate procedural barriers to participation that have become prevalent during the accelerated development of fossil fuel projects in Indonesia.
2. JETP needs to ensure the acceleration of clean energy in Indonesia, not repeating the history of narrowing public participation that occurred during fossil fuel-based development. The CIPP draft offers a complaints mechanism for projects that will be funded by JETP but does not sufficiently acknowledge and propose improvements to public participation policies that have not been implemented well, and have even experienced significant setbacks, in the period of accelerating fossil fuel projects in Indonesia.
 - a. The accelerated development of coal-fired power plants to date has not fulfilled the rights to information and participation guaranteed in the 1945 Constitution and the Environmental Protection and Management Law.
 - i. Various licensing lawsuits for coal-fired power plants, such as CPP Cirebon 1,000 MW, CPP Indramayu 2,000 MW, CPP Celukan Bawang 660 MW, CPP Teluk Sepang 200 MW, and CPP Jambi 600 MW, have questioned the failure of project owners or the government to disclose licensing information and environment and consult meaningfully with affected stakeholders. The facts in these cases show how civil society lacked timely access, and in some cases no access at all, to important documents, including licensing and AMDAL documents. There is no effective and efficient way to access these documents.

- ii. In response to these legal challenges, the government has actually reduced efforts to protect environmental participation, including through the revision of various laws and regulations. Existing requirements have been interpreted narrowly to limit affected parties' access to court, and there are no protections for members of the public who face threats when opposing fossil fuel projects.
- b. In addition, the Indonesian government has failed to ensure that climate change action and policy-making processes are inclusive, participatory, and fair. For example, the government has taken steps to reduce public consultation regarding carbon-intensive activities in the following ways:
 - i. Carbon-intensive projects and hard-engineering adaptation solutions on the National Strategic Projects (PSN) list can bypass community participation requirements.
 - ii. Based on Law no. 11 of 2020 concerning Job Creation, "development for the public interest" is given ease of land use without carrying out an analysis of environmental impacts¹, is not required to avoid overlapping with conservation areas², and can take over land from the landowner even if the owner does not agree³.
 - iii. The government simplifies the requirements for community involvement in the Environmental Protection and Management Law, including by: (i) limiting the scope of public consultation regarding Environmental Impact Analysis (AMDAL), so that environmental observers and the public are not directly affected by decisions in the AMDAL it is not mandatory to be involved⁴. In addition, based on the Job Creation Law, the information disclosure mechanism reduces the frequency, time period and method of conveying information on activity plans⁵.
- c. Despite the failure to comply with procedural rights in Indonesia, JETP partners must ensure that policies regarding transparency and participation in projects proposed in the CIPP are in line with the highest international standards. International standards for environmental decision making require meaningful

¹ See Article 19C of the Land Acquisition Law, Article 121 of the Job Creation Bill, p. 619.

² *Ibid.* PSN is exempt from the requirements for statements outside forest areas, outside mining areas, and statements outside peatland/coastal conservation lines.

³ Although this provision already exists in the Land Acquisition for Public Interest Law, the Job Creation Law strengthens the ease of land acquisition, for example by automatic conversion of various land use statuses that may prohibit project development to the status required by 'location decisions'. (Article 10 of the Land Acquisition Law). Previously protected land use status included forest areas, village treasury land, waqf land and/or government/BUMN assets (Article 8 of the Land Acquisition Law; see Article 121 of the Job Creation Bill, p. 614).

⁴ Amendment to Article 26 of the PPLH Law. See Article 23 of the Job Creation Bill, P. 83.

⁵ The Job Creation Law replaces the requirement to ensure announcements are made 'in a way that is easily known to the public' to announcements via an electronic system or other means determined by the central government. This law also reduces the number of announcements, by removing the obligation to announce activity plans when an environmental permit application is received. In the Job Creation Law, the announcement is only made once when the Environmental Feasibility Decree (SKKLH) has been given to the initiator of the activity. See: Amendment to Article 39(1) and (2) of the PPLH Law. See *Ibid.*, p. 85.

public consultation and participation, access to information, and access to justice for all affected parties:

- i. Principle 10 of the Rio Declaration states that: “Environmental problems are best addressed with the participation of all concerned citizens, at the relevant level. At the national level, every individual should have appropriate access to environmental information held by public authorities... States should facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative processes, including redress and remedies, must be provided”⁶.
- ii. In relation to the development of environmental policies, laws and regulations, former UN Special Rapporteur on Human Rights and the Environment, John H. Knox, reiterated that, “drafts must be made publicly available and the public must be given the opportunity to comment directly or through representative bodies.”⁷ States must also provide members of society “adequate opportunities to express their views.”⁸ The Special Rapporteur also stated that countries need to ensure “an inclusive, equitable and gender-based approach to public participation in all actions related to climate change.”⁹
- iii. In pursuing a truly just transition, JETP partners must ensure that the basic procedural rights of the Indonesian people and international standards, both regarding rights instruments and financing, are upheld for all JETP-related activities in Indonesia.
- d. Poor communication and lack of consultation with local communities and affected groups can hinder JETP implementation, as the example of South Africa shows. Civil society groups requested the opportunity to participate directly in the development of South Africa's JETP Investment Plan, but they were not given access to the draft plan or given sufficient time to prepare written submissions.¹⁰ As a result, unions called for the suspension of JETP in South Africa, as they had not been adequately consulted regarding the impact of the proposed transition on them.¹¹ This example shows that public consultation and disclosure of relevant information is critical in establishing social license to implement Indonesia's JETP transition plan.

⁶ Rio Declaration on Environment and Development (1992), Principle 10.

⁷ *Report of the Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment*, A/HRC/37/59 (24 January 2018), para. 25, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/017/42/PDF/G1801742.pdf?OpenElement>.

⁸ *Report of the Special Rapporteur on the issue of human rights obligations related to the enjoyment of a safe, clean, healthy and sustainable environment*, para. 26.

⁹ *Ibid.*, para. 64 letters b.

¹⁰ CER, Will South Africa's Green Deal Deliver As Promised (18 October 2022), <https://cer.org.za/news/will-south-africas-green-deal-deliver-as-promised>

¹¹ Bloomberg, *Main South Africa Power Union Seeks Climate Finance Pact Suspension* (2 October 2023) <https://www.bloomberg.com/news/articles/2023-10-02/main-s-africa-power-union-seeks-climate-finance-pact-suspension#xj4y7vzkg>

B.2. The draft CIPP recognizes information gaps as a challenge of some substance, but does not provide information that can help the public formulate meaningful input

1. We also ask the JETP Secretariat to ensure transparency and disclose all relevant information necessary for the public to review and understand CIPP.
 - a. The JETP Secretariat must ensure transparency and disclose all relevant information regarding the financial status of PLN's coal-fired power plants, including the subsidies they have received and will continue to receive from Indonesian public funds. Based on available data, Indonesia spent at least US\$8.6 billion on fossil fuel subsidies in 2019, an increase of 27% since 2017.¹² These subsidies obscure the true costs of fossil fuel energy sources.
 - b. The JETP Secretariat must gain access to and disclose coal Power Purchase Agreements (PJOB) with Independent Power Producers (IPPs) so that the legal and financial implications of premature termination of coal power plants can be understood. This information gap is apparent in the CIPP draft itself, which states: "It is also important to note that take-or-pay compensation for IPPs is a top-down estimate from PLN and the Ministry of Energy and Mineral Resources as an informative data point, and actual estimates of contract details may differ."¹³ JETP requires this information to perform its duties; such data should not rely on estimates when actual figures are available. Disclosure of the entire PPA should not be withheld due to the sensitivity of the financial or business information.
 - i. As one of the countries that has committed to implementing the Extractive Industries Transparency Initiative (EITI), Indonesia should have agreed "to publicly disclose the full text of every contract, permit, concession or other agreement governing the exploitation of oil, gas and mineral resources."¹⁴ However, in practice, this information is often kept secret, and civil society has difficulty obtaining it even through the public information request process under the Public Information Transparency Law.
 - ii. PPAs must also be expressed based on the same principles of transparency, keeping in mind the same fundamental objective of "empowering communities to assess whether they are getting good benefits from the resources they have."¹⁵ In Peru, for example, the public has access to unredacted PPAs and related addendums signed between power generation companies and distributors, as well as unregulated users, via the government website.¹⁶
 - c. The draft CIPP assumes that "coal steam power plants are retired based on RUKN assumptions, namely when the power plant reaches its natural retirement age (i.e. when its book value becomes zero), which is approximately equivalent to 30 years for PLN power plants and 25–30 years for IPPs (at the end of their power purchase

¹²IESR, *Subsidi Energi Fosil Hambat Transisi Energi* (12 November 2021) <https://iesr.or.id/en/fossil-energy-subsidies-hinder-energy-transition>.

¹³CIPP, p. 85.

¹⁴EITI, *Transparansi Kontrak*, <https://eiti.org/contract-transparency>.

¹⁵EITI, *Transparansi Kontrak*.

¹⁶ See: <https://www.osinergmin.gob.pe/siclipub/documentos/contenedor#loaded>.

agreement [PJBL]).¹⁷ However, in the CIF-ACT Indonesia consultation draft, several power plants proposed for retirement before 2030 by PLN assume a natural age, most of which are above 30 years, even reaching 50-70 years. To justify its assumptions, the JETP Secretariat must disclose details of the natural retirement time of each coal CPP projected by PLN and IPP.

- d. The JETP Secretariat must disclose the value of CPP assets, both based on market value and book value determined by PLN and IPP along with the basis for determining the value, as well as disclose information regarding how gaps in the valuation of these assets affect early retirement funding.

B.3. The on-grid GHG emissions reduction target in the CIPP design shows low climate ambition

1. We appreciate that the draft CIPP takes several necessary steps towards a just energy transition, particularly in its focus on expanding and modernizing transmission to enable the deployment of renewable energy, including the identification of nomination criteria for selecting transmission projects to be prioritized and an initial priority list of investment projects in Sulawesi, Java and Sumatra.¹⁸
2. However, CIPP does not live up to the ambitions set out in the JETP Joint Statement. This is still far from what is needed for a just transition in Indonesia, even if carried out by JETP partners themselves. For example:
 - a. The Joint Statement states that electricity sector emissions will peak in 2030 “at an absolute value of no more than 290 Mt CO₂ (down from a 2030 baseline of 357 MT CO₂) and decline soon after in line with the ambitious target of achieving net zero emissions in the electricity sector by 2050, including by accelerating the phase-out of coal plants, subject to international support.”¹⁹ However, this milestone is unlikely to occur considering that CIPP does not offer an adequate solution to manage the large amount of locked-in emissions from grid-connected coal-fired power plants.
 - b. The remaining ambition margin for captive power plants is very low. CIPP explicitly excludes emissions from off-grid captive PLTUs. Even though the draft CIPP plans a study and specific roadmap for captive power plants within six months of publication of the CIPP, the draft CIPP does not provide sufficient margin to ensure limiting total emissions (on-grid and off-grid) at least to a level that can be expected to approach the ambition start of JETP. The remaining ambition margin for captive power plants is only 40 Mt, while off-grid coal power plants account for more than two-thirds of the 18.8 GW of proposed new coal power plants.²⁰

¹⁷ CIPP, p. 46.

¹⁸ Sekretariat JETP, *Rencana Investasi dan Kebijakan Komprehensif: Percepatan Transisi Energi yang Berkeadilan di Indonesia (Rancangan Konsultasi Publik)* (1 November 2023) (CIPP), p.74-77.

¹⁹ https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6892

²⁰ Hans Nicholas, *Captive to Coal: Indonesia to burn even more fossil fuel for green tech*, Mongabay (10 August 2023), <https://news.mongabay.com/2023/08/captive-to-coal-indonesia-to-membakar-lebih-banyak-bahan-bakar-fosil-untuk-teknologi-hijau/>.

- c. Total emissions from coal-fired power plants under construction, plus existing captive coal capacity of 10 GW,²¹ could reach almost 50 Mt CO₂ by 2030, which is about 17% of the target of 290 Mt.²² On-grid and off-grid emissions trajectories at this level are unrealistic to achieve JETP's initial ambitions, especially considering the minimal investment in the retirement of on-grid CPPs in CIPP and even greater uncertainty in the captive roadmap.
 - d. The Joint Statement also states that there will be “plans to accelerate early retirement or avoid the construction of coal-fired power plants both before and after 2030, both on and off the grid, in a way that substantially reduces emissions while maintaining stable electricity and affordable for the Indonesian people [emphasis added].”²³ The draft CIPP does not provide any investment plans or policy proposals for early retirement or avoiding the construction of off-grid coal-fired power plants; and there are no plans for early retirement of coal-fired power plants before 2030. The CIPP draft only allocates funding for two coal-fired power plants (with a total capacity of 1.6 GW) which will be retired in 2037.²⁴ Based on this proposal, these plants, namely CPP Pelabuhan Ratu and CPP Cirebon-1, will be retired only 5-7 years before their natural retirement.²⁵
3. JETP funders' hesitancy to fund the early retirement of coal-fired power plants is a major departure from their intention to phase out coal when JETP was first announced in late 2022; The latest developments represent a “major setback” for Indonesia's plans to shift away from coal.²⁶

B.4. JETP's investment priority for new power plants raises questions about the adequacy of mitigation analysis for excess supply and worsening PLN's financial condition.

1. The CIPP draft proposes the addition of a large number of new power plants (most of which are dispatchable energy, including bioenergy, geothermal and hydropower) without a clear plan for the retirement of coal-fired power plants. Oversupply of capacity and the dominance of coal-fired power plants are still important obstacles to the readiness of the

²¹Vandana Gombur, *Unveiling Indonesia's \$22 Billion Green Plan*, Bloomberg NEF (31 October 2023), <https://about.bnef.com/blog/unlocking-indonesias-22-billion-green-plan-hinges-on-grid/>.

²²Achmed Shahram Edianto, *JETP: Reflection of Indonesia's Commitment to Transforming the Electricity Sector*, Ember (26 Januari 2023), <https://ember-climate.org/insights/commentary/jetp-indonesia/>.

²³ https://ec.europa.eu/commission/presscorner/detail/en/statement_22_6892

²⁴We note that the draft CIPP incorrectly states in several places that “1.7 GW” of capacity will be subject to early retirement in 2040: see, for example, CIPP, p. 42, 50, 82. The correct figure is 1.629 GW: CIPP, P. 258.

²⁵CIPP, P. 258.

²⁶ See, for example, David Lawder dan Valerie Volcovici, *US, Japan and Partners Mobilize \$20 Billion to Move Indonesia Away from Coal*, Reuters (15 November 2022), <https://www.reuters.com/business/cop/us-japan-partners-mobilise-20-bln-move-indonesia-away-coal-power-2022-11-15/>; lihat juga Analisis: RI receives flurry of global pledges to help retire coal plants early, The Jakarta Post (23 November 2022), <https://www.thejakartapost.com/opinion/2022/11/23/analisis-ri-receives-global-pledges-to-help-retire-coal-plants-early.html> (“Indonesia has received pledges of US\$20 billion from developed countries and global private lenders through the Just Energy Transition Partnership (JETP), led by the United States and Japan, to help the country retire its coal-fired power plants”). See. Sudarshan Varadhan, *Western Countries Not Ready to Finance the Retirement of Indonesian Coal Plants*, Reuters (25 September 2023), <https://www.reuters.com/business/energy/western-countries-not-ready-finance-early-coal-power-retirement-indonesia-2023-09-25/>.

electricity system to accept high penetration of variable renewable energy,²⁷ especially considering the high minimum uptake obligations for coal-fired plants.

2. We have questions about how JETP can avoid a repeat of the issue of overdevelopment and oversupply of coal-fired power plants in the future, which will continue to make Indonesia an unfavorable investment market for renewable energy.
3. In particular, we urge transparency regarding the assumptions regarding economic growth used in current electricity demand models, an explanation of how the model in the CIPP design can be more realistic in its development and demand projections than PLN's RUPTL, and why the CIPP modeling design assumes a phase-out of coal without the existence of a clear retirement plan, as outlined below.

B.5. There are no adequate policy and investment proposals that can ensure that the road map for early retirement of on-grid coal power plants can run according to target.

1. Canceling planned, permitted, or pre-licensed power plants is one of the most cost-effective and impactful approaches to accelerating a just energy transition in Indonesia. A study conducted by IESR found that nine on-grid coal-fired power plants in Indonesia could be canceled with minimal impact on the stability and affordability of the power supply or grid, thereby avoiding around 295 Mt of CO₂, at an estimated cost of 80 cents per tonne of CO₂ saved.²⁸
2. The draft CIPP stipulates that enabling the early retirement of coal-fired power plants is one of the focus areas of JETP investments²⁹ and policies supporting the energy transition in Indonesia. However, CIPP does not contain effective investment plans and policies for early retirement.
 - a. With respect to the on-grid coal-fired power plants owned and operated by PLN, only two coal-fired power plants are proposed for early retirement, as noted above, with minimal impact on Indonesia's climate trajectory and path dependence on coal-fired power plants. It was not explained why the CIPP draft only included an early retirement plan for the two power plants.
 - b. In the CIF-ACT proposal, PLN identified nine generators proposed for retirement before 2030, with a total capacity of 4.9 GW and a book value of 5,567 million USD. Some of the plants proposed in CIF-ACT are assumed to have natural retirement at the age of 30-70 years, most of which are much later than the natural retirement assumptions used in CIPP. However, CIPP did not explain how these plants would be retired. The policy proposals in the CIPP also do not contain regulatory improvements that can ensure natural retirement is carried out in accordance with RUKN assumptions; and CIPP also does not clearly plan how it will be financed if power plants like this require early retirement financing.
 - c. With respect to on-grid power plants owned by IPPs, as noted above, there is no transparency regarding the terms of the PPA, which needs to be understood to

²⁷ IESR, Indonesia Energy Transition Outlook 2023, P. 47.

²⁸ IESR and the Rockefeller Foundation, Making the Power Sector Transition in Indonesia a Reality: Costs, Benefits, and Implications of Intervention on the Planned State-Owned 13.8 GW Coal Power Project (May 2023) <https://iesr.or.id/en/pustaka/mewujudkan-transisi-sektor-tenaga-listrik-indonesia>.

²⁹ CIPP, P. 3.

assess the legal and financial implications of early retirement. The draft CIPP also fails to provide a clear plan for renegotiating PPAs to enable early retirement.

3. The draft CIPP recognizes the need for investment to enable early retirement at a high level: “The legal and financial risks of early retirement of coal-fired power plants, in terms of contract breaches, asset valuation, and transition to renewable energy, [require] additional capital investment.”³⁰ The regulation also states that, “Early retirement and replacement are more capital intensive, so they require investment in providing compensation to coal-fired power plant owners (either PLN or IPP), decommissioning, just transition activities and support, and development of energy replacement new environmentally friendly.”³¹ However, the plan fails to detail the investment requirements to achieve a phase-out of coal, and there is no total estimate or breakdown of the costs of implementing an early phase-out of coal-fired power plants.
 - a. The draft CIPP earmarks US\$1.3 billion for an Investment Focus Area called “Coal Power Plant (CFPP) Early Retirement and Managed Retirement”³². However, this amount does not include investments in early retirement before 2030; this clearly only includes “coal flexibility retrofits.”³³
 - b. Separately, the draft CIPP indicates that, in relation to the Cirebon PLTU, “the funding required is estimated at approximately US\$250 million – US\$300 million” and indicates loans and grants available for the early retirement of the power plant;³⁴ however, the basis for these estimates is not adequately explained.
4. To ensure that CIPP's plans for the early retirement of coal-fired power plants are well informed and the process is transparent, the Indonesian government and IPG must determine the estimated costs associated with the early retirement of all coal-fired power generation units whose operating life will exceed 30 years in 2035. This includes determining losses in the valuation of PLN's coal-fired power plant assets and estimating renegotiation costs.
 - a. We acknowledge PLN's concerns regarding asset valuation and adverse financial consequences for utility companies resulting from the premature termination of PLN's coal-fired power plants. However, PLN must be transparent about how it calculates the magnitude of these consequences, including disclosing the methodology for calculating the book value of its assets in question, such as the estimated value of \$400 million allocated for 1 GW of coal-fired power plant capacity for a 30-year-old plant, considering the “change and termination clause does not apply” to PLN's power plants³⁵.
5. CIPP should also determine the costs of renegotiating or terminating PPA contracts with IPPs to allow early retirement (including costs of investment arbitration disputes, if any). The structure of a PPA generally means that it locks up polluting assets and “prevents stakeholders from realizing the cost savings, employment opportunities, revenue

³⁰CIPP, P. 83.

³¹CIPP, P. 86.

³²CIPP, P. 3.

³³CIPP, P.128-129.

³⁴CIPP, P. 147.

³⁵CIPP, P. 200.

opportunities, and emissions reductions that are possible from green energy.”³⁶ However, flexible contractual provisions in coal PPAs should not hinder the energy transition; CIPPs need to have a plan and set aside enough investments to cover this and enable early retirement.

- a. The draft CIPP recognizes the need to transition these agreements: “IPPs have tied their investments into long-term power purchase agreements (PPAs) with PLN based on contractual terms – including long contract terms (up to 30 years) , inflexible decision making. or-pay amounts, and transfer of fuel costs – which will need to be restructured for the transition to be successful.”³⁷ However, this does not provide an actionable plan, let alone setting aside investments to enable early retirement.
- b. The draft CIPP only proposes a solution with respect to the reuse of coal-fired power plants, not early retirement: “To align coal-fired PPAs with the operational flexibility required during managed phase-out, PLN could renegotiate minimum take-up requirements (by lowering take-or-pay) or increase its flexibility (by compensating for service availability or capacity) with an IPP.”³⁸ These options should be further explored and costed in relation to early retirement as well.
- c. The JETP Secretariat and partners should take the lead in exploring options for coal PPA transition and determining investment needs. Based on available data, TransitionZero estimates that it would cost US\$37 billion to retire the entire fleet of coal-fired power plants in Indonesia.³⁹ It is unclear whether this takes into account potential arbitrage costs; PPAs typically provide special protections for foreign investors, including the right to submit breach of contract claims to international arbitration tribunals, demanding that governments compensate for lost profits.⁴⁰ When arbitration cases were decided in favor of fossil fuel investors, the average award was more than US\$600 million in each case.⁴¹
- d. CIPP should consider whether investment to cover IPP losses could be achieved with the support of a similar financing structure applied to the Cirebon CPP, for example in this case, the Asian Development Bank offered a low-interest non-concessional loan to compensate Cirebon Electric for the loss of profits due to early retirement.⁴²

³⁶ Rocky Mountain Institute, *Coal Power Purchase Agreement (PPA): Basic Details*, P. 1 (June 2023) https://rmi.org/wp-content/uploads/dlm_uploads/2023/06/rmi_unlocking_coal_contracts_explainer_brief.pdf.

³⁷CIPP, P. 82.

³⁸CIPP, P. 83.

³⁹As of October 2022 when the TransitionZero study was published, there were 118 coal-fired power plants whose retirement would be beyond 2040. See TransitionZero, *Financing Indonesia's coal phase-out: Coal Asset Transition Tool* (13 October 2022), <https://www.transitionzero.org/insights/coal-phase-out-indonesia-coal-asset-transition-tool>.

⁴⁰Institut Internasional untuk Pembangunan Berkelanjutan, *Investor–State Disputes in the Fossil Fuel Industry* (December 2021) <https://www.iisd.org/system/files/2022-01/investor%E2%80%93state-disputes-fossil-fuel-industri.pdf>, P. 18.

⁴¹*Ibid*, P.1-2.

⁴²CIPP, P.147-148.

B.6. Managed fossil fuel phase-out relies on false solutions.

1. Finally, CIPP's proposed "phasing out" of fossil fuels appears to rely on the wrong solution. While we need more time and information to complete our analysis, we note the following red flags:
 - a. The CIPP draft proposes a JETP scenario in which, until 2030, there will be biomass-mixed combustion (co-firing) in coal-fired power plants and, from 2040, the remaining coal- and gas-fired power plants "equipped to operate entirely on bioenergy or ammonia, for coal-fired power plants, and hydrogen for gas power."⁴³ These measures will not allow Indonesia to meet its climate commitments, and at the same time will worsen environmental and social impacts. For example:
 - i. Ammonia produced from unreduced coal will double the emissions from direct coal combustion.⁴⁴ Additionally, switching to 20% ammonia co-firing would cost more than replacing coal with renewable energy, but would result in only modest emissions savings.⁴⁵ While there are solutions being tested to increase co-firing rates to 50%, going beyond that limit is currently only theoretically possible and not yet commercially viable, making it unrealistic to rely on retrofitting coal-fired power plants to make them "fully operational." using ammonia.⁴⁶ The significant loss of energy content during the process of producing ammonia from hydrogen and at the combustion stage also causes power plants that rely on co-firing to be less efficient.⁴⁷
 - ii. Hydrogen requires a lot of energy, and emissions throughout its life cycle can be greater than from fossil fuel sources. A recent study found that greenhouse gas emissions from producing electricity using the fossil fuel hydrogen are greater than those from producing the same electricity by burning methane ("natural") gas, diesel oil, and coal directly.⁴⁸ Even "green" hydrogen, while preferable to fossil fuel hydrogen, is not the answer to reducing emissions in most sectors. "Green" hydrogen is most likely a false solution where solar, or wind energy sources can supply electricity directly. Converting hydrogen into useful energy requires "two to three times more electricity... than direct electricity, because of conversion losses."⁴⁹ Therefore, "green" hydrogen should only be used to reduce emissions "when there is no other practical alternative" and in "sectors that

⁴³CIPP, P. 82.

⁴⁴Katrine Tilgaard Petersen *et al.*, *Explained: Why Co-Firing Ammonia at Coal Power Plants is a Flawed Approach*, E3G (April 5, 2023), <https://www.e3g.org/news/explained-why-ammonia-pembakaran-bersama-dalam-pembangkit-listrik-tenaga-batu-bara-adalah-pendekatan-yang-cacat/>.

⁴⁵Seb Kennedy *dkk.*, *Japan's Toxic Narrative of Ammonia's Co-Firing*, TransitionZero (13 April 2023), <https://www.transitionzero.org/insights/japans-toxic-narrative-on-ammonia-cofiring>.

⁴⁶*Ibid.*

⁴⁷*Ibid.*

⁴⁸Hydrogen is called "blue" hydrogen if it is produced from natural gas and "brown" if it is produced from coal. Robert W. Howarth and Mark Z. Jacobson, *How Green Is Blue Hydrogen?* (2021), 9 *Energy Science & Engineering* 1676-1687, <https://onlinelibrary.wiley.com/doi/full/10.1002/ese3.956>.

⁴⁹ *World Energy Transition Outlook 2023: 1.5°C Pathway*, P. 76.

are difficult to decarbonize such as aviation, shipping, and heavy industry, where direct electrification is almost impossible done.⁵⁰

- iii. Biofuels also have their own problems. Biomass production undermines food security by taking over land needed for staple food production and destroying carbon sinks, such as forests, in the process⁵¹. Biomass production is fraught with land use conflicts, especially in rural communities who depend on land for their livelihoods.⁵²
- b. Accelerating renewable energy through bioenergy, hydropower and geothermal is estimated to require US\$49.2 billion (more than 51% of the total investment needed in 2030).⁵³ The draft CIPP does not explain why these dispatchable plants are prioritized over investments in improving the existing power grid and developing actionable plans for closing coal-fired power plants. In addition, we need to understand how this renewable energy acceleration plan can be implemented fairly, considering the risks of deforestation, displacement, impacts on protected threatened species, and other environmental and social impacts.

B.7. CIPP does not activate or propose policies that enable community solutions, such as rooftop solar PV, and leaves these solutions in the status quo hampered by regulations.

1. We understand that the draft CIPP limits its priority to utility-scale projects and does not include investment in community-based clean energy solutions. In fact, community-based solutions are very relevant to economic diversification and transformation and provide direct benefits in the form of energy resilience. The draft CIPP should include policy recommendations that also enable and support community-based clean energy, rather than leaving these solutions in a regulatory-hampered status quo.
2. For example, CIPP itself admits that rooftop solar PV is one option to mitigate the risk of high land requirements for large-scale PLTS development, including "by increasing the distribution of rooftop solar PV in the commercial, industrial and residential segments, if permitted by regulations."⁵⁴ CIPP also admits that the use of rooftop solar technology in Indonesia is still very low, "As of June 2023, the Ministry of Energy and Mineral Resources reported that only around 100 MWp was used, even though the potential reached 354 GWp (Institute for Essential Services Reform, 2021). The JETP scenario estimates that rooftop solar electricity could provide around 75 GW of required capacity by 2050"⁵⁵.

⁵⁰ *Ibid*, P. 141.

⁵¹ Chuan Zhang *et al.*, *Understanding the Complexities of Decarbonizing Existing Fossil Fuel Power Plants*, iScience (19 August 2022), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC9356183/>.

⁵² Human Rights Watch, "Why Our Land?" *Palm Oil Expansion in Indonesia Risks Peatlands and Livelihoods* (2 June 2021), <https://www.hrw.org/report/2021/06/03/why-our-land/oil-palm-expansion-indonesia-risks-lahan-gambut-dan-mata-pencaharian>.

⁵³ CIPP, P. 128.

⁵⁴ CIPP, Table 5.7.-2., P.117; CIPP, P. 66.

⁵⁵ CIPP, P. 117.

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3. However, in the supporting policy section, the CIPP draft does not show how existing proposals can address the obstacles CIPP identifies, including those related to changes in PLN's approach to revenue and limitations on rooftop solar PV capacity.⁵⁶
4. The policy proposals in the CIPP draft also do not at all propose enabling policies for other community-based solutions, such as micro-hydro, community-scale biogas, micro-scale wind turbines.

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⁵⁶ *Ibid.*