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Submission to the General Review of the Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA)

From: Amplitude Energy Ltd

1. Background

Amplitude Energy is an Australian oil and gas exploration and production company with operations across the Otway and Gippsland Basins. The company supplies natural gas to the east coast domestic market, supporting electricity reliability, industrial manufacturing, and household energy needs.

Amplitude Energy has participated in a commercial venture with an Indonesian entity, and has experienced firsthand the challenges associated with enforcing their legal obligations and liabilities across international borders. Specifically, Amplitude Energy is the current titleholder of the Basker Manta Gummy (BMG) oil field, located in the offshore Gippsland Basin. This field was developed and operated by a joint venture that included the Indonesian state-owned energy company Pertamina. From August 2009 until February 2014, Pertamina Hulu Energi Australia Pty Ltd (**Pertamina Australia**) held a 10% interest in the BMG Joint Operating and Production Agreement. Production at BMG ceased in 2010, and decommissioning activities subsequently fell to the remaining titleholder, Amplitude Energy (formerly Cooper Energy), following the withdrawal of joint venture partners. To date, the total costs incurred for the decommissioning activities is ~\$290MM, with a further \$50-70MM estimated to be required for the final phase of work. Pertamina's 10% share of these costs is ~\$29MM with a further \$5-7MM estimate future costs.

Pertamina formally exited the joint venture in 2014 and deliberately and purposefully deregistered its Australian subsidiary company in 2017. However, pursuant to a Joint Operating Agreement and Parent Company Guarantee, it remains contractually liable for its 10% share of the decommissioning costs, with those costs now being borne by Amplitude Energy. The three remaining joint venture partners have all previously honoured their abandonment obligations under the joint venture agreement and settled their respective shares of the decommissioning costs with Amplitude Energy.

Despite repeated attempts by Amplitude Energy between 2017 and 2025 to engage Pertamina in commercial discussions and seek an equitable resolution, no agreement has been reached. This has left a small Australian natural gas exploration and production company responsible for a significant financial liability, raising concerns about accountability for cross-border investment obligations. Whilst Amplitude Energy continues to pursue Pertamina through legal proceedings in the Supreme Court of Victoria, this is particularly challenging in the absence of a bilateral agreement between Australia and Indonesia governing the recognition, enforcement, and administration of legal disputes across their borders. This creates significant uncertainty and difficulty in serving claims and enforcing judgments against opponents in Indonesia, due to the lack of transparency, independence and reliability in their judicial system.

2. Executive Summary

Amplitude Energy welcomes the opportunity to provide input to the General Review of the Indonesia–Australia Comprehensive Economic Partnership Agreement (IA-CEPA). Since its entry into force in July 2020, IA-CEPA has strengthened bilateral economic ties, supported growth in two-way trade and investment, and provided an important framework for economic cooperation between Australia and Indonesia.

The agreement has likely contributed to increased commercial engagement across energy, resources, services, and investment sectors. Australian industry has historically been built on foreign investment, and continued investment inflows remain critical to economic growth, energy security, and regional development. Foreign investment should therefore continue to be encouraged where there is clear reciprocity in investment treatment, including in relation to taxation, regulatory settings, environmental obligations and commercial accountability. Maintaining consistent and

enforceable obligations across all investors — including state-owned enterprises operating commercially — is an important element of sustaining community confidence in foreign investment settings. In the energy sector, cooperation between Australia and Indonesia supports regional energy security, skills exchange, and the development of lower-emissions energy systems.

The review presents an important opportunity to address practical implementation issues that have emerged as cross-border investment between the two countries matures — particularly in sectors **involving long-life assets and end-of-life environmental obligations**.

It also presents an opportunity for the Indonesian Government to clear the liability of a SOE, namely Pertamina Hulu Energi Australia Pty Ltd (Pertamina Australia), which held a 10% interest in the BMG assets until it deregistered its Australian business in 2014 so as to avoid the decommissioning costs for this asset in the Gippsland Basin.

Prior to finalising the General Review of the IA-CEPA, we recommended that the Australian Government require the Indonesian Government to settle the dispute with Amplitude Energy so that the General Review of the IA-CEPA can proceed in good faith and unencumbered by the reputational damage to Indonesia arising from this ongoing dispute in the Victorian Supreme Court.

Amplitude Energy submits that the next phase of IA-CEPA should strengthen provisions on investment certainty, regulatory cooperation, and the enforceability of legal obligations (including in respect of environment decommissioning and restoration) for foreign state-owned enterprises (SOEs) operating in Australia. This is particularly relevant to offshore oil and gas activities, where long-term environmental liabilities must remain enforceable irrespective of ownership changes or corporate structure.

Ensuring that Indonesian SOEs operating in Australia are held accountable under our regulatory regimes is essential to maintaining investor confidence, protecting the marine environment, and preserving public confidence in bilateral investment arrangements.

Additionally, a bilateral court agreement between Australia and Indonesia is required to ensure investments are well protected throughout a project's lifecycle, including in the event of disputes. Such an agreement will assist businesses to enter into cross-border commercial dealings with greater confidence that legal obligations and liabilities, and associated disputes, can be managed with greater structure, rigour and certainty.

3. Challenges and Gaps

While IA-CEPA has likely supported investment flows, practical challenges have emerged as investment relationships have deepened, particularly in capital-intensive sectors such as offshore oil and gas.

A key issue is ensuring that foreign investors — including state-owned enterprises — are subject to enforceable obligations regarding environmental management, financial assurance, and asset decommissioning, and that there are appropriate mechanisms in place between the two countries to facilitate the timely and equitable resolution of legal disputes.

In the case of Amplitude Energy, Australia's offshore petroleum regime requires titleholders to fully fund and execute decommissioning obligations at the end of field life. These obligations are fundamental to environmental protection and to maintaining public confidence in offshore resource development. Where ownership structures involve foreign SOEs, it is essential that:

- Decommissioning liabilities remain enforceable under Australian law.
- Financial assurance mechanisms remain robust throughout the asset lifecycle.
- Responsibility cannot be avoided through corporate restructuring (including de-registering Australian subsidiary businesses to avoid decommissioning liabilities) or jurisdictional complexity; and
- Australian operators are not exposed to residual liabilities arising from non-performance by foreign counterparties.

The absence of clear legal and enforcement pathways creates regulatory asymmetry between domestic operators and foreign state-backed entities. This has implications for investment confidence and for the perceived integrity of Australia's regulatory framework.

SOEs honouring their restoration commitments is key to confidence that Indonesian companies will honour their commitments in Australia, whether through Indonesian-owned private enterprises, SOEs, or Sovereign Wealth Funds. Ultimately, if a wealthy Indonesian government entity, such as Pertamina, does not honour its restoration commitments, it will be hard for Australian authorities to have any confidence that private enterprises can be trusted to honour their liabilities and commitments. Pertamina's Total Assets were ~US\$100 billion with Revenue of ~US\$75 billion as reported in 2023. As an SOE they should be expected to model legal compliance and financial responsibility to private Indonesian entities, most especially given their robust financial position.

4. Opportunities to Strengthen IA-CEPA

Amplitude Energy considers that the IA-CEPA review presents an opportunity to strengthen the agreement in several areas:

a) Investment Certainty and Regulatory Cooperation

Prior to entering any General Review of the IA-CEPA, Pertamina should be required to rectify the restoration liabilities in the offshore Gippsland by paying Amplitude Energy its 10% share of incurred and future costs associated with the BMG decommissioning. Without confidence that an Indonesian SOE has honoured these liabilities, it is hard to see a path forward for a trusting, constructive investment treaty. The agreement could be enhanced through clearer provisions supporting regulatory cooperation in sectors involving environmental and long-term liabilities, including offshore energy infrastructure.

b) State-Owned Enterprise Accountability

Clarification that SOEs investing in Australia operate on a commercial basis and are subject to enforceable domestic regulatory obligations would strengthen confidence in cross-border investment.

c) Energy Security and Transition Cooperation

Gas continues to play an important role in supporting electricity reliability and industrial activity across the region. IA-CEPA can support cooperation in areas such as gas supply, carbon management technologies, and emissions-reduction initiatives, while ensuring that existing assets are responsibly managed through to decommissioning.

d) Alignment With Other Trade Agreements

Ensuring consistency between IA-CEPA and other regional agreements will help avoid regulatory ambiguity and reduce compliance complexity for businesses operating across multiple jurisdictions.

5. Recommendations

Amplitude Energy recommends that the General Review consider:

1. Pertamina to honour its 10% liability for the decommissioning costs, both the actual incurred costs and the future estimated costs.
2. Strengthening mechanisms that support the enforcement of legal obligations (in particular with respect to environmental decommissioning and remediation) for foreign investors, including state-owned enterprises operating in Australia.
3. Enhancing bilateral regulatory cooperation mechanisms relating to cross-border disputes generally.
4. Clarifying expectations that SOEs operating commercially in Australia are subject to equivalent legal and financial obligations as domestic operators.
5. Supporting ongoing energy cooperation between Australia and Indonesia as part of regional economic resilience and transition planning.

6. Conclusion

IA-CEPA remains an important and successful framework for Australia–Indonesia economic engagement. As bilateral investment deepens, the agreement should evolve to address practical implementation issues that arise in long-life infrastructure sectors.

Ensuring that offshore environmental and decommissioning obligations remain enforceable — including for foreign state-owned enterprises — will strengthen the integrity of Australia’s regulatory framework, maintain public confidence, and support continued investment between both countries.

Amplitude Energy appreciates the opportunity to contribute to the General Review and would welcome further engagement with DFAT as the review progresses.

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