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Recognition and Enforcement of International Arbitral Awards in Indonesia: An International Law and Corporate Law Perspective

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ABSTRACT

This article examines the recognition and enforcement of foreign arbitral awards in Indonesia by focusing on the tension between Indonesia's formally pro-enforcement legal framework and the uncertainty generated by the public policy exception. Rather than merely restating the New York Convention, Law No. 30 of 1999, and recent procedural reforms, this article argues that the main legal problem lies in how public policy is interpreted and applied at the enforcement stage. The article uses the Karaha Bodas dispute as a foundational case study because it illustrates the conflict between international arbitral finality, state-linked commercial obligations, and domestic regulatory priorities. It further situates that case within broader doctrinal and procedural developments in Indonesia, including reforms under PERMA No. 3 of 2023. From a corporate law perspective, the article argues that enforcement uncertainty is not merely a procedural issue, but also a governance and risk-management issue, as it affects directors' prudence, contractual risk allocation, arbitration clause design, and cross-border asset planning. The article concludes that Indonesia has moved toward a more structured enforcement regime, but greater consistency in the interpretation of public policy remains necessary to strengthen legal certainty and investor confidence.

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1. Introduction

When States or multinational enterprises negotiate cross-border treaties, share-purchase agreements, or project-finance facilities, they now almost automatically refer to any future dispute to arbitration. Nearly every modern bilateral investment treaty does so: 2,847 BITs have been signed, and 2,221 are in force, each granting advance consent to arbitrate (UNCTAD, 2026). Those clauses are vigorously invoked; 1,332 treaty-based investor-State arbitrations had been registered by 31 December 2023 (UNCTAD, 2024). Institutionally, the International Centre for Settlement of Investment Disputes (ICSID) reports that 52 percent of the new cases it received in 2024, and 58 percent of its lifetime docket, relied on such treaty consent (ICSID, 2025). Commercial practice mirrors that preference: a survey of more than 1200 in-house counsel and external practitioners found that 90 percent choose arbitration (alone or paired with mediation) for cross-border disputes (Queen Mary University of London & White & Case, 2021). This confidence rests on an enforcement architecture that is nearly universal: 172 States are parties to the 1958 New York Convention (UNCITRAL, 2025) and legislation modelled on the UNCITRAL Model Law now operates in 93 States across 127 jurisdictions (UNCITRAL, 2024). These treaty norms, empirical caseload data and harmonized domestic laws collectively confirm that arbitration is the acknowledged default for resolving international disputes.

Sophisticated as it is, that architecture functions only when national courts convert arbitral awards into assets that can be realised against the losing party. Enforceability, not procedure, is "the lifeblood of international arbitration" (UNCITRAL, 2024) and the obligation to provide it is anchored in Article III of the New York Convention, which demands recognition "without substantial delay," (New York Convention 1958) and in Article 54(1) of the 1965 ICSID Convention, which requires each contracting State to treat an ICSID award as a final domestic judgment (ICSID Convention 1965). Indonesia implements those promises through Law No. 30 of 1999, requiring an exequatur from the Central Jakarta District Court while barring merits review (Undang-Undang Nomor 30 Tahun 1999) and through Supreme Court Regulation (PERMA) No. 3 of 2023, which introduced electronic filing, a 14-day registration window, a 30-day exequatur deadline, and a narrowed public-policy defence (Peraturan Mahkamah Agung Nomor 3 Tahun 2023).

Grounded in this context, the present study is driven by two questions:

(1) To what extent do Indonesian courts now satisfy the Convention's demand for prompt, non-substantive enforcement of international arbitral awards?

(2) Which targeted legislative or institutional reforms would most effectively eliminate the remaining enforcement bottlenecks and, in turn, align Indonesian directors'

fiduciary duties under Company Law Article 97(3) with global pro-enforcement standards?

The analysis that follows moves from this normative framework to the mechanics of enforcement (Blackaby et al., 2022), then to the doctrinal and procedural bottlenecks that still test creditors, before benchmarking Indonesia against pro-enforcement jurisdictions such as Singapore and the United Kingdom and, finally, considering the attendant fiduciary implications for Indonesian corporate directors under Article 97(3) of the Company Law (Undang-Undang Nomor 40 Tahun 2007). By weaving these strands together, the article evaluates whether Indonesian courts now meet the Convention standard and identifies reforms needed to anchor investor confidence (Van den Berg, 1981).

2. Discussion

2.1 Legal Framework of International and Indonesian National Arbitration

International Arbitration is a binding dispute resolution process in which parties from different countries submit their disputes to a neutral tribunal for a final and enforceable decision (Shonk, 2026). It is often governed by international law and recognized under treaties like the 1958 New York Convention, which ensures the enforceability of arbitration agreements (New York Convention 1958) and awards across contracting states (UNCITRAL, 2023). The New York Convention was ratified by Indonesia through Presidential Decree No. 34 of 1981 (Keputusan Presiden Nomor 34 Tahun 1981). It obliges courts of contracting states to give effect to private agreements to arbitrate and to recognize and enforce awards made in other contracting states, subject only to limited exceptions such as public policy (UNCITRAL, 2023). Indonesia also ratified the ICSID Convention through Law No. 5 of 1968 (Undang-Undang Nomor 5 Tahun 1968). The ICSID Convention facilitates investor-state dispute settlement (ISDS) and ensures that awards are directly enforceable in all ICSID member states (ICSID Convention 1965). It prohibits appeals of awards, although it permits annulment under specific circumstances (ICSID Convention 1965). In the Indonesian context, the recognition and enforcement of foreign arbitral awards is governed by Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution, particularly Articles 66 to 70 (Undang-Undang Nomor 30 Tahun 1999). This law affirms the commitment of Indonesia to the New York Convention and provides a clear legal mechanism for recognizing and executing foreign arbitral awards through the domestic court system (Undang-Undang Nomor 30 Tahun 1999).

According to Article 66, an international arbitral award can be recognized and enforced in Indonesia only if it is issued in a country that has a treaty with Indonesia on the recognition and enforcement of such awards (Undang-Undang Nomor 30 Tahun 1999). The award must be related to commercial matters under Indonesian law, must not conflict with public policy, and must receive enforcement approval (exequatur) from the Central Jakarta District Court (Undang-Undang Nomor 30 Tahun 1999). If the dispute involves the

Indonesian government, approval must first come from the Supreme Court before it is forwarded to the Central Jakarta District Court (Undang-Undang Nomor 30 Tahun 1999). This framework demonstrates Indonesia's formal commitment to international arbitration norms while preserving domestic control over enforcement.

Although Indonesia has established a formal legal framework for the recognition and enforcement of foreign arbitral awards through the New York Convention, Law No. 30 of 1999, and PERMA No. 3 of 2023, the existence of these instruments alone does not guarantee effective or predictable enforcement (Blackaby et al., 2022). A merely descriptive account of the legal framework risks overstating the coherence of the Indonesian regime, because the real issue lies in how the statutory conditions are interpreted and applied in practice. The central concern is therefore not only whether Indonesia recognizes foreign arbitral awards at the normative level, but whether its enforcement system functions in a sufficiently consistent and commercially reliable manner.

This distinction is important because the practical values of arbitration in cross-border transactions depend less on the formal availability of arbitral procedure than on the realistic enforceability of the final award (Blackaby et al., 2022). Where enforcement remains uncertain, the consequences extend beyond procedural law and affect legal certainty, transaction planning, asset allocation, and investor confidence.

In this regard, Indonesian courts have historically applied the public order (*ketertiban umum*) exception more expansively than most *New York Convention* jurisdictions (Van den Berg, 1981). The breadth is rooted, first, in constitutional economy: Article 33 of the 1945 Constitution obliges the State to safeguard sectors "vital to the people's welfare," so awards implicating natural resources, public utilities, or macro-economic stability tend to provoke heightened judicial caution, as illustrated by the Supreme Court's refusals in Karaha Bodas and *E.D. & F. Man v. Yani Haryanto* (*Karaha Bodas Company LLC v Pertamina*, 2008; *Putusan Mahkamah Agung Nomor 1205 K/PDT/1990*, 1991; Undang-Undang Dasar Negara Republik Indonesia Tahun 1945). Second, legislative silence and judicial culture encouraged judicial creativity: until PERMA 3/2023, neither Law 30/1999 nor its travaux defined public order, and civil-law-oriented panels filled the gap with broad sovereignty or currency-stability concerns, especially when State-Owned Enterprises (SOEs) were respondents. Third, SOE litigation tactics exploited that vagueness; because many large disputes pit foreign creditors against SOEs, public-policy objections became a tactical shield, allowing debtors to argue that enforcement would drain public assets or contravene anti-corruption rules even in purely commercial contexts.

Article V(2)(b) of the New York Convention was drafted as a narrow safety-valve. An enforcing court may refuse recognition only when the award offends the forum's "most basic notions of morality and justice" (Van den Berg, 1981). Comparative jurisprudence shows how strictly that threshold is applied. In Singapore, the Court of Appeal in PT First Media v Astro confirmed that the defence is limited to fundamental procedural unfairness or illegality, not ordinary legal error. The English High Court, upheld by the Court of Appeal in *Soleimany v. Soleimany* (1999), held that refusal is justified only where enforcement would

"shock the conscience" of the court. The French Cour de cassation in *S.N.F. S.A.S v. La Chambre de Commerce Internationale* (2009) likewise restricts the exception to violations of international public order rather than domestic regulatory policy (*PT First Media TBK (Formerly Known as PT Broadband Multimedia TBK) v. Astro Nusantara International BV and Others*, 2013; *S.N.F. S.A.S v. La Chambre de Commerce Internationale*, 2009; *Soleimany v. Soleimany*, 1999). These precedents illustrate a shared pro-enforcement philosophy: economic or macro-policy considerations, precisely the factors Indonesian courts have sometimes invoked, do not suffice to defeat an otherwise valid award. Indonesia's broader focus on resource sovereignty and public-finance concerns therefore departs from the mainstream Convention approach and risks undermining the uniformity the treaty seeks to achieve.

PERMA 3/2023 narrows the defence by defining public order as norms underpinning Indonesia's "legal, economic and socio-cultural foundations" and requiring a showing of "real and manifest" harm before refusal (Peraturan Mahkamah Agung Nomor 3 Tahun 2023). Consistent appellate application could contract the defence to the Convention benchmark, but creditors should still document due-process compliance and arbitrability to mitigate residual discretion. This discussion provides the legal context for the next section, which examines how these tensions are reflected in practice through the Karaha Bodas dispute as a foundational case study.

2.2 Case Study: *Karaha Bodas v. Indonesia*

Against that legal background, the Karaha Bodas dispute illustrates how the formal pro-enforcement framework may still produce contested outcomes when public policy, sovereign interest, and strategic sectors intersect. The dispute between Karaha Bodas Company LLC (KBC), an energy company based in the United States, and the Government of Indonesia originated from a geothermal power development project in West Java agreed upon in 1994 (*Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 2003). This project was part of Indonesia's border energy sector liberalization and infrastructure acceleration program through cooperation schemes with private entities known as Independent Power Producers (IPPs) (*Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 2003). However, the Asian financial crisis in 1997 prompted the Indonesian government to issue Presidential Decree No. 39 of 1997, which suspended most IPP projects, including KBC's (Keputusan Presiden Nomor 39 Tahun 1997). KBC considered this suspension a contractual breach and subsequently initiated international arbitration proceedings against Pertamina and the Government of Indonesia under the rules of the International Chamber of Commerce (ICC), with the seat of arbitration in Geneva, Switzerland (*Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 2003). As a result, in 2000, the arbitral tribunal found Indonesia in breach of its contractual obligations and awarded KBC with USD 261 million in damages, including interest and arbitration costs (Keputusan Presiden Nomor 39 Tahun 1997).

Although the arbitral award is final and binding, its enforcement in Indonesia faces serious obstacles. KBC sought recognition and enforcement of the arbitral award in multiple

jurisdictions, including the United States, Hong Kong, and Indonesia (Nugroho, 2020). In the United States, a federal court upheld the enforcement of the award and even ordered the seizure of Indonesian assets (*Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara*, 2003). However, when the enforcement was submitted to the Supreme Court of Indonesia, the Supreme Court rejected the application on the grounds that the dispute involved national public policy and the State's sovereign right to determine its economic policy direction (*Putusan Mahkamah Agung Nomor 01/Banding/Wasit-Int/2002*, 2004). This rejection was linked to Article V(2)(b) of the 1958 New York Convention, which allows states to refuse enforcement of arbitral awards that are deemed contrary to their public policy (New York Convention 1958).

The Karaha Bodas dispute is used in this article not because it is the most recent Indonesian case on foreign arbitral awards, but because it remains one of the clearest foundational illustrations of the tension between international arbitral finality, domestic public policy, and state-linked commercial obligations (*Karaha Bodas Company L.L.C. v. Perusahaan Pertambangan Minyak Dan Gas Bumi Negara and Perusahaan Listrik Negara*, 2000). Its relevance lies in showing that the principal challenge in arbitration is often not obtaining the award, but securing effective enforcement where sovereign interests and strategic sectors are implicated. At the same time, the article does not treat Karaha Bodas as the endpoint of analysis. It situates the case within a broader and evolving Indonesian enforcement landscape, including later doctrinal and procedural developments, particularly the reform introduced by PERMA No. 3 of 2023, in order to assess the current trajectory of Indonesian law beyond older case law.

Whether the Indonesian approach in Karaha Bodas was correct depends on the lens through which the case is viewed. From a sovereignty perspective, heightened judicial caution may be seen as understandable because the dispute arose in a strategic sector and was intertwined with state policy during a period of economic crisis (Keputusan Presiden Nomor 39 Tahun 1997). However, from the standpoint of the New York Convention's pro-enforcement philosophy, an expansive reliance on public policy is difficult to justify if it effectively allows courts to move beyond a narrow compatibility review and into broader policy reconsideration. Such an approach risks weakening arbitral finality and reducing the predictability that international commercial parties expect when selecting arbitration as their dispute resolution mechanism.

This case therefore illustrates the inherent tension between Indonesia's commitment to the international arbitration regime and the invocation of public policy as a basis for resisting enforcement (New York Convention 1958; Keputusan Presiden Nomor 34 Tahun 1981). It also explains why the case generated concern among foreign investors regarding legal certainty and the enforceability of commercial agreements in Indonesia.

The principal lesson to be drawn from Karaha Bodas is that uncertainty at the enforcement stage can generate wider legal and commercial consequences. For courts, the case underscores the need to confine public policy to exceptional circumstances. For commercial actors, it shows that arbitration planning must extend beyond dispute resolution

clauses to include seat selection, asset location, enforcement strategy, and the management of state-linked counterparty risk. In this sense, Karaha Bodas also supports the article's corporate law perspective, because uncertainty in the recognition and enforcement of foreign arbitral awards affects directors' prudence, contractual risk allocation, arbitration clause design, asset planning, and broader corporate governance in cross-border transactions (Undang-Undang Nomor 40 Tahun 2007). The significance of Karaha Bodas, therefore, lies not only in its historical importance but also in the way it frames the broader evaluation of Indonesia's current enforcement system, which is examined in the next section.

2.3 Evaluation of the Indonesian Legal System in the Enforcement of International Arbitration Awards

Arbitration is a method of settling disputes where the parties choose an impartial decision-maker to determine their claims, often opting for this route to sidestep the lengthy, costly, and intricate nature of court proceedings (J. Michael Goodson Law Library, 2017). Arbitration functions strictly on the basis of party consent: it is available only when every party expressly agrees to submit their dispute to this forum (Mayer Brown, 2013). When parties become embroiled in a dispute, whether wholly domestic or involving international elements, they instinctively seek avenues to vindicate the rights and economic or civil interests they believe have been infringed, evaluating the full spectrum of available procedural mechanisms (Lecaj et al., 2022). An arbitration is deemed "international" when any of the following conditions exist: (1) at the moment the arbitration agreement is concluded, the parties maintain their principal places of business in different States; (2) the seat of arbitration, the locale where a substantial portion of the contractual obligations must be carried out, or the site most closely linked to the dispute lies outside the State where both parties conduct business; or (3) the parties expressly stipulate that the arbitration concerns more than one country (UNCITRAL, 1985/2006).

To secure the advantages of arbitration, the parties must memorialise their consent in a well-crafted arbitration clause, a contractual provision that sets out, at minimum, the seat of arbitration, the applicable rules, the language of the proceedings, and the method for appointing the tribunal (Blackaby et al., 2022). By fixing these elements in advance, the clause becomes the procedural roadmap that transforms a future dispute into a binding, enforceable award (Born, 2021). An arbitration clause, sometimes called a *compromissory clause*, is the contractual promise that channels future disputes away from national courts and into arbitration (Blackaby et al., 2022). Put simply, it is the gateway that gives an arbitral tribunal jurisdiction and, later, under the New York Convention, provides the procedural passport that allows any award to move across borders for recognition and enforcement (Born, 2021).

Commentary in the leading treatises emphasises that a properly crafted arbitration clause safeguards the entire dispute-resolution process by addressing five fundamental elements (Lew et al., 2003). A well-drafted arbitration clause secures the entire dispute-resolution route in five moves. First, separability and competence-competence keep the

clause alive and let the tribunal decide its own jurisdiction, insulating the process from attacks on the main contract (UNCITRAL, 1985/2006). Second, six essentials: seat, rules, tribunal make-up, scope, language, and governing law must be stated to anchor curial law, import detailed procedure, and head off jurisdictional squabbles (Blackaby et al., 2022). Third, omissions or mismatches (two seats, incompatible rules) breed "pathological" clauses that force courts or institutions to patch gaps and delay the case (Poudret & Besson, 2007). Fourth, multi-tier clauses work only when each step is objectively time-bound; vague "amicable settlement" wording is treated as aspirational, not mandatory (Buhring-Uhle et al., 2006). Finally, a clear clause maximises enforceability under the New York Convention: awards emerging from robust clauses seldom fail on excess-of-mandate or due-process grounds, and institutional models such as the ICC's provide a safe starting template (Webster & Buhler, 2014).

From this contractual and procedural perspective, the analysis now turns more specifically to how foreign arbitral awards are recognised and executed in Indonesia under the interaction of treaty obligations, domestic arbitration law, and procedural reform. Turning from clause design to outcomes, this study evaluates how foreign arbitral awards are recognised and executed in Indonesia under a three-layer framework: accession to the 1958 New York Convention by Presidential Decree No. 34 of 1981, the Arbitration Law, and the procedural reforms in Supreme Court Regulation (PERMA) No. 3/2023 (Keputusan Presiden Nomor 34 Tahun 1981; Undang-Undang Nomor 30 Tahun 1999; Peraturan Mahkamah Agung Nomor 3 Tahun 2023).

A creditor seeks recognition at the Central Jakarta District Court (CJDC) by filing the authenticated award and arbitration agreement, sworn Bahasa Indonesia translations, and evidence of treaty reciprocity, recognition may be refused only on the Convention's narrow grounds (incapacity, excess of mandate, serious procedural irregularity, or public policy) (Keputusan Presiden Nomor 34 Tahun 1981; Undang-Undang Nomor 30 Tahun 1999; Peraturan Mahkamah Agung Nomor 3 Tahun 2023). Once the file is complete, PERMA 3/2023 requires the registrar to enter the award on the roll within 14 days and the CJDC Chair to decide the exequatur within a further 14 days; a refusal can be tested by cassation to the Supreme Court, which must rule within 30 days (Peraturan Mahkamah Agung Nomor 3 Tahun 2023). A granted exequatur gives the award the same executory force as a final Indonesian judgment, enabling attachment, garnishment, and judicial sale under ordinary civil-execution rules; courts do not revisit the merits, and foreign awards cannot be annulled locally (*Putusan Mahkamah Konstitusi Nomor 50/PUU-XXII/2024*, 2024; Undang-Undang Nomor 30 Tahun 1999). Practitioner commentary indicates that, post-reform, uncontested cases typically move from filing to execution in roughly three to six months, though documentary formalities and public-policy objections can elongate the timeline in complex matters (Sitorus & Hoed, 2023).

This broader evaluation shows that the effectiveness of enforcement in Indonesia depends not only on the formal availability of exequatur, but also on the consistency with

which courts apply procedural and substantive limits at the enforcement stage. That issue is developed further in the next section, which examines enforcement practice in more detail.

2.4 Enforcement of Arbitration in Indonesia

Indonesia's commitment to arbitration rests on three interlocking layers of authority. First, the international layer: Indonesia ratified the 1958 New York Convention through Presidential Decree No 34 of 1981, accepting the Convention's obligation to recognise and enforce foreign awards subject only to its narrow refusal grounds (Keputusan Presiden Nomor 34 Tahun 1981). Indonesia enforces foreign arbitral awards through a three-tier framework that combines treaty obligations, domestic statute, and procedural regulation (Sitorus & Hoed, 2023). Law No. 30 of 1999 on Arbitration and Alternative Dispute Resolution distinguishes between domestic and international awards and requires a foreign award to obtain an exequatur from the Chief Judge of the Central Jakarta District Court before execution (Undang-Undang Nomor 30 Tahun 1999). Article 66 of the same statute further limits recognition to awards originating in treaty States, arising from commercial matters, and not offending Indonesian public policy (Law No. 30 of 1999 of Arbitration and Alternative Dispute Resolutions). To streamline practice, Supreme Court Regulation (PERMA) No. 3 of 2023 introduced electronic filing and fixed a 14-day deadline for the District Court to register a foreign award and a further 14 days for the Chief Judge to decide the exequatur request (Peraturan Mahkamah Agung Nomor 3 Tahun 2023). Contemporary practitioner commentary reports that, under these new timelines, uncontested petitions now commonly progress from filing to an enforceable writ within three to six months, significantly faster than under the previous regime (Sitorus & Hoed, 2023).

Indonesia's courts are obliged to recognise and enforce foreign arbitral awards, save for the Convention's narrow defences because Presidential Decree No. 34 of 1981 formally brought the 1958 New York Convention into Indonesian law (Keputusan Presiden Nomor 34 Tahun 1981). The creditor must file a petition with the Central Jakarta District Court under Articles 65-69 of Law No. 30 of 1999, attaching the original award, the arbitration agreement, an authorised Indonesian language translation, and proof that the award originates from a treaty State (Undang-Undang Nomor 30 Tahun 1999). The creditor must lodge its recognition petition with the Central Jakarta District Court and attach four documents: (i) the authenticated original (or a certified copy) of the arbitral award, (ii) the arbitration agreement, (iii) a sworn Indonesian language translation of each, and (iv) a certificate from an Indonesian diplomatic mission confirming that both Indonesia and the seat of arbitration are parties to the New York Convention (Budidjaja, 2016). Once the filing is deemed complete, the court registrar must record the award in the Central Jakarta District Court register within fourteen days, in line with Articles 4-5 of Supreme Court Regulation (PERMA) No. 3 of 2023 (Peraturan Mahkamah Agung Nomor 3 Tahun 2023; Sitorus & Hoed, 2023). The Chief Judge then has a further fourteen days to grant or refuse the exequatur, the order that transforms the award into an enforceable Indonesian judgment (Peraturan Mahkamah Agung Nomor 3 Tahun 2023; Sitorus & Hoed, 2023). Any refusal may be

contested by cassation to the Supreme Court, which must decide the appeal within thirty days, thereby preserving the Regulation's expedited timetable (Peraturan Mahkamah Agung Nomor 3 Tahun 2023; Sitorus & Hoed, 2023).

Comparative scholarship frames exequatur as a gateway that both authorises state enforcement organs to act on a foreign decision, instructs them on the practical modalities of execution (including supplementing missing operational particulars such as statutory interest or currency conversion), and subjects the decision to a limited pre-execution review (Schramm, 2014). In Indonesia, the exequatur issued by the Central Jakarta District Court performs this tripartite role for international arbitral awards: it confers executory force empowering bailiffs to attach, garnish, and auction assets; it guides execution through the court's order and minutes, which can clarify payment mechanics and interest treatment so local enforcement can proceed smoothly and it confines judicial scrutiny to the narrow recognition grounds in the New York Convention as implemented by Indonesian legislation, with no re-examination of the merits and no local set-aside of foreign awards (Keputusan Presiden Nomor 34 Tahun 1981; Undang-Undang Nomor 30 Tahun 1999). Recent procedural reforms further hard-wire filing formalities and short decision timelines, reducing discretion at the authorisation and instruction stages and accelerating the award's path from recognition to recovery (Peraturan Mahkamah Agung Nomor 3 Tahun 2023; Sitorus & Hoed, 2023).

A natural next step is to clarify the legal effect of the award itself after mapping the court's gatekeeping role at recognition (Blackaby et al., 2022). In both international doctrine and Indonesian law, that effect is expressed by the term "final and binding," which fixes the award's conclusiveness on the merits (res judicata) while leaving execution to the *exequatur* mechanism rather than any appellate re-hearing in national courts (Born, 2021; Undang-Undang Nomor 30 Tahun 1999). Although an arbitral award is "final and binding" under Indonesian law, that finality concerns the merits and does not make the award self-executing; the creditor must still obtain an exequatur so the State's coercive machinery (bailiffs, attachment, auction) can lawfully operate (Harahap, 2017; Undang-Undang Nomor 30 Tahun 1999; Peraturan Mahkamah Agung Nomor 3 Tahun 2023). Consistent with the New York Convention, the exequatur court performs a limited compatibility review, formal regularity, basic due process, arbitrability/commerciality, and a narrowly construed public-policy screen without re-hearing the case; Indonesian judges therefore assess "public policy" (*ketertiban umum*) at a foundational level (e.g., would enforcement compel illegality or offend core legal-moral norms), rather than by testing whether the tribunal applied Indonesian law correctly (Adolf, 1994; New York Convention 1958). Indonesian authorities and commentators align on this division of roles domestic provisions on registration and enforcement channel awards through the Central Jakarta District Court for recognition, restrict challenges to the Convention grounds, and bar local set-aside of foreign awards preserving arbitral finality while reserving to courts a tightly cabined gatekeeping function at the enforcement stage (Undang-Undang Nomor 30 Tahun 1999).

Among the few conditions under which Indonesian courts may refuse recognition of a foreign arbitral award, public policy operates as a narrowly confined safeguard rather than a merits review (Blackaby et al., 2022). Indonesian law locates this ground in Article 66 (c) of Law No. 30/1999, which mirrors Article V(2)(b) of the New York Convention; the court may decline enforcement only if execution would offend Indonesia's fundamental legal or moral order (Undang-Undang Nomor 30 Tahun 1999). International authorities emphasise that this exception must be construed restrictively, limited to violations of the forum's "most basic notions of morality and justice," not ordinary legal error or conflict with domestic statutes (Vereinte Nationen, 2016). Public policy itself could be defined as protecting foundational legality, morality, and sovereignty interests; thus judges at the exequatur stage conduct a compatibility check (notice, due process, arbitrability, and any clear clash with core norms) without reopening the substance of the dispute (Adolf, 1994). Recent procedural reforms (Peraturan Mahkamah Agung Nomor 3 Tahun 2023) standardise filings and timelines to confine discretion, but the public-policy filter remains a narrow, exceptional basis to reject recognition; absent such exceptional concerns, the award once registered should be recognised and executed (Peraturan Mahkamah Agung Nomor 3 Tahun 2023).

Focusing on public policy as one of the limited refusal grounds, Indonesian practice shows why this open-textured concept can still generate uncertainty and cost. Although Article 66(c) of Law No. 30/1999 tracks Article V(2)(b) of the New York Convention and international guidance urges a narrow reading limited to violations of the forum's most basic notions of morality and justice, Indonesian courts have occasionally construed public policy broadly (Undang-Undang Nomor 30 Tahun 1999; New York Convention 1958; Vereinte Nationen, 2016). Classic refusals include the *E.D. & F. Man (Sugar) Ltd v. Yani Haryanto* matter, where the Supreme Court denied execution of a London award on public-policy grounds tied to Indonesia's sugar-import regime (*Putusan Mahkamah Agung Nomor 1205 K/PDT/1990*, 1991). In *PT Nizwar v. Navigation Maritime Bulgare*, the Supreme Court overturned a Central Jakarta *fiat eksekusi* (Penetapan Pengadilan Negeri Jakarta Pusat Nomor 2288/PDT/1979 P, 1981) and refused enforcement of a London award, citing treaty/implementation concerns and public policy (*Putusan Mahkamah Agung Nomor 2944 K/PDT/1983*, 1984)). More recently, the Astro v. Ayunda line shows resistance to relief perceived as impinging on Indonesian court processes, culminating in refusals at cassation and failed judicial reviews (*Putusan Mahkamah Agung Nomor 26 PK/PDT.SUS-ARBT/2016*, 2016; *Putusan Mahkamah Agung Nomor 67 PK/PDT.SUS-ARBT/2016*, 2016; *Putusan Mahkamah Agung Nomor 877 K/PDT.SUS/2012*, 2013). Despite PERMA No. 3/2023 standardising filings and compressing timelines and defining public order in foundational terms, its breadth still leaves room for discretion, so a creditor who has already spent time and money arbitrating may face a late-stage rejection and be forced into parallel offshore enforcement (Peraturan Mahkamah Agung Nomor 3 Tahun 2023). The practical takeaway is twofold: courts should keep public policy exceptional and compatibility-focused, while creditors should over-document due process, arbitrability, and compliance with mandatory rules at filing to minimize refusal risk (Adolf, 2021).

Taken together, these features demonstrate that Indonesia's enforcement regime has become more structured procedurally, yet remains vulnerable to uncertainty where public policy is interpreted broadly or inconsistently. This tension explains why enforcement risk continues to matter not only doctrinally, but also commercially and from the standpoint of corporate governance.

3. Conclusion

The recognition and enforcement of international arbitral awards in Indonesia reflect both significant progress and persistent challenges. Indonesia has incorporated international standards through the New York Convention, the ICSID Convention, Law No. 30 of 1999, and the reforms under PERMA No. 3 of 2023, which collectively demonstrate a strong pro-enforcement framework. However, the continued reliance on the public policy exception, illustrated by cases such as Karaha Bodas v. Indonesia, still introduces uncertainty and may undermine investor confidence. As the discussion has shown, the issue is not merely whether Indonesia formally recognizes foreign arbitral awards, but whether such recognition can be translated into consistent, predictable, and commercially reliable enforcement in practice.

From a corporate law perspective, these uncertainties have implications for fiduciary duties under Law No. 40 of 2007, as directors must anticipate enforcement risks, ensure robust arbitration clauses, and manage exposure to sovereign-risk factors. Indonesia's challenge going forward is to maintain judicial consistency, apply the public-policy exception narrowly, and strengthen investor trust. Achieving this balance will consolidate Indonesia's position as an arbitration-friendly jurisdiction while safeguarding its national interests.

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Conflict of Interest Declaration

The authors declare that they have no conflict of interest in this study.

Ethics Approval

This study did not involve human or animal subjects or personal data and therefore did not require ethical approval.

AI Usage Declaration

The authors declare that the following artificial intelligence tools have been used in the research or editing of this article, but not to write, partly or wholly, the article, namely ChatGPT .

Statute and Cases

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