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## Green Foreign Direct Investment for Indonesia and Malaysia

**Gurumintarjit Kaur**

Lecturer, Department of Social Science, Teacher Education Institute, Malaysia

**Rashveen Kaur**

Student, Faculty of Law, University Malaya, Malaysia

### **Abstract:**

*The Sustainable Development Goals 2030 (SDGs) were adopted by the UN General Assembly in 2015 and made public as a global call to action. The potential for green foreign direct investment (FDI) to significantly enhance sustainable development is enormous. Through the high-quality jobs it generates and the development of human capital, which further enhances living standards, it is essential for enhancing growth and innovation. This article will provide a brief overview of foreign direct investment law in Indonesia and Malaysia. As both nations are significant players in the ASEAN and global communities, investment policy should be a top priority for their governments. Comprehensive investment law must be established to meet the needs of the domestic and international business environments that require capital investment, promote economic growth, and create long-term economic stability for the people of Indonesia and Malaysia. This article offers recommendations for the growth of foreign direct investment in Indonesia and Malaysia and is also anticipated to be useful information.*

**Keywords:** Sustainable development, foreign direct investment, investment policy

### **1. Introduction**

According to the esteemed Professor R.A Retno Murni, S.H., MH, PhD during the 3<sup>rd</sup> International Conference of the Faculty of Law of Universitas Mahasaraswati Denpasar on the 22<sup>nd</sup> of July 2023, any type of investment activity by both domestic and foreign investors to conduct business on the territory of a particular country is referred to as an investment.<sup>1</sup> Direct investment refers to when a resident of one economy (the direct investor) seeks to acquire a long-term interest in a business (the direct investment enterprise) that is based in another economy.<sup>2</sup> All future capital transactions between the investor and the enterprise, as well as those involving associated companies, are a part of direct investment.

Direct investment can be divided into two branches: foreign direct investment and domestic direct investment. In Indonesia, Art 1 para 3 Law No 25 of 2007 defines "Foreign Investment" as an investing activity to do business in the territory of the state of the Republic of Indonesia that is carried out by a foreign investor both by use of all foreign capital and by engagement in a joint venture with a domestic investor. Harnessing foreign direct investment for sustainable development has been subjected to a lot of research and development in both Malaysia and Indonesia. The end goal is to have policies in place to encourage greener, more sustainable investment that also supports excellent employment and skill development, increases gender equality, and fosters an inventive and productive economy in line with the Sustainable Development Goals.

### **2. Research Methodology**

This research was conducted using two research methodologies, which are as follows:

#### **2.1. Internet Research**

The author was able to find further papers, journal articles, and commentary on foreign direct investment for sustainable development using internet databases and other academic websites. For instance, the author used Google Scholar, Lexis Nexis, and PubMed to look for pertinent journal articles. Newspaper articles on the internet also provided valuable insight on this topic.

#### **2.2. Conference Proceedings**

The author utilised oral presentations and presentation slides from the 3<sup>rd</sup> International Conference of the Faculty of Law of Universitas Mahasaraswati Denpasar on July 22, 2023. Professor R.A Retno Murni, S.H., M.H., PH. D's

<sup>1</sup> Professor R.A Retno Murni, S.H., M.H., PH.D (2023, July). *Direct Investment for Creating Sustainable Development in Indonesia*. Poster presented at the 3<sup>rd</sup> International Conference of the Faculty of Law of Universitas Mahasaraswati Denpasar, Bali, Indonesia.

<sup>2</sup> Duce, M., & Espana, B. de. (2003, July 31). *Definitions of foreign direct investment (FDI): A methodological note*. Bank for International Settlements. Retrieved January 12, 2024, from: <https://www.bis.org/publ/cgfs22bde3.pdf>

presentation, 'Direct Investment for Creating Sustainable Development in Indonesia,' during this conference, contributed heavily to the writing of this paper.

### 3. Findings

#### 3.1. Green Foreign Direct Investment in Achieving Sustainable Development Goals

World leaders decided to ratify the adoption of the 17 Sustainable Development Goals (SDGs) as part of the 2030 Agenda for Sustainable Development at the 2015 United Nations Summit.<sup>3</sup> Built on the earlier successes of the Millennium Development Goals (MDGs),<sup>4</sup> these goals, which are expected to be accomplished within 15 years after going into effect, seek to strengthen the mobilisation of efforts to end all forms of poverty, combat inequality, and address climate change. To serve as a guide for attaining a better and more sustainable future for all, the SDGs were developed. The Sustainable Development Goals must be accomplished by 2030, but doing so will cost a lot and necessitate massive investments in infrastructure, technology, and innovation.<sup>5</sup>

Green FDI can be directed towards linked sectors to help achieve the 2030 Sustainable Development Goals. Through the transfer of resources like money, information, expertise, and technology that would not be there otherwise, FDI frequently has a favourable impact on the economy of the host nation.<sup>6</sup> All 17 Sustainable Development Goals can be achieved with the help of green FDI, although target 8 ("Decent work and economic growth") and goal 9 ("industry, innovation, and infrastructure") are the ones that will benefit the most from it.<sup>7</sup> The sustainable development objectives' Goal 8 is concerned with encouraging full and productive employment for all people as well as inclusive and sustainable economic growth.

Due to the boost it gives to the economy and jobs, green FDI can be employed to accomplish this goal. The continuation of FDI's beneficial effects on employment rates and economic growth in a host nation is guaranteed through green FDI initiatives, which is essential for achieving SDG8. Green FDI promotes investment in sustainable industries in addition to establishing requirements for investments in host nations that are comparable to those in developed markets.<sup>8</sup> Building a resilient infrastructure, advancing equitable and sustainable industrialisation, and encouraging innovation are the three main objectives of the sustainable development goals (SDGs). Within host nations, foreign direct investment has fuelled technological advancement, yet these advancements are frequently linked to environmental damage.<sup>9</sup>

With its programmes centred on industrialisation and sustainable sectors, Green FDI is altering this. Green FDI encourages investment in industries that supports achieving the SDGs. Initiatives to encourage foreign direct investment (FDI) in green industries are focused on the production of electric vehicles, renewable energy sources like hydropower, modular homes, and the developing green 3D print manufacturing sector.<sup>10</sup> Beyond SDG8 and SDG9, green FDI is essential for reaching the Sustainable Development Goals.

All 17 of the goals demonstrate how FDI has a positive impact. With more employment possibilities made available for women globally, growth and innovation that improves can help reduce gender disparity by producing quality jobs and developing human capital. In addition, a country's host population will have greater human capital, which will result in fewer people living in poverty and facing famine.<sup>11</sup> The health and happiness of citizens can both improve with an increase in human capital. Thus, because of the clear advantages of green FDI, host nations are looking for more green investors. To do this, several governments are coming up with innovative strategies to position themselves as desirable investment destinations.<sup>12</sup>

<sup>3</sup> United Nations. (n.d.). *The Sustainable Development Agenda - United Nations Sustainable Development*. United Nations. Retrieved January 13, 2024, from: <https://www.un.org/sustainabledevelopment/development-agenda/>

<sup>4</sup> PPN/Bappenas, K. (2010, April 20). *Upaya Pencapaian Millennium Development Goals (MDGs)*. Upaya Pencapaian Millennium Development Goals (MDGs) | Kementerian PPN/Bappenas. Retrieved January 15, 2024, from: <https://www.bappenas.go.id/index.php/berita/upayapencapaian-millennium->

<sup>5</sup> United Nations. (2023, July 20). *Long-term, forward-looking solutions paramount to overcoming interlinked crises that hinder Sustainable Development Goals Progress, high-level segment hears | UN press*. United Nations. Retrieved January 16, from: <https://press.un.org/en/2023/ecosoc7142.doc.htm>

<sup>6</sup> Calimanu, S. (2023, May 9). *Advantages and disadvantages of Foreign Direct Investment: Research FDI*. Research FDI. Retrieved January 17, 2024, from: <https://researchfdi.com/resources/articles/foreign-direct-investment-advantagesdisadvantages/>

<sup>7</sup> Fallah Shayan, N., Mohabbati-Kalejahi, N., Alavi, S., & Zahed, M. A. (2022, January 21). *Sustainable development goals (SDGs) as a framework for Corporate Social Responsibility (CSR)*. MDPI. Retrieved January 18, 2024, from: <https://www.mdpi.com/2071-1050/14/3/1222>

<sup>8</sup> Isaac K. Ofori, Francesco Figari, Nathanael Ojong, Towards sustainability: The relationship between foreign direct investment, economic freedom and inclusive green growth, *Journal of Cleaner Production*, Volume 406, 2023, 137020, ISSN 0959-6526, <https://doi.org/10.1016/j.jclepro.2023.137020>.

<sup>9</sup> Wartini, S. (2016, January 31). *The impacts of foreign direct investment to the environment in developing countries: Indonesian perspective*. UI Scholars Hub. Retrieved January 19, 2024, from: <https://scholarhub.ui.ac.id/ijil/vol13/iss2/6/>

<sup>10</sup> Chen L, Guo F, Huang L. Impact of Foreign Direct Investment on Green Innovation: Evidence from China's Provincial Panel Data. *Sustainability*. 2023; 15(4):3318. <https://doi.org/10.3390/su15043318>.

<sup>11</sup> OECD (2019), *FDI Qualities Indicators: Measuring the sustainable development impacts of investment*, Paris. Retrieved January 20, 2024, from: <https://www.oecd.org/investment/FDI-Qualities-Indicators-Measuring-Sustainable-Development-Impacts.pdf>

<sup>12</sup> HH Associates Ltd. (2023, March). *Guidance on frameworks - GOV.UK*. Gov.UK. Retrieved January 21, 2024, from: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/560268/Guidance\\_on\\_Frameworks\\_-\\_Oct\\_16.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/560268/Guidance_on_Frameworks_-_Oct_16.pdf)

### 3.2. Governing Law on Foreign Direct Investment in Malaysia and Indonesia

The cardinal law that governs investments in all sectors in the territory of the state of the Republic of Indonesia is Chapter I Article: Elucidation of Article 2 Indonesian Law No 25 of 2007 regarding Investment. Malaysia does not have laws, rules, or regulations that govern all FDIs as foreign investments in Malaysia. Sector-specific rules published by the government apply in Malaysia.<sup>13</sup> There are currently few limits on FDI, and foreign investors are allowed to own up to 100% of the shares in new projects in certain areas. Regulatory permissions such as licenses, restrictions on foreign equity participation, or demands for a minimum amount of Malaysian or Bumiputera equity ownership in the planned venture are often used to govern FDI involvement across industries.<sup>14</sup> The major organisation in charge of encouraging and fostering investment in Malaysia's manufacturing and service industries is the Malaysian Investment Development Authority ("MIDA").

### 3.3. Green Foreign Direct Investment Activities in Malaysia and Indonesia

#### 3.3.1. Malaysia

Sustainable foreign direct investment (SFDI) is comprised of making a positive impact on the growth of the economy, society, and environment while adhering to sound governance principles.<sup>15</sup> This suggests that SFDI evaluates the social and environmental implications in addition to the economic or financial gains, which are typically the exclusive focus of FDI, to lessen adverse spillover in Malaysia. To avoid just promoting greater capital inflows that are unconcerned with their externalities, the government must tightly ensure the quality of FDI. Additionally, since the globalisation process, the quality of FDI has taken precedence.

Malaysia cannot avoid this situation because it is an emerging economy that primarily depends on FDI inflows. This is because FDI from abroad is required to bridge the capital gap for local development. The Malaysian government offers several tax breaks to attract foreign investment in industries such as manufacturing, agriculture, tourism, approved services, R&D, and training. For instance, new businesses in Malaysia's manufacturing sector that spend at least RM 300 million or RM 500 million are eligible for 0% tax rates for 10 or 15 years, respectively.<sup>16</sup>

Apart from Israel, there are generally no limitations on conducting business or engaging in transactions with individuals from other nations. Any individual in Malaysia is not permitted to conduct any business or engage in any transactions with Israel, its citizens, or any entities that are directly or indirectly owned by Israel or its citizens, according to a directive from the Central Bank of Malaysia (Bank Negara Malaysia).<sup>17</sup>

#### 3.3.2. Indonesia

Over the following thirty years, it is anticipated that Indonesia's big, diverse economy will triple in size.<sup>18</sup> Directing this development on a more environmentally friendly course will be a difficult task for the nation, both in terms of energy (coal is the main source of electricity and a significant export) and Indonesia's place in changing global value chains. In recent years, the government has taken several actions to achieve this goal, with the attraction of green FDI playing a significant role. With \$17.3 billion in total green FDI inflows over the last five years, Indonesia ranks seventh among developing nations.<sup>19</sup> The National Development Planning Agency's Green Economy Index, a gauge for tracking sustainable development, will be released in 2022.<sup>20</sup> Other government initiatives include the introduction of coordinating ministries in 2019 to increase coordination on complicated initiatives like the green transition.<sup>21</sup>

<sup>13</sup>S, Stellen. (2020). *Analysis of the Regulation and Implementation of Foreign Direct Investment in Malaysia*. Legal Standing: Jurnal Ilmu Hukum. 4. 131. 10.24269/ls.v4i1.2446.

<sup>14</sup> Dentons Rodyk. (2022, October 25). *Guide to foreign investment laws in Malaysia*. Mondaq. Retrieved January 22, 2024, from: <https://www.mondaq.com/inward-foreign-investment/1227686/guide-to-foreign-investment-laws-in-malaysia>

<sup>15</sup>Chipalkatti N, Le QV, Rishi M. *Sustainability and Society: Do Environmental, Social and Governance Factors Matter for Foreign Direct Investment?* Energies. 2021; 14(19):6039. <https://doi.org/10.3390/en14196039>

<sup>16</sup> *Research and Development (R&D) Services*. Malaysian Investment Development Authority, July 2020. Retrieved January 22, from: [https://www.mida.gov.my/wp-content/uploads/2020/07/20200309090703\\_BOOKLET-3-RESEARCH-AND-DEVELOPMENT-RD-SERVICES.pdf](https://www.mida.gov.my/wp-content/uploads/2020/07/20200309090703_BOOKLET-3-RESEARCH-AND-DEVELOPMENT-RD-SERVICES.pdf).

<sup>17</sup>Bank Negara Malaysia. *Direction on Dealings with Specified Person*. Bank Negara Malaysia, 2024. Retrieved January 23, 2024, from: <https://www.bnm.gov.my/documents/20124/60360/Direction+on+Dealings+with+Specified+Person.pdf/dfa7bca-9b46-afb5-513b-22111305759c?t=1640578454325>.

<sup>18</sup>World Bank. (2023, Oct). *Indonesia overview*. Retrieved January 25, 2024, from: <https://www.worldbank.org/en/country/indonesia/overview>

<sup>19</sup> Boston Consulting Group. (2023). *Growth of green FDI*. Retrieved July 24, 2024, from: <https://www.bcg.com/publications/2023/growth-of-green-fdi>

<sup>20</sup> United Nations Partnership for Action on Green Economy (UN PAGE) Indonesia. (2022). *Indonesia's green economy index launched at the G20 side event in Bali in August 2022*. Retrieved July 24, 2024, from: <https://un-pageindonesia.org/en/news/read/indonesia-green-economy-index-launched-at-g20-side-event-in-bali-august-2022>

<sup>21</sup> Coordinating Ministry for Economic Affairs. (Feb, 2022). *Coordinating Minister for the Economy increased collaboration with the World Bank for a stronger global recovery*. Retrieved July 24, 2024, from: <https://www.ekon.go.id/publikasi/detail/4187/coordinating-minister-for-the-economy-increased-collaboration-with-the-world-bank-for-a-stronger-global-recovery>

## 4. Recommendations

To effectively attract and promote Green Foreign Direct Investment (FDI) in Malaysia, the government can consider implementing a range of policies designed to create a favourable environment for green investments.

### 4.1. Financial Incentives

- **Tax Breaks and Exemptions:** Provide tax holidays, reduced corporate tax rates, and exemptions on import duties for green technology and equipment.
- **Subsidies and Grants:** Offer direct financial support for green projects, including subsidies for renewable energy projects and grants for research and development in green technologies.
- **Green Bonds and Loans:** Facilitate access to low-interest loans and green bonds to finance sustainable projects.

### 4.2. Regulatory Framework

- **Streamlined Approval Processes:** Simplify and expedite the approval processes for green projects to reduce bureaucratic delays.
- **Environmental Standards:** Implement strict environmental regulations that encourage companies to adopt sustainable practices, such as carbon emission limits and mandatory recycling targets.
- **Certifications and Labels:** Develop and promote certification programs for green products and services to help investors and consumers identify and support sustainable practices.

### 4.3. Infrastructure Development

- **Green Industrial Zones:** Establish dedicated zones with the necessary infrastructure and facilities to support green industries, such as renewable energy parks and eco-industrial parks.
- **Smart Cities:** Invest in the development of smart cities that integrate sustainable technologies and infrastructure, such as energy-efficient buildings, smart grids, and green public transportation.

### 4.4. Public-Private Partnerships (PPPs)

- **Collaborative Projects:** Foster partnerships between government agencies, private sector companies, and international organisations to co-invest in green projects.
- **Innovation Hubs:** Establish innovation hubs and incubators focused on green technologies to encourage collaboration and knowledge-sharing among stakeholders.

### 4.5. Capacity Building

- **Education and Training:** Develop specialised education and training programs to build a skilled workforce in green technologies and sustainable practices.
- **Research and Development (R&D):** Increase funding for R&D in green technologies and support academic and industry collaborations to drive innovation.

### 4.6. Market Development

- **Renewable Energy Auctions:** Implement competitive bidding processes for renewable energy projects to attract high-quality investments and drive down costs.
- **Feed-in Tariffs and Quotas:** Introduce feed-in tariffs and renewable energy quotas to guarantee market access and revenue stability for green energy producers.

### 4.7. International Cooperation

- **Trade Agreements:** Negotiate trade agreements that include provisions for environmental protection and sustainable development.
- **Technical Assistance:** Seek technical assistance and capacity-building support from international organisations and developed countries to enhance local capabilities in green technologies.

### 4.8. Public Awareness and Engagement

- **Awareness Campaigns:** Launch campaigns to educate the public and businesses about the benefits of green investments and sustainable practices.
- **Community Involvement:** Engage local communities in the planning and implementation of green projects to ensure their support and participation.

### 4.9. Monitoring and Evaluation

- **Performance Metrics:** Establish clear metrics and indicators to monitor and evaluate the impact of green FDI on economic, environmental, and social outcomes.
- **Regular Reporting:** Require regular reporting from companies on their sustainability performance and progress towards meeting environmental goals.



## 5. Conclusion

By adopting these comprehensive policy recommendations, Malaysia can create a conducive environment for attracting and promoting Green FDI. This will not only contribute to sustainable economic growth but also help the country meet its environmental goals and enhance its global reputation as a leader in sustainable development. It appears that due to a lack of awareness and insufficient regulations, Malaysia is placing less emphasis on the quality of FDI, which may present opportunities for foreign investors to re-allocate their investment attributes from social, environmental, and economic aspects to measure SFDI (also known as the triple bottom line or TBL). Foreign investors typically don't care about the negative effects of their investments and are just concerned with their profitability. Even if FDI promotes economic expansion and increases employment opportunities, investors make more money by increasing their investments in overseas markets.

However, several studies have noted how FDI activities have a detrimental influence, particularly on the social and environmental spheres. For instance, the FDI activities destroyed the local labour market because of the pressure of competition and labour-saving strategies to cut costs.<sup>22</sup> Although FDI plays a significant role in economic growth, it has negative effects on climate activities, especially when it comes to basic infrastructure, clean water, sanitation, and renewable energy. SFDI, which strives to minimise the destruction of economic, environmental, social, and governance elements, is generally recognised as the remedy to address the negative spillover effects of cross-border investment.

Recommendations for nations to overcome these issues include bolstering a legal framework that promotes dependable project revenues, as law can be the greatest weapon. There is still a lot of work to be done and much groundwork to be done. Even though adaptation projects like building seawalls, halting deforestation, or boosting the resilience of the agricultural sector are much more effective at generating revenue and thus luring FDI than mitigation projects like renewable energy development, EMDEs (emerging market and developing economies) still have significant adaptation needs.

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