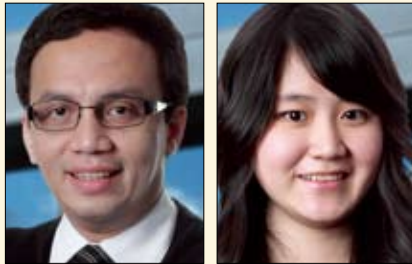


Limitation on the export of raw minerals



**By Denny Rahmansyah
and Florence Santoso**

Mining in Indonesia is broadly governed under Law No. 4 of 2009 regarding Mineral and Coal Mining (the Mining Law). The Mining Law and various implementing government regulations have indicated the need for domestic mineral processing and refining requirements although they have not been specified until now.

Raw material export ban

On February 6, 2012 the Minister of Energy and Mineral Resources (MEMR) issued MEMR Regulation No. 7 of 2012 regarding Increased Minerals Value Added through Processing and Refining (MEMR 7). This regulation articulates the minimum limits for processing and refining certain minerals to be exported (i.e., metal minerals, non-metal minerals and rocks) as specified in its attachment.

The regulation requires that the processing and refining of minerals is conducted within Indonesia and prohibits the export of raw minerals three months after the issuance of MEMR 7 (i.e. May 6, 2012). Indonesian miners are obligated to submit a report to the MEMR to meet the minimum requirements for processing and refining minerals. If they are not able to meet the minimum requirements, then they should consult with the Directorate General of Minerals and Coal in implementing such processing.

Other alternatives

The MEMR also provides several alternatives for mining companies which are not able to conduct their own processing and refinery of minerals, as follows:

- (i) sale and purchase of ore or concentrate;
- (ii) activities to conduct processing and/or the refinery process; or
- (iii) joint construction of processing and/or refinery infrastructure and facilities.

These forms of cooperation as mentioned above may only be conducted with other holders of Mining Business Licenses (*Izin Usaha Pertambangan* or IUP) for Operation Production, Special IUP for Operation Production, or IUP for Operation Production specifically for Processing and/or Refinery. Any cooperation shall be approved in advance by the Directorate General of Mineral and Coal.

In short, as of May 6, 2012, all mining companies are not allowed to export raw materials and can only export processed or refined materials.

Possible exemptions

However, the Government of Indonesia provided a little leeway in its restriction to Indonesian miners to export raw minerals as evidenced by the issuance of the Minister of Trade Regulation No. 29 of 2012 (MOT 29) and the amendment to MEMR 7 (i.e. MEMR Regulation No. 11 of 2012 (MEMR 11)). MOT 29 provides requirements and procedures for the export of certain minerals mentioned above while MEMR 11 allows the export of raw minerals by complying with certain requirements.

Importantly, by the issuance of MOT 29 and MEMR 11, there is still a possibility that certain Indonesian miners may be able to export raw materials upon the fulfillment of certain requirements.

One of the requirements under MOT 29 is that the exporter must first register as a Registered Exporter of Mining Products (*Eksportir Terdaftar – Produk Pertambangan*) with the MOT. The other requirement is that the company should obtain consent from the Director General of Foreign Trade at the MOT on the actual export for each shipment.

While much remains to be done, Indonesian miners must prepare for the implementation of domestic mineral processing and refining to be in line with the new regulations.

Soewito Suhardiman Eddymurthy Kardono (SSEK)

14th Floor Mayapada Tower, Jl. Jend. Sudirman Kav.28
Jakarta 12920, Indonesia

Tel: (62) 21 521 2038 / 521 2130

Fax: (62) 21 521 2039

Email: dennyrahmansyah@ssek.com

florencesantoso@ssek.com

www.ssek.com