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Indonesia: Law & Practice

Emir Nurmansyah, Mahatma Hadhi,
Kenny Poltak and Atika Rizka
ABNR Counsellors at Law



INDONESIA



Law and Practice

Contributed by:

Emir Nurmansyah, Mahatma Hadhi, Kenny Poltak and Atika Rizka
ABNR Counsellors at Law

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Authors



Emir Nurmansyah is a senior partner at ABNR and a member of the firm's management board. He is one of the most respected and versatile lawyers in Indonesia today. After some 30 years in legal practice, he is a market-

leading lawyer for project finance and development, banking and finance, corporate/M&A and foreign direct investment. He also offers extensive experience and expertise in restructuring and insolvency, shipping, aviation, and technology, media and telecommunications.



Mahatma Hadhi is a partner at ABNR who focuses his practice on energy and natural resources but also handles mergers and acquisitions, project finance and development, and foreign direct investment matters,

especially those involving the energy and natural resources sector.



Kenny Poltak joined ABNR in 2021 and is an associate with a growing reputation in project finance and development, banking and finance, and energy and mineral resources. He supports clients across a range of

cross-border transactions, with a focus on Indonesia's critical infrastructure, energy transition and downstream minerals sectors.



Atika Rizka is an associate at ABNR who focuses her practice on corporate/M&A, life sciences (pharmaceuticals and healthcare), shipping, energy and mineral resources, and foreign direct investment.

ABNR Counsellors at Law

Graha CIMB Niaga 24th Floor
Jl. Jenderal Sudirman Kav. 58
Jakarta 12190
Indonesia

Tel: +62-21 250 5125
Fax: +62 21 250 5001
Email: info@abnrlaw.com
Web: www.abnrlaw.com



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1. Mining Law: General Framework

1.1 Main Features of the Mining Industry

The Indonesian mining industry plays a vital role in contributing to the revenue of the State of the Republic of Indonesia. In 2024, income from mineral and coal mining was reported at approximately IDR107,775 billion. This figure has shown a significant and consistent increase over the past five years, reflecting the sector's strong growth trajectory.

The industry has not only expanded at the upstream level but has also made remarkable progress in downstream activities. In recent years, Indonesia has successfully transitioned towards mineral ore processing, driven by the rising global demand for nickel-based electric vehicle (EV) batteries and the sharp increase in demand for certain metallic commodities such as gold and copper.

Several high-pressure acid leaching facilities and aluminium processing plants are expected to become fully operational in 2026. These developments are creating substantial contributions to local economic growth, infrastructure development and job creation, reinforcing Indonesia's position as a key player in the global mining and mineral processing industry.

1.2 Legal System and Sources of Mining Law

Indonesia's adoption of a civil rather than common law system can be traced back to its introduction by the Dutch during colonisation, and the Dutch codification of legislation in Indonesia is still in effect today. Civil law in Indonesia is hierarchical, in which lower-level regulations are primarily guidance on implementation, in conformity with higher-level regulations.

The main sources of mining legislation are the following:

- Law No. 4 of 2009 on Coal and Mineral Mining, as amended (the "Mining Law"): This law serves as the primary legal basis governing all aspects of mineral and coal mining in Indonesia, including management, licensing, share divestment requirements, supervision and sanctions.
- Government Regulation No. 96 of 2021 on the Implementation of Mineral and Coal Mining Busi-

ness Activities, as amended ("GR 96/2021"): This regulation sets out the technical implementation of mineral and coal mining activities, including licensing procedures, further elaboration on the share divestment requirements, reporting obligations and supervision.

- Law No. 6 of 2023 on the Stipulation of Law No. 2 of 2022 on Job Creation into Law (the "Job Creation Law"): This regulation is an omnibus law that amends and harmonises various provisions in the mining sector, including those on licensing, governance and investment.

1.3 Ownership of Mineral Resources

Under Indonesian law, surface rights are distinct from the rights to conduct mining activities granted under a mining licence. Land title does not confer the right to mine or ownership of mineral commodities located underground. Conversely, a mining licence grants the right to conduct mining activities but does not provide ownership of the land itself. As a result, it is common practice for mining companies to enter into agreements with land title holders to secure surface rights for mining operations.

With respect to the ownership of the mining products, mineral resources are owned by the State and not by landowners or any administrative division of the State. Pursuant to Article 33 (3) of the Constitution of the Republic of Indonesia, land, water and the natural resources contained therein are controlled by the State and utilised for the greatest benefit of the people. This emphasises that the mining products are controlled by the State. Article 92 of the Mining Law, as amended, reinforces this principle that the holder of mining rights shall only be entitled to the minerals and coal produced from the mine after fulfilling the payment of production royalties. The payment of royalties shall be made at the point of sale. In this sense, mining rights grant the authority to explore and exploit resources, but not proprietary ownership of those resources in situ. The State retains ultimate control until extraction and royalty settlement. This system ensures that resource exploitation aligns with national interests and contributes to public welfare.

1.4 Role of the State in Mining Law and Regulations

The State owns and controls mineral resources to be utilised for the greatest benefit and prosperity of the people, and such control is exercised by the central government through its policymaking, regulatory, administrative, management and supervisory functions. The State acts as the regulator and licensing authority, and mining business actors are required to obtain a Mining Business Licence (IUP), Special Mining Business Licence (IUPK) or Community Mining Licence (IPR) before conducting mining activities, as provided under the Mining Law. Although the State functions as a regulator, the Mining Law provides preferential rights to State-owned enterprises (SOEs). For example, SOEs have first priority in obtaining mining areas before private entities can apply. This policy reflects the government's objective of empowering SOEs in managing and controlling mining operations, thereby maximising benefits for the State and ensuring strategic resources remain under national influence.

With respect to joint venture arrangements, there is no explicit requirement to establish a joint venture with the government. However, in practice, SOEs or regionally owned enterprises may participate as joint venture partners, particularly in the management of Special Mining Business Licence Areas (WIUPKs) or in relation to share divestment obligations.

1.5 Nature of Mineral Rights

The Constitution of the Republic of Indonesia mandates that the State owns and controls mineral resources for the greatest benefit and prosperity of the people. The State does not grant ownership rights over minerals to individuals or legal entities; instead, it grants management or business rights through licensing mechanisms such as IUPs, IUPKs or IPRs.

Furthermore, rights over minerals do not arise from contractual arrangements between individuals or legal entities and the State, but rather from licences issued in accordance with the applicable laws and regulations.

1.6 Granting of Mineral Rights

As stipulated in the Mining Law, mining activities are carried out based on business licensing issued through the online single submission system, by the central government, which includes a Business Identification Number, a Standard Certificate and/or a permit, which among other things includes the IUP and IUPK.

Furthermore, the central government may delegate the authority to issue governments, by considering the strategic nature of mining commodities for the supply of raw materials for domestic industry and/or energy. Examples of mining-related licences that may be delegated from the central government to regional governments include:

- Special Production Operation Mining Business Licence for Transportation and Sales (*IUP Operasi Produksi Khusus untuk Pengangkutan dan Penjualan*): A business licence granted to a company to purchase, transport and sell mineral and coal mining commodities. This licence may be delegated by the central government to the governor if the company's transportation and sales activities are conducted within a single provincial jurisdiction.
- People's Mining Licence (*Izin Pertambangan Rakyat/IPR*): A licence granted to carry out mining activities within a designated people's mining area, subject to limited area size and investment. This licence is issued by the provincial government based on a people's mining area management document prepared and determined by the Minister of Energy and Mineral Resources (MEMR) upon proposals from the relevant provincial governments.

1.7 Mining: Security of Tenure Mining Stages

Under GR 96/2021, mining business activity can be carried out after the issuance of an IUP or IUPK and consists of two stages: (i) exploration; and (ii) production operation.

The exploration stage comprises:

- general survey;
- exploration; and

- feasibility study.

Production operation comprises:

- construction;
- mining activity;
- processing, refinery, development and/or exploitation; and
- transportation and sales.

Article 46 of the Mining Law guarantees that a holder of an IUP or IUPK that has completed the exploration stage is assured the right to proceed to the production operation stage, ensuring continuity of mining operations.

Validity of IUPs

Exploration IUPs are valid for:

- up to 8 years (metallic minerals mining);
- up to 3 years (non-metallic minerals mining);
- up to 7 years (certain types of non-metallic minerals mining);
- up to 3 years (rock/stone mining); and
- up to 7 years (coal mining).

An exploration IUP may be extended indefinitely, each time for one year, provided that the requirements under GR 96/2021 are fulfilled and based on approval from the MEMR.

Production operation IUPs may be granted for the following periods:

- up to 20 years for metallic minerals mining, extendable twice, for 10 years each time;
- up to 10 years for non-metallic minerals mining, extendable twice, for 5 years each time;
- up to 20 years for certain types of non-metallic minerals mining, extendable twice, for 10 years each time;
- up to 5 years for rock/stone mining, extendable twice, for 5 years each time;
- up to 20 years for coal mining, extendable twice, for 10 years each time;
- up to 30 years for metal minerals mining integrated with processing or refining, extendable twice, for 10 years each time;

- up to 30 years for coal mining integrated with processing or refining, extendable twice, for 10 years each time; and
- up to 20 years for non-metallic minerals mining integrated with processing or refining, extendable twice, for 10 years each time.

Transfer Restrictions

Under the Mining Law, the transfer of an IUP or IUPK is permissible upon receipt of approval from the MEMR. Pursuant to GR 96/2021, MEMR approval for either the transfer of an IUP or IUPK licence or the transfer of equity of the licence holder to another party may be granted if the IUP or IUPK holder:

- has completed the exploration stage, as evidenced by mining resources and reserves data;
- has fulfilled the administrative, technical, environmental and financial requirements; and
- has submitted documents related to the proposed transferee.

The administrative requirements to transfer an IUP or IUPK are the following:

- Business Identification Numbers of both the existing mining company holding the IUP or IUPK and the proposed transferee;
- current management structure, shareholding structure, and list of beneficial owners of the existing IUP or IUPK holder; and
- profile of the proposed transferee that will receive the transfer of the IUP or IUPK.

The technical requirements to transfer an IUP or IUPK are the following:

- the latest exploration report and mineral resource and reserve data of the existing IUP or IUPK holder;
- documents showing the experience of the proposed transferee in carrying out construction, mining, processing and/or refining, and/or development and/or utilisation activities; and
- for a new mining company, document showing the experience of the parent company operating in the mining sector.

The environmental requirements to transfer the IUP or IUPK are:

- a report outlining the implementation of reclamation programme by the existing IUP or IUPK holder;
- evidence of a deposit reclamation guarantee by the existing IUP or IUPK holder; and
- a statement of ability issued by the transferee to comply with the provisions of laws and regulations in the field of environmental protection and management.

The financial requirements to transfer an IUP or IUPK are:

- financial statements for the last three years that have been audited by a public accountant; or
- for a new mining company, financial statements for the last three years from the parent company that have been audited by a public accountant.

Cancellation/Revocation of Permits

The IUP or IUPK can be revoked by the MEMR if one of the following conditions occurs:

- the holder of the IUP or IUPK fails to fulfil the obligations stipulated in the IUP or IUPK and the provisions of applicable laws and regulations;
- the holder of the IUP or IUPK commits a criminal offence as referred to in the Mining Law; or
- the holder of the IUP or IUPK is declared bankrupt.

Supervision and Control

The Mining Law mandates that the MEMR is responsible for conducting regular supervision of mining business activities carried out by permit holders, and the results must be reported to the public. The supervision covers the following aspects:

- mining technical operations;
- production and marketing;
- financial matters;
- mineral and coal data processing;
- conservation of mineral and coal resources;
- mining safety;
- environmental management, reclamation and post-mining activities;

- utilisation of domestic goods, services, technology, and engineering and design capabilities;
- development of technical mining workforce;
- development and empowerment of local communities; and
- mastery, development and application of mining technology.

2. Impact of Environmental Protection and Community Relations on Mining Projects

2.1 Environmental Protection and Licensing of Mining Projects

Indonesian law sets out provisions on environmental protection mainly under Law No. 32 of 2009 on the Protection and Management of the Environment, as last amended by the Job Creation Law (“Law No. 32/2009”), and Government Regulation No. 22 of 2021 on Implementation of Environmental Protection and Management (“GR 22/2021”).

These regulations require a business undertaking in Indonesia to prepare studies and analysis on the potential environmental impact that may result from its business activities and submit the analysis to the relevant government institution for assessment.

For mining activities, depending on the scale of the business activities and their potential environmental impact, generally the government requires businesses to prepare the following environmental documents:

- Environmental Impact Analysis (*Analisis Dampak Lingkungan*, or “AMDAL”) for activities deemed to have a significant impact on the environment; or
- Environmental Management and Monitoring Efforts (*Upaya Pengelolaan Lingkungan Hidup dan Upaya Pemantauan Lingkungan Hidup*, or “UKL-UPL”) in a specific standard form provided by the government for activities considered to have no significant environmental impact.

Both the AMDAL and UKL-UPL must be further submitted to the authority for approval in the form of an Environmental Approval (*Persetujuan Lingkungan*). Environmental Approval is a prerequisite for the issu-

ance of a production operation IUP. The validity of an Environmental Approval shall be aligned with the validity of the business licensing or government approval.

The Environmental Approval may either be issued by:

- the Minister of Environment, in cases where the project spans multiple provinces, is located more than 12 nautical miles offshore, is situated in a cross-border area, is classified as high-risk or high-pollution, is designated as a National Strategic Project, or otherwise involves overlapping authorities that include the central government;
- the Governor, where the project extends across multiple districts or cities within a single province, is located less than 12 nautical miles offshore, is deemed to have provincial-level strategic significance, or involves overlapping authorities between the provincial and district/city government; or
- the Regent, for projects located entirely within a single district or city, to the extent that the project does not fall within the jurisdiction of the Minister or the Governor.

Environmental authorities are empowered to oversee the implementation of environmental compliance as stipulated in the approved environmental documents. They are also responsible for reviewing the periodic reports submitted by mining companies to ensure adherence to these requirements.

Any breach of environmental compliance may result in administrative sanctions. Depending on the severity and nature of the violation, such non-compliance can serve as grounds for the MEMR to revoke the mining company's IUP.

2.2 Impact of Environmentally Protected Areas on Mining

There are certain environmentally protected areas where mining activities are prohibited or restricted, namely the following.

a. Conservation Zones

Mining activities are strictly prohibited from being conducted in conservation zones consisting of nature reserve areas (*kawasan suaka alam*) and nature conservation areas (*kawasan pelestarian alam*), as regu-

lated under Law No. 5 of 1990 on Conservation of Biological Natural Resources and Their Ecosystems, as amended by Law No. 32 of 2024.

b. Micro Islands

Mining activities are also prohibited from being conducted on micro islands with an area of less than 100 sq km pursuant to the provision of Minister of Sea and Fisheries Regulation No. 10 of 2025 on Utilisation of Micro Islands and Surrounding Water.

c. Forest Areas

Mining activities are generally permitted to be conducted in forest areas, subject to obtainment of a Forest Area Utilisation Approval (*Persetujuan Penggunaan Kawasan Hutan*). However, open-pit mining is specifically prohibited from being conducted in a protected forest area (*kawasan hutan lindung*), except in very limited cases where, in the past, specific exemptions were granted, and even then only until the relevant permits expire.

2.3 Impact of Community Relations on Mining Projects

Mining companies are obligated to implement community development and empowerment programmes that consist of: (a) social and environmental responsibility programmes; (b) involvement of local communities and indigenous peoples located within the mining area in mining activities; and (c) business partnership programmes and community-based economic empowerment initiatives.

Pursuant to MEMR Regulation No. 25 of 2018 on Mineral and Coal Mining Businesses, as last amended by MEMR Regulation No. 17 of 2020 ("MEMR Reg 25/2018"), the community development and empowerment programme must be contained in a master plan that refers to a blueprint stipulated by prevailing laws and regulation.

MEMR Reg 25/2018 further stipulates that this plan must be prepared at the same time the mining company prepares the feasibility study and environmental documents, and cover the community development and empowerment programme from operation production until post-mining activities.

The cost management of the community development and empowerment programme must be directly managed by the mining companies. If there is any increase in production capacity, the mining companies must increase the amount allocated for community development and empowerment. If the funds allocated for the community development and empowerment programme are not utilised within the current year, the unutilised amount must be carried forward and utilised in the following year.

Further guidelines on preparing the community development and empowerment programme are set out in MEMR Decree 1824 K/30/MEM/2018 on Implementation Guidelines for Community Development and Empowerment.

2.4 Prior and Informed Consultation on Mining Projects

As part of the process of preparation of environmental documents, the mining companies are obligated to hold a meeting with indigenous people on the impact of mining activities on the environment. Pursuant to GR 22/2021, following such meeting, the impacted community is entitled to submit suggestions, opinions and responses to the proposed mining activities of the mining company. Such suggestions may encompass:

- descriptive information regarding environmental conditions within and around the proposed mining activity;
- local values that have the potential to be affected by the proposed mining activities; and/or
- public aspirations, wishes and expectations in relation to the proposed mining activities.

The suggestions, opinions and responses from the community must be incorporated by the applicant in the terms of reference of its environmental document.

Other than this, there is no provision under Indonesian mining regulations that specifically requires prior and informed consultation of the local community in regard to mining activities. However, Indonesian mining regulations do stipulate the obligation to involve local communities and indigenous peoples located within the mining area in a mining company's community development and empowerment programmes.

The MEMR has not yet issued any further implementation regulations relating to this obligation.

2.5 Impact of Specially Protected Communities on Mining Projects

Indonesia recognises the rights of indigenous and traditional peoples, known as *Masyarakat Hukum Adat* or "MHAs". MHAs are defined as Indonesian citizens who have distinct cultural characteristics, live together according to their customary laws, have ancestral or territorial ties, maintain a strong bond with the land and environment, and follow traditional values that shape their economic, social, cultural and legal systems, having used a specific area over generations.

The rights of MHAs are recognised in the Constitution of the Republic of Indonesia, which states that Indonesia acknowledges and respects customary law communities and their traditional rights as long as they remain alive and align with societal development and the principles of the Republic of Indonesia.

Indonesia also recognises the concept of Customary Land (*Wilayah Adat*) and Customary Forest (*Hutan Adat*), which MHAs hold the rights to manage and utilise.

Although there is no specific regulation mandating formal settlement agreements, the constitutional protection given to indigenous and traditional communities means that any activities, such as mining operations, that may affect their rights, including land acquisition, generally require consultation and settlement with the relevant indigenous and traditional communities.

2.6 Community Development Agreement for Mining Projects

Indonesian mining regulations do not expressly require mining companies to enter into a formal agreement with local communities with respect to social development. In practice, instead of entering into a formal agreement, mining companies typically provide their commitment to community development by preparing and implementing community development programmes.

2.7 ESG Guidelines and Regulations

As yet, Indonesia has not introduced specific environmental, social and governance (ESG) guidelines tailored exclusively for the mineral sector. However, several regulatory frameworks impose obligations that align with ESG principles.

Under Government Regulation No. 47 of 2012 on Social and Environmental Responsibility of Limited Liability Companies (“GR 47/2012”), companies whose activities relate to or impact natural resources are required to implement corporate social responsibility (CSR) programmes.

GR 47/2012 establishes a general obligation to carry out CSR but does not define the scope, standards or reporting requirements for such programmes.

Additionally, all mining companies must comply with MEMR Decree 1827 K/30/MEM/2018 on Guidelines for the Implementation of Good Mining Practice. While this decree does not explicitly reference ESG, it incorporates principles relating to environmental protection, occupational health and safety, and community development.

2.8 Illegal Mining

Illegal mining is still a significant issue in Indonesia, and it has notable impacts on legal industrial mineral production. Recent government assessments indicate that there are a total of 1,063 illegal mining sites across Indonesia, resulting in estimated State losses of IDR330 trillion due to tax evasion, royalty avoidance and unregulated extraction.

This practice is highly disruptive as it could cause supply chain distortions and environmental damage, as well as loss of State revenue.

The government has recently stated its commitment to increase crackdowns on illegal mining by conducting raids and suspending or revoking mining permits linked to illegal operations. Under Article 159 of the Mining Law, illegal mining activities are subject to criminal sanctions of five years’ imprisonment and fines in the amount of IDR100 billion.

2.9 Good and Bad Examples of Community Relations/Consultation Impacting Mining Projects

A good example of environmental and community relations would involve a comprehensive AMDAL and community development and empowerment programmes. This can be achieved through transparency and early engagement of local communities, continuous communication throughout the project life cycle, as well as long-term capacity building. Although there are currently no national standards, compliance with internationally recognised ESG standards and practices would go a long way to reduce social conflict and improve trust and co-operation from local communities.

Conflict often arises due to waste and tailings management that affects neighbouring communities. Most cases occur not necessarily due to poor community relations, but rather due to poor engineering standards and inadequate oversight in implementing waste and tailings management. Smaller mining companies, which often have limited resources, are particularly vulnerable to these shortcomings.

3. Climate Change, Energy Transition and Sustainable Development in Mining

3.1 Climate Change Effects

Stricter Requirements and Increased Transparency in Mining Companies

Indonesia introduced an amendment to the Mining Law in 2025. This amendment, coupled with previous amendments in 2020 and 2023, introduces a stricter environmental framework that pushes for responsible mining practices such as an environmental audit requirement. Mining companies are now obligated to rehabilitate mining sites post-extraction at a 100% completion rate. Companies must also invest in emissions reduction and renewable energy adoption. Additionally, a number of publicly listed mining companies voluntarily disclose emissions data in sustainability reports. Such disclosure hints at increasing acknowledgement of the importance of responsible mining practices.

Shift to Critical Minerals

Indonesia aims to be a global manufacturing hub for EVs and their batteries by 2027. This direction brings more attention to critical minerals, such as nickel, cobalt and bauxite, as they constitute essential elements in the production of batteries for EVs. This aligns with the 2020 amendment to the Mining Law, which brings a focus on “downstreaming” policy, where domestic refinement of minerals before export is required. With downstreaming, critical minerals such as nickel ore will be used for the production of EV batteries.

ESG Principles as a Key Consideration

ESG principles in the mining industry are increasingly becoming a key consideration. Global investors are placing greater emphasis on adherence to ESG standards. Mining companies are also adopting sustainability initiatives. In practice, large coal and mineral producers, especially those marketing products to developed countries or listed on the Indonesian Stock Exchange (IDX), tend to prioritise ESG compliance, often demonstrated through independent audits such as those conducted by the Initiative for Responsible Mining Assurance. These companies usually disclose ESG-related information in their annual reports, as required by OJK (Financial Services Authority) regulations, reflecting a higher level of accountability and governance.

Therefore, it appears that the initiative of adherence to ESG standards, especially internationally recognised frameworks, is primarily driven by market expectations and global supply chain requirements rather than domestic regulatory obligations.

3.2 Climate Change Legislation and Proposals Related to Mining

Indonesia does not have a mining-specific climate change law, but environmental and climate-related obligations are embedded in broader regulations. The Mining Law emphasises sustainable and environmentally conscious management of mineral and coal resources. It requires the government to prepare a national mineral and coal plan that considers environmental preservation and mandates that mining areas be designated in line with eco-friendly principles. Mining permits (IUPs) also impose obligations on compa-

nies to prepare environmental documents, conduct reclamation and carry out post-mining activities.

Law No. 32 of 2009 further reinforces these obligations. It introduces environmental economic instruments to control impacts, requires an AMDAL for activities with significant environmental effects, and mandates permits for managing hazardous and toxic waste (Limbah B3).

In addition to these general laws, Indonesia has adopted climate-specific regulations. Presidential Regulation No. 110 of 2025 establishes the Carbon Economic Value (*Nilai Ekonomi Karbon*) framework and national greenhouse gas (GHG) emission control measures. It requires sectors, including energy and industry, to participate in mechanisms such as carbon trading to support climate change mitigation efforts.

Supporting this framework, Minister of Environment and Forestry Regulation No. 21 of 2022 sets out detailed procedures for implementing Carbon Economic Value instruments. The procedures cover measurement, reporting and verification of GHG emissions and outline carbon trading mechanisms. Together, these regulations form the backbone of Indonesia’s approach to integrating climate considerations into mining and related industries.

3.3 Sustainable Development Initiatives Related to Mining Good Mining Practice

Good Mining Practice is governed by MEMR Regulation No. 26 of 2018 on the Implementation of Good Mining Practices and Supervision of Mineral and Coal Mining. This regulation establishes comprehensive requirements for mining companies, including the management of the mining environment, implementation of reclamation and post-mining activities, and execution of post-operation measures to ensure sustainability and environmental protection.

Mining companies are obligated to comply with these provisions throughout their operations. Compliance must be reflected in the annual work plan and budget (RKAB) prepared by each company, ensuring that environmental and operational responsibilities are

integrated into their planning and execution processes.

Furthermore, the regulation designates the Head of Technical Mining as a key officer within mining companies. This individual is responsible for supervising the implementation of Good Mining Practice across all operational activities. The Head of Technical Mining must also ensure proper reporting and submit compliance reports to the MEMR.

3.4 Energy-Transition Minerals

Currently, Indonesian mining regulations do not impose restrictions that specifically target critical minerals, including energy-transition minerals such as lithium, cobalt, rare earth elements and copper. Instead of creating mineral-specific limitations, the government has adopted a broader policy that applies to all minerals. To preserve mineral resources and promote value addition, these regulations require mining companies to construct or collaborate with domestic smelters and prohibit the export of certain raw minerals unless processing obligations are fulfilled.

Ban on Nickel Ore Export and Extension to Other Minerals

In MEMR Regulation No. 11 of 2019 on the Second Amendment to MEMR Regulation No. 25 of 2018 on Mineral and Coal Mining Businesses, Indonesia established a full export ban on nickel ores and concentrates. The government justifies its nickel export halt and processing mandate with three reasons: (i) leveraging nickel's immediate economic value in terms of Gross Domestic Product, revenue, employment and regional development; (ii) strengthening its downstream steel industry to reduce import dependence; and (iii) securing critical supply for its strategic expansion in the EV battery market. Following the perceived success with nickel, Indonesia later extended the export ban to other critical minerals such as:

- washed bauxite through MEMR Regulation No. 17 of 2020 on the Third Amendment to MEMR Regulation No. 25 of 2018 on Mineral and Coal Mining Businesses; and
- raw copper, iron, lead, or zinc concentrate through MEMR Regulation No. 6 of 2024, as amended.

Accordingly, the prohibition on the export of various mineral ores is reaffirmed under Minister of Trade Regulation No. 22 of 2023 on Goods Prohibited from Export, as amended.

Moratorium on the Issuance of Smelter Business Permits

Indonesia has officially restricted the issuance of permits for nickel refining plants (smelters) as governed in Government Regulation No. 28 of 2025 on the Implementation of Risk-Based Business Licensing ("GR 28/2025"). The regulation requires business entities to commit to full downstream processing and value-added production, which includes refined nickel and EV battery materials. This restriction is designed to attract long-term investment into high-value, ESG-compliant production, with the aim of becoming a key hub in the global EV supply chain.

Rare Earth Metal Commodity Mining

"Rare earths" refers to minerals with limited occurrence that possess unique and essential properties for various modern technological applications. Areas identified by the Geological Agency (*Badan Geologi*) through investigation and research as potentially containing rare earth metal commodities will be inventoried for designation as mining business permit areas. The MEMR will then appoint SOE(s) to carry out the exploitation and utilisation of those rare earth metal commodities, prioritising the development of domestic priority industries.

4. Taxation of Mining and Exploration

4.1 Mining and Exploration Duties, Royalties and Taxes

There are two applicable main non-tax payments for mining activities in Indonesia, namely:

- dead rent (*iuran tetap*), a fixed annual payment that mining permit holders must pay to the Indonesian government for the right to use a mining area, regardless of whether production occurs; and
- royalties, payments calculated as a percentage of the sale value of minerals or coal produced. They represent the government's share of resource extraction.

Dead rent is calculated per hectare per year based on the concession size and stage of operation, while royalties are calculated based on percentage of sale value based on commodity type, grade and benchmark price. Rates apply equally to domestic and foreign-owned companies operating under Indonesian mining licences.

4.2 Tax Incentives for Mining Investors and Projects

Below are two tax incentives for mining investors and projects applicable in Indonesia.

Tax Holiday

Tax Holiday refers to tax facilities granted to domestic corporate taxpayers in the form of reduction of Corporate Income Tax (CIT) from new investments of at least IDR100 billion in pioneer industries for a certain amount of years. The reduction ranges from 50% of payable CIT for new investments with investment value ranging from IDR100 billion to IDR500 billion to 100% of payable CIT for new investments with investment value of at least IDR500 billion.

In the mining sector, the Tax Holiday is available for the integrated upstream basic metal industry.

Tax Allowance

Tax Allowance refers to the tax facilities granted to domestic corporate taxpayers for their new investment or expansion of existing investment in certain business fields or in certain regions with a specific Indonesian Standard Classification of Business Field (*Klasifikasi Baku Lapangan Usaha Indonesia* or “KBLI”). The business fields and regions listed as such are considered national high priorities by the Indonesian government.

The tax facilities that may be given under the Tax Allowance scheme are as follows:

- a reduction in net income of up to 30% of the total investment value in the form of tangible fixed assets including land, which are used for the Main Business Activity, prorated at 5% for six years of the commercial production, provided that the assets invested are not transferred out within those six years;

- accelerated depreciation of tangible fixed assets and accelerated amortisation of intangible assets acquired in the framework of investment, with a shelf life, depreciation rate and amortisation rate determined in detail under Government Regulation No. 78 of 2019 on Income Tax Facilities for Investment in Specific Business Fields and/or in Specific Regions;
- a reduction of the withholding tax rate on dividends paid to non-residents (foreign taxpayers other than permanent establishments in Indonesia) to 10% (or lower based on the applicable double taxation avoidance agreement); and
- compensation for tax losses that are incurred for longer than five years but not more than ten years.

The Tax Allowance is available for processing and refining activities of certain mining commodities, including base iron, nickel, copper, gold and many others.

Under Indonesia’s current mining regulatory framework, tax stabilisation agreements are no longer available. Indonesia previously provided a form of fiscal stability through the Contract of Work and Coal Contract of Work regimes, where it was possible to have key fiscal terms – such as taxes, royalties and duties – fixed for the duration of the contract.

However, with the transition to the IUP/IUPK licensing regime, this contractual approach has largely been replaced. Under the current framework, mining licence holders are generally subject to the prevailing laws and regulations.

4.3 Transfer Tax and Capital Gains on the Sale of Mining Projects

Under Indonesian tax regulations, withholding tax applies to any transfer of shares in Indonesian companies, including mining companies. The rules do not provide a specific distinction for mining companies; rather, the tax treatment follows the general provisions applicable to share transfers.

When the transfer occurs through an offshore corporate structure, such transaction may still trigger Indonesian tax obligations depending on whether the transfer results in a change of share ownership of an

Indonesian entity. In these cases, the applicability of withholding tax and other levies generally requires further analysis, particularly in light of Indonesia's tax treaties with the relevant foreign jurisdiction. Typically, transaction restructuring also involves a detailed review of potential tax exposure, which is commonly analysed by professional tax consultants to ensure compliance and optimise the tax position of the parties involved.

5. Mining Investment and Finance

5.1 Attracting Investment for Mining Government's Downstreaming Policy

The amended Mining Law in 2020 includes policies that encourage investment, such as mineral downstreaming and tax incentives. The mineral downstreaming policy, among other things, encourages investment in building local smelters and/or processing facilities due to the ban on the export of raw minerals. The focus on downstream activities such as nickel smelters and EV battery production aligns with the increasing global demand for strategic commodities such as nickel.

Tax Incentives

As elaborated in 4.2 Tax Incentives for Mining Investors and Projects, mining investors and projects may be eligible for certain tax incentives in the form of Tax Holiday and Tax Allowance.

5.2 Foreign Investment Restrictions and Approvals in the Exploration and Mining Sectors

Currently, a foreign investor is permitted to acquire up to 100% shares in an Indonesian mining company, but subject to the divestment obligation.

A foreign investment mining company holding an IUP in the production operation stage must gradually divest at least 51% of its shares owned by foreign shareholders in a sequential order to the central government, regional government, State-owned enterprises (BUMN), regionally owned enterprises (BUMD) and/or domestic private companies, starting from the production phase. As such, although it is possible for a foreign entity to acquire a controlling interest in a

mining company, such foreign entity must divest its ownership gradually to Indonesian party(ies) as of the production phase.

The divestment schedule varies by mining method and integration with processing facilities, with the fastest completion in 15 years for non-integrated open-pit operations and the longest completion in 25 years for integrated underground operations.

The parties that are offered the divested shares must co-ordinate internally and state their interest in the offer within 90 calendar days of the offer. If the central government, regional government, BUMN and BUMD are not interested in or do not respond to the offer, the divested shares can be offered to national private business entities by way of auction. If no one is interested in the auction, the divested shares can be offered through the Indonesian Stock Exchange (IDX).

Any capital increase in the IUP holder after the divestment may not cause the divested shares to be diluted below the share percentages allowed under the divestment requirement.

It is also important to note that an IUP holder with more than 49% of its shares owned by a foreign investor is allowed to transfer the foreign-held shares to a third party prior to the divestment requirement, provided that the IUP holder first offers the shares to a BUMN. The BUMN must provide a written response to the offer within 75 calendar days. If such BUMN is not interested in or provides no written response to the offer, the IUP holder may submit an application to the MEMR for approval of the share transfer to a third party.

5.3 International Treaties Related to Exploration and Mining

There are no international treaties between Indonesia and other country(ies) specifically relating to exploration and mining in Indonesia. However, Indonesia is party to treaties that provide protection to investments across various sectors, including mining and commodity trade, namely the following:

- ASEAN Comprehensive Investment Agreement (ACIA): ACIA is an instrument that aims to shape a

free investment regime in ASEAN that is attractive to investors. This multilateral treaty covers various sectors, one of which is mining. Other than providing facilities and protection, ACIA offers benefits for ASEAN and ASEAN-based foreign investors.

- The Regional Comprehensive Economic Partnership (RCEP): The members of RCEP consist of states that offer natural resources or technological advancement that could help to create efficient mining, such as Indonesia, Vietnam, China and Thailand. This instrument opens up the mineral market in the region. To support mineral commodities trade, RCEP offers regional tariff reductions and zero tariffs.
- Bilateral treaties: Although a mining specific co-operation agreement is commonly done through a Memorandum of Understanding (such as those with Saudi Arabia, Brazil and China), bilateral treaties also offer general protection to investment in Indonesia. For example, the 2022 Indonesia–Switzerland bilateral treaty provides detailed protection for investors to receive similar treatment to domestic investors, comprehensive guidelines for dispute resolution, and guidelines on compensation for losses.

5.4 Sources of Finance for Exploration, Development and Mining

There is no official public record that keeps records on the sources of finance for exploration, development and mining in Indonesia. However, based on our experience, exploration activities are mostly financed by equity financing through direct investment and joint ventures, while third-party debt financing is more common in production operation, specifically downstream processing through construction of smelter and processing facilities.

5.5 Role of Domestic and International Securities Markets in the Financing of Exploration, Development and Mining

Domestic and international securities markets play a significant role in financing mining activities in Indonesia. There are numerous precedents of Indonesian mining companies raising funds through the Indonesian Stock Exchange (IDX) by conducting IPOs or increasing equity to finance exploration and development projects. These equity offerings often include

capital for initial exploration, preliminary production operations, and even refinancing of shareholder contributions during early project stages.

In addition to equity markets, domestic and offshore bond markets provide alternative financing options. Mining companies can issue rupiah-denominated bonds or foreign currency bonds to secure long-term funding for their projects. These debt instruments are commonly used to finance large-scale development, infrastructure and operational expansion in the mining sector. International securities markets also offer opportunities for Indonesian mining companies to access global investors, diversify funding sources, and potentially secure more competitive financing terms.

5.6 Security Over Mining Tenements and Related Assets

Under Indonesian law, mining licences (IUPs/IUPKs) are administrative rights granted by the government and cannot be mortgaged, pledged or taken as security. In addition, the Mining Law expressly prohibits mining companies from encumbering their mining commodities as collateral.

Although mining licences and mining commodities themselves cannot be secured, lenders typically rely on alternative collateral structures, including:

- Pledge of shares: Used to encumber security over shares in the mining company. Do note that the transfer of shares of a mining company is subject to MEMR approval, which might complicate the enforcement of a pledge of shares in a mining company in Indonesia.
- Fiduciary security (*Jaminan Fidusia*): Used to encumber security over movable assets such as equipment, inventory, receivables and contractual rights.
- Mortgage (*Hak Tanggungan*): Used to encumber security land and fixtures owned by the mining company, including the mining product processing facilities.
- Conditional novation of project agreements: Used to give lenders step-in rights to material agreements, though these are contractual security and do not create a statutory or “in rem” security interest.

6. Mining: Outlook and Trends

6.1 Two-Year Forecast for the Mining Sector

In recent years, investment trends in Indonesia's mining sector have shifted towards downstream mineral processing and integrated upstream-downstream projects. This shift has been driven primarily by two factors: (i) the Indonesian government's strict regulations on the export of unprocessed mineral ore (commonly referred to as the mineral ore export ban); and (ii) the growing demand for certain mineral products that support emerging industries, such as EV battery manufacturing. Accordingly, foreign investors entering the mineral mining sector in Indonesia must allocate capital not only to exploration and extraction but also to the development of domestic processing and refining facilities.

In addition, recently, the government issued a new policy on mixed hydroxide precipitate (MHP) production restriction under GR 28/2025. GR 28/2025 introduces a moratorium on issuing new Industrial Business Licences (IUIs) for companies under KBLI 24202 that produce intermediate products of nickel processing industries (eg, MHP), effectively restricting new nickel smelting operations. This new policy appears to aim to stabilise nickel ore prices amid oversupply and encourage the production of higher-value intermediate products (eg, nickel sulphate) rather than stopping at MHP. This signals a broader trend towards value-added manufacturing within Indonesia, aligning with the government's long-term industrial strategy. Future policies may include domestic market obligations and incentives to support the production of end products, particularly for EV battery components.

Indonesia's mining sector is expected to play a pivotal role in the global energy transition and climate change mitigation. Future trends may include:

- increased investment in critical minerals (nickel, cobalt, bauxite) for EV batteries and renewable energy technologies; and
- potential legislative changes introducing stricter environmental standards, sustainability reporting obligations, and incentives for green technologies in mining.

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