

JAPAN P&I NEWS

No.927-17/10/18

To the Members

Dear Sirs,

Export ban of mineral ore from Indonesia (No.3)

On 13 October, 2017, there was a tragedy that one bulk carrier entered with the International Group of P&I Clubs, laden with nickel ore cargo from Indonesia to China, sank off the Philippines. The shippers of the cargo* were PT ANTAM, an Indonesian company who have the necessary export licenses. (* “liquefied” was deleted. We must apologize for any inconvenience which may have caused to you.)

As evidenced by this latest tragedy, the great reduction in the quantity of nickel ore shipped from Indonesia by the regulations has not lessened the risk of liquefaction of the relevant cargo. The Members who may engage in the similar trading are requested to take more precautionary measures. Since it is too risky to easily accept the cargo certificate for water contents issued by an exporter’s individual standard, it is advisable for prudent shipowners to obtain independent samples for analysis and results prior to the vessel’s arrival in order to ascertain that the cargo is fit for loading by judging from Flow Moisture Point and Transportable Moisture Limit governed by an international code, the IMSBC. Please let us remind you to refer to our circular [No.10-026](#) dated 1 February 2011 and [No.12-005](#) dated 1 June 2012 for more details of the risk of the relevant transportation and precautionary measures.

According to our correspondents, SPICA Services, whilst the Indonesian Government implemented measures for an export ban of raw minerals including nickel ore from Indonesia by introducing the regulations on 12 January, 2014, it has been reported that the “ban” was not a complete trade embargo, and only exporters who could adhere to the requirements specified in the regulations have been allowed to continue to export dry bulk minerals. The most aggressive of these requirements was the one that the exporters must build a smelter in Indonesia. For your information, please see the English version of the regulations as attached.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

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Attachment: Indonesian Government Regulations about the Operation of Mineral and Coal

INDONESIAN GOVERNMENT REGULATION
NUMBER 1/2017, ON FOURTH AMENDMENT OF THE GOVERNMENT REGULATION NUMBER 23/2010
ABOUT THE OPERATION OF MINERAL AND COAL

BY THE GRACE OF GOD, PRESIDENT OF REPUBLIC OF INDONESIA,

Considering:

- a. In order to increase added value of minerals, as written in Law No. 4/2009 about Mineral and coal mining, the government will maintain its effort to realize the domestic mineral refinement and processing facilities.
- b. In order to give an optimum legal benefit for the country, and to give legal and business assurance for Mining Licenses (IUP) Production Operation, Special Mining Licenses (IUPK) Production Operation, Working Contract, and Coal Contract of Work (PKP2B), regulations on share divestment needs to be reorganized.
- c. According to the consideration which mentioned in point a and b, a government regulation about the fourth amendment of Law No. 23/2010 about Mineral and Coal Operational Activity.

Reckoning:

1. Article 5 point 2 of Constitution 1945
2. Law No.4/2009 about Mineral and Coal Mining (Republic of Indonesia Official Gazette No. 4/2009, Republic of Indonesia Additional Official Gazette No. 4959);
3. Law no.23/2014 about Regional Government (Republic of Indonesia Official Gazette No.244/2014, Republic of Indonesia Additional Official Gazette No.5587) which has being amended with Law No. 9/2015 about the Second Amendment of Law 23/2014 about Regional Government (Republic of Indonesia Official Gazette No. 58/2015, Republic of Indonesia Additional Official Gazette No. 5679);
4. Government Regulation No. 23/2010 about Operational Activity of Mineral and Coal Mining (Republic of Indonesia Official Gazette No.29/2010, Republic of Indonesia Additional Official Gazette No. 5111) which also being amended several times with Law No. 77/2014 about the third amendment of Law No.23/2010 about Operational Activity of Mineral and Coal Mining (Republic of Indonesia Official Gazette No. 263/2014, Republic of Indonesia Additional Official Gazette No. 5597).

VERDICTED

Stipulates: Government Regulation about the fourth amendment of Law No. 23/2010 about operational activity of Mineral and Coal Mining.

Article 1

Some conditions in Government Regulation No. 23/2010 about Operational Activity of Mineral and Coal Mining (Republic of Indonesia Gazette No.29/2010, Republic of Indonesia Additional Official Gazette No. 5111) which last revision was Government Regulation No. 77/2015 about the third amendment of Government Regulation No. 23/2010 about Operational Activity of Mineral and Coal Mining (Republic of Indonesia Official Gazette No. 263/2014, Republic of Indonesia Additional Official Gazette No. 5597), has being revised into the following:

1. Terms of point 1 and 2 is changed and point 1a being parenthesized between point 1 and 2, and the law states the following:

Article 45

- (1) The contract extension proposal of Mining Permit (IUP) Production Operation of metals, certain non-metals, or coal, is submitted to the Minister, Governor, or Regent/Mayor depending on the authority, 5 years at the earliest and one year at the latest before the end period of IUP's Production Operation.

(1a) The contract extension proposal of IUP Production Operation of non-metal mineral or rocks is submitted to Minister, Governor, or Regent/Mayor depending on the authority in two years at the earliest and 6 months at the latest before the end of period of IUP Production Operation.

- (2) The contract extension proposal of IUP Production Operation which described in point (1) and (1a), at least, must be completed with:
 - a. Map and borders of area coordinate
 - b. Payment proof of fixed and production dues in the last three years
 - c. Final report of production operation activity
 - d. Report of environmental management activity
 - e. Working plan and budget; and
 - f. Balance of resources and reservoir
- (3) Minister, Governor, or Regent/Mayor, depending on the authority, can reject the contract extension proposal of IUP Production Operation if the IUP Production Operation, according to the evaluation result, doesn't show a good performance.
- (4) The rejection which mentioned in point (3) must be delivered to IUP Production Operation before the end of period of IUP Production Operation at the latest.
- (5) The IUP Production Operation can only be given contract extension twice.

(6) IUP Production Operation which has received contract extension twice must return the WIUP Production Operation to Minister, Governor, or Regent/Mayor depending on the authority, according to the terms of the law.

2. Conditions in point one Article 72 is changed into following:

Article 72

- (1) The contract extension of Special Mining Permit (IUPK) Production Operation is submitted to Minister in five years at the earliest and 1 year at the latest before the end of period of IUPK Production Operation.
- (2) The contract extension of IUPK Production Operation which mentioned in point (1) is, at least, must be completed with:
 - a. Map and borders of area coordinate
 - b. Payment proof of fixed and production dues in the last three years
 - c. Final report of production operation activity
 - d. Report of environmental management activity
 - e. Working plan and budget; and
 - f. Balance of resources and reservoir
- (3) Minister can reject the contract extension proposal of IUPK Production Operation if the IUPK Production Operation, according to the evaluation result, doesn't show a good performance.
- (4) The rejection which mentioned in point (3) must be delivered to IUPK Production Operation before the end of period of IUPK Production Operation at the latest.
- (5) The IUPK Production Operation can only be given contract extension twice.
- (6) IUPK Production Operation which has received contract extension twice must return the WIUPK Production Operation to Minister according to the terms of the law.

3. The condition in point (1) article 85 is revised as following:

Article 85

- (1) Holders of IUP Production Operation, both mineral and coal, which sells mineral and coal must refer to the benchmark price
- (2) The benchmark price which mentioned in point (1) is stipulated by:
 - a. Minister for metal and coal
 - b. Governor or regent/mayor, depending on its role, for non-metal minerals and rocks.
- (3) The benchmark price, which mentioned in point (1), is stipulated by market mechanism and/or depending on the price which accepted in international market.
- (4) Details about price fixing of metal minerals and coal are arranged by Minister Regulation.

4. Conditions of Article 97 is revised as following:

Article 97

- (1) Holders of IUP and IUPK from foreign investment, after 5 years of initial production, must divest its share gradually, so that in the tenth year, Indonesian party has 51% (fifty one percent) share for the least.
- (2) The share ownership of Indonesian part, which mentioned in point (1), in each year since the fifth year of production must not be less than:
 - a. 20% (twenty percent) in sixth year
 - b. 30 (thirty percent) in seventh year
 - c. 37% (thirty seven percent) in eight year
 - d. 44% (forty four percent) in ninth year
 - e. 51% (fifty one percent) in tenth year, of total share.
- (3) Share divestment, which mentioned in point (1) is being conducted to Indonesian party which consisted of government, provincial government, regency/city government, state-owned company, region-owned company, or national private company.
- (4) If the government which mentioned in point (3), declines to buy the share, the share is offered to provincial or regency/city government.
- (5) If the provincial or regency/city government, which mentioned to point (4), declines to buy the share, the share is offered to state-owned company and region-owned company.
- (6) If state-owned company and region-owned company, which mentioned in point (5) decline to buy the share, the share is offered to national private company.
- (7) Share offering, which mentioned in point (1) is conducted within 90 calendar days at the latest since the permission of Production Operation of mining phase issued.

5. The condition in point 3 is abolished and point 5 of article 112C is revised as following:

Article 112C

1. The working contract holders, which mentioned in Article 170 of Law No.4.2009 about Mineral and Coal Mining, must conduct a purifying process of domestic mining result.
2. Holders of IUP Production Operation, which mentioned in Article 112 number 4 letter A of Government Regulation, is obligated to conduct mineral processing and purifying domestically.
3. Abolished.
4. Holders of IUP Production Operation, which mentioned in number 2, that conduct mineral and coal mining and have conducted mineral processing, can export its product in certain numbers.
5. Details about purifying and processing, minimum amount of purifying and processing, and export, is regulated in Minister Regulation.

6. After Article 112E, one more article is added, Article 112F, and the article states the following:

Article 112F

1. The party which builds purifying facility domestically must harness metal minerals with certain criteria.
2. Details about metal mineral harnessing with certain criteria which mentioned in number 1 is regulated in Minister Regulation.

Article II

This Government Regulation is in effect since the issuing date so that everyone knows, and ordering the enactment of the Government Regulation in its placement of Republic Indonesia's Gazette.

Stipulated in Jakarta

On 11 January 2017

PRESIDENT OF REPUBLIC OF INDONESIA

JOKO WIDODO