PwC Indonesia
Energy, Utilities & Mining NewsFlash

Export ban on unprocessed minerals effective 12 January 2014 – three-year reprieve for some, but uncertainty remains.

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On 11 January 2014, only hours before a long-debated ban on the export of unprocessed minerals was to come into effect, the Government released a series of regulations, seen by many as a compromise position between a full ban and allowing exports of unprocessed ores to continue unabated. The last minute reprieve for producers of certain types of mineral concentrates is available only until 11 January 2017, and comes with strict requirements to show a commitment to building refining facilities (either individually or in cooperation with others), as well as an obligation to pay large and progressively increasing export duty, ranging from 20% up to 60% of export revenues.

The Government seems to have heeded the warnings from many sources of the potentially significant negative short-term impact on the economy of a full export ban – particularly in relation to copper concentrates. It has been asserted by many for some time that building additional copper refining capacity in Indonesia is not currently economically feasible, and a full ban on unrefined copper would result in scaled-back production by some of the country's largest mineral exporters, with resultant job losses, and reduced dollar-denominated export revenues, at a time when Indonesia's current account and currency are under pressure.

However, the temporary nature of the exception for certain mineral concentrates, and the very heavy export duties imposed, may not achieve the stated outcome hoped for by the Government, which is encouraging investment in refining facilities. Government regulation alone does not improve the economic feasibility of a project, and the heavy export duties may impact both the feasibility of continuing to export over the next three years, as well as the cash flows available for investment in refining capability.

A further concern is that the regulations make clear that they apply both to IUPs (or mining business licences) as well as Contracts of Work (CoWs). CoW holders are likely to question the applicability of newly-promulgated regulations and duties given the *lex specialis* nature of their contracts – something which is bound to result in more uncertainty and investment delays in the Indonesian mining sector.

It is yet to be seen how the industry and the Government will respond to these challenges.

Highlights:

On 11 January 2014, the Government of Indonesia issued Government Regulation No. 1/2014 (GR 1/2014) as the second amendment to Government Regulation No. 23/2010 (GR 23/2010) (as further amended by Government Regulation No. 24/2012 (GR 24/2012)).

GR 1/2014 amended Article 112 and added Article 112C to GR 23/2010 and GR 24/2012.

The key amendment to Article 112 is the removal of Article 112 (4) (c) in GR 23/2010 which required the holder of a mining business licence (*Izin Usaha Pertambangan* or *IUP*) or small scale mining licence (*Izin Pertambangan Rakyat* or *IPR*) to conduct domestic processing and refining of minerals within five years after the enactment of Law No. 4/2009, given that the deadline has now passed.

GR 1/2014 added Article 112C to GR 23/2010 (as amended by GR 24/2012). The key terms in this additional article are as follows:

1. Holders of Contracts of Work as referred to in Article 170 of Law No. 4/2009 must refine their mining products domestically.
2. Holders of operational and production mining business licences (*Izin Usaha Pertambangan Operasi Produksi* or *IUPOP*) as referred to in Article 112 (4) (a) of this regulation must process and refine their mining products domestically.
3. Holders of Contracts of Work referred to in point 1 above that undertake the mining and refining of metallic minerals may export them in specified amounts.
4. Holders of IUPOP referred to in point 2 above that undertake the mining and processing of metallic minerals may export them in specified amounts.
5. Further regulation on processing and refining activities and the minimum limit of processing and refining will be regulated by Ministerial Regulations.

On the same day, 11 January 2014, Minister of Energy and Mineral Resources Regulation No. 1/2014 (MoEMR 1/2014) and Minister of Finance Regulation No. 6/2014 (MoF 6/2014) were issued as the implementing regulations of GR 1/2014. MoEMR 1/2014 provides guidance on the level of processing or refining which must be met prior to export. The key provisions of MoEMR 1/2014 are as follows:

1. There can be an increase in added value for the following classes of minerals: metallic minerals; non-metallic minerals; and rocks.
2. The increase in added value shall be carried out through the following activities:
   - Processing and refining for metallic minerals;
   - Processing for non-metallic minerals; or
   - Processing for rocks.
3. Processing is defined as activities to improve the quality of minerals or rocks without changing their physical and chemical properties, such as metallic mineral concentrates and polished rocks.
4. Refining is defined as activities to improve the quality of metallic minerals through an extraction process and increasing the purity of the mineral to produce a product with different physical and chemical properties from the original, such as metals and alloys.

5. The minimum levels of domestic processing and refining for metallic minerals, non-metallic minerals and rocks prior to export are listed by product in appendices I, II and III of MoEMR 1/2014 respectively (see appendix to this NewsFlash).
6. MoEMR 1/2014 stipulates two types of minerals. Type 1 consists of copper, iron ore, manganese, lead, zinc, ilmenite and titanium. Type 1 minerals can be exported as concentrates at much lower minimum processing levels than previously required under earlier proposed regulations. However, this relaxation is valid for three years from the date of MoEMR 1/2014 (i.e. until 11 January 2017) and is subject to a progressive export duty (as well as commitments to build or cooperate with others building refining facilities). Type 2 minerals consist of nickel, bauxite, tin, gold, silver and chromium. Type 2 minerals must be refined to a much higher minimum level than Type 1 minerals prior to export. There is no export duty for Type 2 minerals.
7. Progressive rates of export duties and minimum processing requirements for Type 1 minerals are defined in MoF 6/2014 as follows:

No.	Mineral	Export duty tariff					
		2014		2015		2016	
		From 12 January to 30 June	From 1 July to 31 December	From 12 January to 30 June	From 1 July to 31 December	From 12 January to 30 June	From 1 July to 31 December
1	Copper concentrate (>=15% Cu)	25%	25%	35%	40%	50%	60%
2	Iron concentrate (>=62% Fe)	20%	20%	30%	40%	50%	60%
	Iron concentrate (>= 51% Fe and Al2O3+SiO2>=10%)	20%	20%	30%	40%	50%	60%
3	Manganese concentrate (>= 49% Mn)	20%	20%	30%	40%	50%	60%
4	Lead concentrate (>=57% Pb)	20%	20%	30%	40%	50%	60%
5	Zinc concentrate (>= 52% Zn)	20%	20%	30%	40%	50%	60%
6	Ilmenite concentrate (>= 58% iron sand and 56% pellet)	20%	20%	30%	40%	50%	60%
	Titanium concentrate (>= 58% iron sand and >= 56% pellet)	20%	20%	30%	40%	50%	60%

8. MoEMR 1/2014 also requires certain administrative processes to be undertaken prior to export including obtaining a recommendation letter from the Director General of Energy and Mineral Resources on behalf of the Minister of Energy and Mineral Resources, which is reviewed on a six monthly basis, including consideration of progress in plans for refining the product. The recommendation is a prerequisite to obtaining an export permit from the Minister of Trade.
9. For the purpose of processing and refining activities, the holder of an IUP may cooperate with another IUPOP holder for processing or refining activities, which may be in the form of:
   - trading of raw materials, ore or concentrate; or
   - collaboration to process and/or refine minerals, which requires approval from the Minister or Governor or Mayor/Regent depending on the area of the IUPOP.

Conclusion:

In summary, the ban on the export of unprocessed minerals has taken effect as of 12 January 2014. In practice this immediately affects Type 2 minerals namely, nickel, bauxite, tin, gold, silver and chromium. For Type 1 minerals - copper, iron ore, manganese, lead, zinc, ilmenite and titanium - the minimum amount of processing prior to export has been set at such a level as to allow export of these minerals as concentrates without the need for further refining for the next three years. A progressive export duty, reaching 60% by July 2016, will be imposed on Type 1 mineral concentrates. It is unclear whether this will be economically viable for exporters of concentrate.

Some debate will continue as to the applicability of these regulations to CoW holders.

Time will tell whether these regulations allow for the continued growth of the minerals industry in Indonesia.

Please contact the authors, or your usual PwC Indonesia contact, should you wish to discuss these matters further.

Appendix:

Minimum processing and refining requirements prior to export

No	Commodity		Processing and/or Refining	Products	Minimum Limit
	Ore	Mineral			
1.	Copper (smelting process)	a. Chalcopyrite b. Borite c. Cuprite d. Covelitte	Processing	Copper Concentrates	≥15% Cu
			Refining	a. Copper Cathodes	Cu Metal ≥ 99% Cu
				b. Anode Slime	a. Metal Au ≥ 99%; b. Metal Ag ≥ 99%; c. Bullion Pb ≥ 90%; d. Metal Pd ≥ 99%; e. Metal Pt ≥ 99%; f. Metal Se ≥ 99%; g. Metal Tc ≥ 99%; h. PbO ≥ 98%; i. PbO2 ≥ 98%; j. SeO2 ≥ 98%; and/or k. Rare metals and rare soil (refer to the requirement for rare metal soil for tin).
				c. Telluride Copper	a. Cu Metal ≥ 99%; b. Metal Te ≥ 9%; c. TeO2 ≥ 98%; d. Te (OH)4 ≥ 98%.
	Copper (leaching process)	a. Chalcopyrite b. Digenit c. Bornite d. Cuprite e. Covelitte	Refining	Metal	a. Metal Cu ≥ 99%; b. Metal Ag ≥ 99%; c. Metal Ag ≥ 99%; d. Metal Pd ≥ 99%; e. Metal Pt ≥ 99%; f. Metal Se ≥ 99%; g. Metal Te ≥ 99%; and/or k. Rare metals and rare soil (refer to the requirement for rare metal soil for tin).

No	Commodity		Processing and/or Refining	Products	Minimum Limit
	Ore	Mineral			
2.	Nickel and/or cobalt (smelting process) a. Saprolite b. Limonite	a. Pentlandite b. Garnerite c. Serpentinite d. Karolite e. Pyrite f. Goethite	Refining	Nickel Matte, Metal Alloys and Nickel Meta	a. Ni Mate ≥ 70% Ni; b. FeNi ≥ 10%Ni; c. Nickel Pig Iron (NPI) ≥ 4% Ni; d. Ni Metal ≥ 93%; e. Fe Metal ≥ 93%; and/or f. NiO ≥ 70% Ni.
	Nickel and/or cobalt (leaching process) Limonite			Metal, Metal Oxide, Metal Sulfide, mix hydroxide/sulfide precipitate, and hydroxide nickel carbonate	a. Metal Ni ≥ 93%; b. Mix Hydroxide precipitate (MHP) ≥ 25% Ni c. Mix sulphide precipitate (MSP) ≥ 45% Ni; d. Hydroxide Nickel Carbonate (HNC) ≥ 40% Ni; e. NiS ≥ 40% Ni; and/or f. Co Metal ≥ 93% g. CoS ≥ 40% Co; h. Metal Cr ≥ 99%; i. Cr2O3 ≥ 40%; and/or j. MnO2 contains Mn ≥15%.
	Nickel and/or cobalt (reduction process) a. Saprolit b. Limonit		Refining	Metal Alloys	a. FeNispon (Sponge FeNi) ≥ 4% Ni; b. Luppen FeNi ≥ 4% Ni; and/or c. Nugget FeNi ≥ 4% Ni.
3.	Bauxite	a. Gibbsite b. Diaspora c. Boehmite	Refining	Metal Oxide / Hydroxide and metal	a. Smelter grade alumina ≥ 98% Al2O3 b. Chemical grade alumina ≥ 99% Al2O3 ≥ 99% Al(OH)3 c. Metal Al ≥ 99%
4.	Iron ore	a. Hematite b. Magnetite c. Pyrite	Processing	Iron concentrate	≥ 62% Fe
		Goethite/ laterite	Processing	Iron concentrate laterite	≥ 51% Fe Rate (Al2O3 + SiO2) ≥ 10%
			Refining	Sponge, metal and metal alloys	Sponge iron ≥ 75% Fe Pig iron ≥ 90% Fe; and/or Metal alloys ≥ 88% Fe

No	Commodity		Processing and/or Refining	Products	Minimum Limit
	Ore	Mineral			
5.	Iron sand	a. Titanomag-netit b. Ilmenite	Processing	Iron sand concen-trate Pellet	≥ 58% Fe; and/or ≥ 56% Fe.
			Refining	Metal	a. Sponge iron ≥ 75% Fe; and/or b. Pig iron ≥ 90% Fe;
				Slag	a. TiO2 ≥ 90%; b. TiCl4 ≥ 98%; c. Metal Alloys ≥ 65% Ti d. V2O5 ≥ 90% e. Metal Alloys ≥ 65% V; and/or f. Rare metals and rare soil (refer to the requirement for rare metal soil for tin).
6.	Tin	Cassiterite	Processing	By product concentrate zircon, ilmenite and rutile	Refer to the requirements for zircon, ilmenite, rutile in zircon non metal mineral.
				Concentrate monazite and xenotime	a. Metal oxide rare soil (REO) ≥ 99%; b. Metal hydroxide rare soil (REOH) ≥ 99%; c. Metal rare soil (REO) ≥ 99%;
			Refining	Metal	Metal Sn ≥ 99.90%
				Slag	a. W ≥ 90% b. Ta2O5 ≥ 90% c. Nb2O5 ≥ 90% d. Sb2O5 ≥ 90%
7.	Manganese	a. Pirolusit b. Psilomelan c. Braunit d. Manganit	Processing	Manganese Concentrate	≥ 49% Mn
			Refining	Metal, Metal alloys and Manganese Chemical	a. Ferro Manganese (FeMn), Mn ≥ 60% b. Silica Manganese (SiMn), Mn ≥ 60% c. Manganese Monoxide (MnO), Mn ≥ 47.5% MnO2 ≤ 4%; d. Manganese Sulfide (MnSO4) ≥ 90%; e. Manganese Chloride (MnCl2) ≥ 90% f. Manganese Carbonate Synthetic (MnCO2) ≥ 90%; g. Kalium Per,amhanat (KMnO4) ≥ 90%; h. Manganese Oxide (Mn3O4) ≥ 90%; i. Manganese Dioxide Synthetic (MnO2) ≥ 98%; and/or j. Manganese Sponge (Direct Reduced k. Manganese) MN ≥ 49% MnO2≤4%.

No	Commodity		Processing and/or Refining	Products	Minimum Limit
	Ore	Mineral			
8.	Lead and Zinc	a. Galena b. Spalerite c. Smithsonite d. Hemimor-phite (calamide)	Processing	Zinc Concentrate	≥ 52% Zn
				Lead Concentrate	≥ 57% Pb
			Refining	Metal, Metal oxide/hydroxide	a. Bullion ≥ 90% Pb; b. PbO ≥ 98%; c. Pb(OH)2 ≥ 98%; d. PbO2 ≥ 98%; e. Bullion ≥ 90% Zn; f. ZnO ≥ 98%; g. ZnO2 ≥ 98%; h. Zn (OH)2 ≥ 98%; i. Metal Au ≥ 99%; j. Metal Ag ≥ 99%.
9.	Gold	a. Native b. Associated minerals	Refining	Precious metal	a. Metal Au ≥ 99% b. Metal Au ≥ 99%
10.	Silver	a. Native b. Associated minerals	Refining	Precious metal	a. Metal Ag ≥ 99% b. Metal Ag ≥ 99%
11.	Chromium	Chromite	Refining	Metal and alloys	a. Metal Cr ≥ 99% b. Metal Alloys ≥ 60% Cr

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