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**FOURTH DRAFT OF IMPLEMENTING
REGULATION RE MINERAL AND COAL MINING
ENTERPRISE ACTIVITIES FOR INDONESIA'S 2008
– 2009 MINING LAW**

SUMMARY AND ANALYSIS

OF

KEY ARTICLES

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INTRODUCTORY NOTES

This Summary & Analysis is intended as an overview only of the **fourth** draft of the Implementing Regulation re Mineral and Coal Mining Enterprise Activities, in respect of the 2008–2009 Indonesian Minerals and Coal Mining Law (“**New Mining Law**”), which were circulated, in November 2009, by the Indonesian Government for consideration and discussion by interested parties (“**Fourth Draft Implementing Regulation for MCME Activities**”).

This Summary & Analysis represents an updating and reissuing of our earlier Summary & Analysis, dated 1 October 2009, of the Third Draft of the Implementing Regulation for MCME Activities.

This Summary & Analysis reflects our current understanding only of the **Fourth** Draft Implementing Regulation for MCME Activities and is subject to change as that understanding develops and evolves.

This Summary & Analysis should be read in conjunction with our earlier (i) summary and analysis, dated 9 January 2009, of the New Mining Law itself, (ii) summary and analysis, dated 30 November 2009, of the final form of the Implementing Regulation in respect of Mining Services, and (iii) summary and analysis, dated 7 January 2010, of the second draft of three additional Implementing Regulations in respect of Mining Area Determination, Direction and Supervision of Mining Business and Reclamation & Post Mining Activities.

The final version of the Implementing Regulation for MCME Activities will, almost inevitably, not be identical to the **Fourth** Draft Implementing Regulation for MCME Activities because the whole purpose of circulating the **Fourth** Draft Implementing Regulation for MCME Activities is for the Indonesian Government to receive input on the same from interested parties, which input the Indonesian Government can then take into account in preparing the final version of the Implementing Regulation for MCME Activities which is likely to be published in the first quarter of 2010. Nevertheless, the **Fourth** Draft Implementing Regulation for MCME Activities provides the best available indication of what the Indonesian Government’s current thinking is on a number of important issues left unresolved by the New Mining Law itself.

There may well be subsequent drafts of the Implementing Regulation for MCME Activities circulated during the course of early 2010.

The Implementing Regulation for MCME Activities, when finalized, will be a critical part of the new regulatory regime for mining in Indonesia to the extent that the Implementing Regulation for MCME Activities will provide much of the detail lacking in the New Mining Law itself.

The use of implementing regulations to augment a law is a very common practice in Indonesia. Laws are passed by the Indonesian Parliament with the intention they will set out the broad parameters only of a new regulatory regime while the details of the new regulatory regime will be provided in one or more implementing regulations and other instruments issued by the Ministry and or officials of the Ministry with primary responsibility for overseeing the application of the new regulatory regime. The use of the Implementing Regulation for MCME Activities to expand on the provisions of the New Mining Law is, therefore, entirely consistent with long established Indonesian legislative practice and procedure.

Many of the points made in this Summary & Analysis are necessarily speculative in nature and subject to further clarification and confirmation. Accordingly, it would be prudent not to rely solely on this Summary & Analysis but, rather, to seek specific legal advice with respect to any issue concerning the **Fourth** Draft Implementing Regulation for MCME Activities before making a material business decision regarding the same. **CHRISTIAN TEO & Associates** would be pleased to assist you in this regard. Our contact details are set out below.

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EXECUTIVE SUMMARY

1. The **Fourth** Draft Implementing Regulation for MCME Activities has clarified a number of important issues regarding the New Mining Law.
2. The administrative, technical and financial requirements for participants in tenders for Exploration IUPs/IUPKs have now been made clearer.
3. A Business Entity, Cooperative or individual, having the intention to carry out metal or coal mining, may only hold 1 WIUP, while a publicly listed company may hold more than 1 WIUP for 1 commodity. A Business Entity may only hold 1 WIUPK.
4. The holder of an Exploration IUP/IUPK is guaranteed the right to obtain a Production Operation IUP/IUPK without going through a tender process.
5. An Exploration IUP/IUPK holder has a first priority right to exploit minerals other than the type specified in its IUP/IUPK and may submit a new application to the Relevant Government Authority for a separate Exploration IUP in respect of the same.
6. For the purpose of meeting domestic needs for minerals and coal only, the Government has the right to determine the domestic selling price of the minerals and coal as well as control other aspects of the production, supply and sale of minerals and coal.
7. It has become somewhat clearer what will be sufficient to satisfy the local “processing and refining” requirement in certain instances.
8. In the case of coal only, crushing, washing and blending (among other things) will constitute “processing and refining”.
9. Any sales of minerals and coal production by a IUP/IUPK holder to its affiliates must obtain prior approval from MoEMR.
10. MoEMR will set a benchmark price for minerals and coal having regard to international market conditions.
11. The benchmark price for coal only will be set on the basis of FOB delivery.
12. IUP/IUPK holders will be prohibited from selling minerals and coal at a price below the specified benchmark price.
13. If the actual selling price of minerals and coal is less than the specified benchmark price (i) the selling price will be subject to adjustment in order to bring the same into line with the benchmark price, (ii) the shortfall in selling price must be paid to the Government and (iii) the seller will be liable to a fine.
14. Not later than 90 days after the 5th anniversary of production, a 100% foreign owned IUP/IUPK holder must divest shares (“**Divestiture Shares**”) to local parties such that local parties hold a minimum of 20% of the issued capital of the IUP/IUPK holder.

15. The Divestiture Shares must be offered to the Government (BUMN or BUMD). The Government must accept the offer within 60 days or, otherwise, the Divestiture Shares are then to be offered to national private business entities which must accept the offer within 30 days.
16. The purchase price for the Divestiture Shares will be determined based on the amount of investment that has been made/spent by the Production Operation IUP/IUPK holder from the exploration stage until the 5th year of production operation less depreciation in accordance with the prevailing laws and regulations.
17. The local Indonesian party, who wishes to acquire the Divestiture Shares, must pay the purchase price for the Divestiture Shares not later than 90 days after the local Indonesian party expresses its intention to acquire the Divestiture Shares.
18. The local Indonesian Party, who acquires the Divestiture Shares, is to be protected against subsequent dilution.
19. If, at the expiry of a Production Operation IUP/IUPK, the subject WIUP/WIUPK still contains material recoverable reserves, the WIUP/WIUPK will be re-tendered, with the previous IUP/IUPK holder having the right to “match” the highest tender price and thereby, once again, secure control of the WIUP/WIUPK.
20. Existing KPs are to be converted into IUPs not later than the first anniversary of the Implementing Regulations.
21. Existing Contracts of Work/PKP2Bs, that are in the production operation stage, are to be extendable twice, each for up to a further 10 years, by conversion to a Production Operation IUP, without going through tender process.
22. The holders of IUPs, IUPKs, IPRs, Contracts of Works and PKP2Bs, in the production operation stage and having processing facilities are allowed to accept mining materials from other IUP, IUPK, IPR, Contract of Works and PKP2B holders, for processing, up to the level of installed production capacity, pursuant to a Memorandum of Understanding.
23. A party that already has more than 1 KP and/or in respect of more than 1 commodity is allowed to keep the multiple KPs until the expiry of the KPs provided that:
 - (a) once the KPs have been expired, the same must be converted into IUPs; and
 - (b) if the areas covered by the KPs are situated within the same Regency/City, those KPs may be combined to become 1 IUP regardless to the size of the area.
24. The **Fourth** Draft Implementing Regulation for MCME Activities says nothing new about, to what extent, the Government will push for the financial and other terms of Contracts of Work and PKP2Bs to be brought into line with the New Mining Law. Notwithstanding this, readers should be aware that, at a meeting with MoEMR officials on 15 June, 2009, the holders of all Contracts of Work and PKP2Bs were presented with a list of proposed amendments to Contracts of Work and PKP2Bs which MoEMR wants holders to accept. An

unofficial English translation of these proposed amendments is attached as an appendix to this Summary & Analysis.

25. Notwithstanding 1 to 24 above, there remain many areas of uncertainty in the New Mining Law which have not been fully resolved by the **Fourth** Draft Implementing Regulation for MCME Activities. Also, the **Fourth** Draft Implementing Regulation for MCME Activities gives rise to its own uncertainties. Accordingly, further clarification is still required in respect of a number of issues which are likely to be very important to foreign investors and their professional advisers. These outstanding and unresolved issues include the following:
- (a) **Local Processing & Refining:** In the case of metal minerals that are capable of being processed and refined into successive and more highly value added products, what is the level of processing and refining which the IUP/IUPK holder must carry out in Indonesia? The reference in Article 54(2) of the **Fourth** Draft Implementing Regulation for MCME Activities to “processing” and “refining” leaves this entirely unclear.
 - (b) **Divestiture:** What about IUP/IUPK holders that are more than 80% but less than 100% foreign owned? Will the divestiture requirement apply to these IUP/IUPK holders on a proportionate basis?
 - (c) Must a local Indonesian party, who acquires the Divestiture Shares, be able to pay, in full, the purchase price for the Divestiture Shares within the determined period (**i.e.**, 90 days) or are the parties free to negotiate the terms of payment?
 - (d) How will the anti-dilution protection work?
 - (e) **Benchmark Prices:** Do the MoEMR determined Benchmark Prices for minerals and coal only apply to export sales or do they also apply to domestic sales?
 - (f) What happens to existing long term or fixed period supply arrangements which do not comply with the Benchmark Price requirements?
 - (g) **Conversion of KPs:** How will the conversion of KPs to IUPs be carried out? The mechanics of the conversion process remain unspecified.
26. It is hoped and expected that the remaining areas of uncertainty concerning the New Mining Law and the **Fourth** Draft Implementing Regulation for MCME Activities (some only of which are highlighted in 25 above) will be resolved in the final version of the Implementing Regulation for MCME Activities.

SUMMARY AND ANALYSIS

1. TYPES OF MINING MATERIALS	
Legal Basis	Remarks
Articles 2 - 3	<p>There are 4 types of mining materials, being:</p> <p>(i) <u>radioactive minerals/materials</u> which comprise radium, thorium, uranium, monasite and other radioactive mining materials;</p> <p>(ii) <u>metal minerals/materials</u> which comprise lithium, beryllium, magnesium, potassium, calcium, gold, copper, silver, lead, zinc, tin, nickel, manganese, platinum, bismuth, molybdenum, bauxite, mercury, wolfram, titanium, barite, vanadium, chromite, antimony, cobalt, tantalum, cadmium, gallium, indium, yttrium, magnetite, iron, galena, alumina, niobium, zircon, ailment, monazite, chrome, erbium, ytterbium, dysprosium, thorium, cesium, lanthanum, niobium, neodymium, hafnium, scandium, aluminum, palladium, rhodium, osmium, ruthenium, iridium, selenium, telluride, strontium, germanium, beryllium and zenotine.</p> <p>(iii) <u>non-metal minerals/materials</u> which comprise diamonds, corundum, graphite, arsenic, quartz, fluorspar, kryolite, iodine, bromine, chloric, sulfur, phosphate, halite, asbestos, halite, talk, mica, magnesite, yarosite, ocher, fluorite, ball clay, fire clay, zeolite, kaolin, feldspar, bentonite, gypsum, dolomite, calcite, onyz, flint/chert, pirofilite, quartzite, zircon, wollastonite, limestone, dolomite, yarosite, alum, quartz, pearlite, rock salt, clay and limestone for cement;</p> <p>(iv) <u>rocks</u> which comprise pumice, trass, toseki, obsidian, marble, pearlite, diatomae land, fullers earth, slate, granite and granodiorite, andesite, gabro and peridotite, toadstone, trakhite, leusite, clay, opal, chalk stone and sand (so long as it does not contain iron), minerals with non-iron in a significant amount from an economic perspective, chalsedon, chert, crystal, quartz, jasper, krisopase, wood, wood that has been gritted, gamete, jade, agate, diorite, topaz, huge quarry mountain rock, pebble/gravel excavated from mountains, pebbles/gravel from rivers, river rock, river pebble/gravel without sand, pile sand, pebbles with natural sand, selected pile materials (land), land pile, laterite and onik; and</p> <p>(v) <u>coal</u> which comprises solid bitumen, asphalt, coal and peat.</p>

2. MINING AREA AND MINING BUSINESS LICENSE

Legal Basis	Remarks
Articles 4-23	<p>1. <u>Procedures for Obtaining Mining Business License Areas (<i>Wilayah Ijin Usaha Pertambangan Khusus</i> or “WIUPs”) and Mining Business Licenses (<i>Ijin Usaha Pertambangan</i> or “IUPs”)</u></p> <p>A. WIUP means a Mining Business Area (<i>Wilayah Usaha Pertambangan</i> or WUP) in respect of which an IUP may be granted.</p> <p>B. IUPs are divided into (i) Exploration IUPs and (ii) Production Operation IUPs.</p> <p>C. A IUP is granted for (i) metal, (ii) non-metal mineral, (iii) rock and (iv) coal mining activities by the Minister of Energy and Mineral Resources (“MoEMR”), the Governor or the Regent/Mayor (in accordance with their respective authority) (“Relevant Government Authority”) to (i) a Business Entity, (ii) a Cooperative or (iii) an individual.</p> <p>D. A WIUP for metal mineral and coal mining business activities is obtained by way of tender, with the tender winner being directly issued with an Exploration IUP.</p> <p>E. A WIUP for non-metal mineral and rock mining business activities is obtained by way of application.</p> <p>F. A Business Entity, Cooperative or individual having the intention to carry out metal and coal mining may only hold 1 WIUP while a publicly listed company may hold more than 1 WIUP for 1 commodity.</p> <p>G. A Business Entity, Cooperative or individual may hold more than 1 IUP in 1 Regency/City for non-metal minerals and rocks.</p> <p>H. The Exploration IUP will be granted by:</p> <ul style="list-style-type: none"> (i) the Regent/Mayor of the relevant Regency or City if the WIUP falls within the boundaries of 1 Regency or City; (ii) the Governor of the relevant Province if the WIUP falls partly within the boundaries of 1 Regency and partly within the boundaries of another Regency (as long as both Regencies are in the same Province); or (iii) MoEMR if the WIUP falls partly within the boundaries of 1 Province and partly within the boundaries of another Province. <p>I. The Production Operation IUP will be granted by:</p> <ul style="list-style-type: none"> (i) the Regent/Mayor of the relevant Regency or City if (i) the mining area, (ii) the area for processing and refining or (iii) the area or the relevant port falls within 1 Regency or City or is offshore and within 4 miles of the shoreline; (ii) the Governor of the relevant Province if (i) the mining area, (ii) the area for processing and refining, (iii) the area of the relevant port or (iv) the area to be impacted by the proposed mining activities, as indicated in the Environmental Study Report, covers an area that falls partly within the

Legal Basis	Remarks
	<p>boundaries of 1 Regency and partly within the boundaries of another Regency (as long as both Regencies are in the same Province) or is offshore and between 4 and 12 miles from the shoreline. The Governor will grant the IUP on the basis of a recommendation from the relevant Regents;</p> <p>(iii) MoEMR if (i) the mining area, (ii) the area for processing and refining, (iii) the area of the relevant port or (iv) the area to be impacted by the proposed mining activities, as indicated in the Environmental Study Report, covers an area that falls partly within the boundaries of 1 Province and partly within the boundaries of another Province or is offshore and greater than 12 miles from the shoreline. MoEMR will grant the IUP on the basis of a recommendation from the relevant Governors.</p> <p>J. In the event the port to be utilized by the IU/IUPK Holder, as mentioned in I (ii) and (iii) above is a public port, then the Production Operation IUP will be granted by the Relevant Government Authority.</p> <p>K. A Production Operation IUP solely for Processing and Refining Activity or a Production Operation IUP solely for Transportation and Sales Activity will be granted by:</p> <p>(i) MoEMR if the activities of processing and refining are carried out in different Provinces whilst the transportation and sales activities are carried out between provinces (cross province); or</p> <p>(ii) the Governor if the activities of processing and refining are carried out in different Regencies/Cities whilst the transportation and sales activities are carried out between Regencies/Cities (cross regency).</p> <p>1.1 Tender Procedures & Requirements for WIUPs in respect of metal mineral and coal mining business activities</p> <p>(a) The Relevant Government Authority will (i) announce a WIUP tender to Business Entities, Cooperatives and individuals not later than <u>3 months prior</u> to the tender date and (ii) form a Tender Committee which will act as implementer of and handle the carrying out of the tender procedures.</p> <p>(b) For the purpose of the WIUP tender:</p> <p>(i) MoEMR must, first, obtain a recommendation from the Governor and Regent/Mayor; and</p> <p>(ii) the Governor must, first, obtain a recommendation from the Regent/Mayor.</p> <p>(c) Each tender participant must fulfill the following requirements:</p> <p>(i) <u>Administrative requirements:</u></p> <p>a. fill in and lodge the official tender forms; and</p> <p>b. provide copies of its (i) company profile, (ii) Deed of Establishment which has been legalized by the relevant authority (<u>i.e.</u>, Minister of Law and Human Rights (“MoLHR”)), (iii) Certificate of Domicile (“Corporate Documents”), (iv) statement</p>

Legal Basis	Remarks
	<p>on the composition of its Board of Directors and of its Shareholders, (v) Tax Payer Registration Number (<i>Nomor Pokok Wajib Pajak</i> or “NPWP”) and (vi) Capital Investment Coordinating Board (<i>Badan Koordinasi Penanaman Modal</i> or “BKPM”) approval (for a Foreign Investment Company or “PMA Company”).</p> <p>(ii) <u>Technical requirements:</u></p> <p>a. have at least 3 years of experience in the mining sector provided that, if the tender participant is a newly established company, then it must provide evidence of support from its parent company or affiliates and have at least 1 technical expert in the field of mining and/or geology; and</p> <p>b. prepare and submit a Work Plan and Budget for the 1st year’s activities.</p> <p>(iii) <u>Financial requirements:</u></p> <p>a. provide its audited financial statements for the last 3 years;</p> <p>b. procure a tender commitment guarantee in the form of cash and in the amount of 10% of the value of the Data Information Compensation (<i>Kompensasi Informasi Data</i> or “KID”) or Adjusted Replacement Cost (“Deposit”); and</p> <p>c. provide a Statement of Willingness to pay the tender price not later than 5 business days after the announcement of the tender winner.</p> <p>(The refund of the Deposit for a non-winning participant will be made not later than 5 business days after the announcement of the tender winner.)</p> <p>(d) The Relevant Government Authority may allow a tender participant, that has passed the prequalification stage, to carry out field inspection activities is the relevant WIUP.</p> <p>(e) Any expenses incurred in carrying out field inspection activities, as per 1.1(d) above, will be borne by the WIUP tender participant.</p> <p>(f) The tender process will take approximately 35 business days and within such period the tender winner shall be determined by the Relevant Government Authority based on consideration by and input from the Tender Committee.</p> <p>(g) Not later than 5 days after the announcement of the tender winner, the tender winner must provide:</p> <p>(i) an application letter stating the particular mineral in respect of which the WIUP is sought;</p> <p>(ii) its Certificate of Domicile;</p> <p>(iii) its Deed of Establishment, which has been legalized by the relevant authority, stating that one of its objectives and purposes is to engage in mining business sector activities;</p>

Legal Basis	Remarks
	<ul style="list-style-type: none"> (iv) its NPWP; (v) evidence of Deposit payment; (vi) evidence of KID payment; (vii) details of management and shareholder composition (for business entities only); (viii) list of mining experts or geologists with a minimum 3 years of experience; (ix) last year's financial statements audited by a public accountant; (x) evidence of fixed fee contribution; (xi) evidence of it's working experience in the field of mining; and (xii) a capability statement re compliance with environmental laws and regulations, <p>to the Relevant Government Authority,</p> <ul style="list-style-type: none"> (h) Once the tender winner fulfills the requirements in 1.1(g) above, the Relevant Government Authority will issue an Exploration IUP to the tender winner. (i) In the event the tender winner fails to fulfill the requirements in 1.1 (g) above within the required time period, the tender winner will be considered to have withdrawn its application to obtain the IUP and the Deposit will not be refunded by the Government. (j) In the situation contemplated by 1.1 (i) above, the position of the tender winner will be granted to the tender participant with the next highest ranking provided that the amount of KID compensation offered by that participant is the same as the amount of KID compensation offered by the original tender winner. <p>1.2 Application Procedures & Requirements for WIUPs in respect of non-metal mineral and rock mining business activities</p> <ul style="list-style-type: none"> (a) WIUPs, for non-metal mineral and rock mining business activities, will be granted upon submission of an application letter to the Relevant Government Authority. (b) The Relevant Government Authority must approve or reject the application not later than 7 business days from the date of the application receipt. In the event the Relevant Government Authority approves the application, a WIUP Map will be provided to the applicant. (c) Not later than 5 days from the date the WIUP Map is received, the applicant must provide/submit (i) an application letter stating the particular mineral in respect of which the WIUP is sought, (ii) its Certificate of Domicile, (iii) its Deed of Establishment which has been legalized by the relevant authority stating that one of its objectives and purposes is to engage in mining business

Legal Basis	Remarks
	<p>sector activities, (iv) evidence of Deposit payment, (iv) evidence of payment of the WIUP Map issuance fee, (v) details of management and shareholder composition (for business entities only), (vi) list of mining experts or geologists with minimum 3 years of experience, (vii) last year's financial statements audited by a public accountant, (viii) evidence of fixed fee contribution, (ix) evidence of working experience in the field of mining, (x) WIUP Map complete with the geographical coordinates in accordance with the national geographical information system and (xi) a capability statement re compliance with environmental laws and regulations, to the Relevant Government Authority; and</p> <p>(d) once the applicant fulfills the requirements in 1.2(c) above and obtains a recommendation from the Relevant Government Authority, the Relevant Government Authority will issue an Exploration IUP to the applicant.</p> <p>1.3 The Production Operation IUP will be granted to an Exploration IUP holder on the basis of an application and after fulfilling the following administrative, technical and financial requirements:</p> <p>(a) Administrative requirements:</p> <p>Submit to the Relevant Government Authority</p> <ol style="list-style-type: none"> a. an application letter stating the particular mineral in respect of which the Production Operation IUP is sought; b. its Deed of Establishment, which has been legalized by MoLHR, stating that one of its objectives and purposes is to engage in mining business sector activities; c. its NPWP; d. its SPT; and e. its Trading Business License (for non-PMA Company). <p>(b) Technical requirements:</p> <ol style="list-style-type: none"> a. area map and its boundaries must be in accordance with the provisions of the national geographical information system; b. complete report on exploration ("Exploration Data"); c. Feasibility Study Report; d. reclamation and post-mining report; e. construction of supporting facilities for production operation has been 70% completed; and f. list of mining experts and/or geologists with minimum 3 years of experience. <p>(c) Environmental requirements: Environmental Impact Analysis (AMDAL)/Environmental Management Efforts-Environmental Monitoring Efforts (UKL-UPL) ("Environmental Study Report") and report on reclamation plan.</p> <p>(d) Financial requirements:</p> <ol style="list-style-type: none"> a. last year's financial statements audited by a public accountant; and b. receipt for payment of fixed contribution.

Legal Basis	Remarks
	<p>1.4 A business entity carrying out trading activities in respect of metal minerals and coal is obliged to obtain a special Production Operation IUP for Transportation and Sales from MoEMR.</p> <p>1.5 A business entity carrying out processing and refining activities in respect of minerals and coal is obliged to obtain a special Production Operation IUP for Processing and Refining from the Relevant Government Authority.</p> <p>1.6 An Exploration IUP/IUPK holder may submit an application for an area of additional land area outside its WIUP/WIUPK to the Relevant Government Authority, for the purpose of supporting its mining activities.</p> <p>2. <u>Procedures for Obtaining Special Mining Business License Areas (<i>Wilayah Ijin Usaha Pertambangan Khusus</i> or “WIUPKs”) and Special Mining Business Licenses (<i>Ijin Usaha Pertambangan Khusus</i> or “IUPKs”)</u></p> <p>A. WIUPKs are parts of a State Reserve Area (<i>Wilayah Pencadangan Negara</i> or WPN) which may be commercially exploited for mining activities using an IUPK.</p> <p>IUPKs are divided into (i) Exploration IUPKs and (ii) Production Operation IUPKs.</p> <p>B. A WIUPK, in respect of metal mineral and coal mining activities, can only be granted by MoEMR to (i) a BUMN or (ii) a regional government-owned enterprise (“BUMD”), in the first instance, by way of priority rights or (iii) subsequently, to a privately owned enterprise (“BUMS”) by way of tender.</p> <p>C. A Business Entity, Cooperative or individual may only hold 1 WIUPK while a Publicly Listed Company may hold more than 1 WIUPK for 1 commodity.</p> <p>2.1 Tender Procedures & Requirements for WIUPKs</p> <p>(a) MoEMR will (i) announce WIUPK tenders to BUMS not later than 3 months prior to the tender date and (ii) form a Tender Committee which will act as implementer of and handle the carrying out of the tender procedures.</p> <p>(b) BUMS tender participants must fulfill the administrative, technical and financial requirements set out in 1.1(c) above.</p> <p>(c) The tender process will take approximately 35 business days and, within such period, the tender winner shall be determined by MoEMR based on due consideration by and input from the Tender Committee.</p> <p>(d) Not later than 5 days after the announcement of the tender winner, the tender winner must provide to MoEMR (i) an application letter stating the particular mineral in respect of which the WIUP is sought, (ii) its Certificate of Domicile, (iii) its Deed of Establishment, legalized by the relevant authority, stating that one of its objectives and purposes is to engage in mining business sector activities, (iv) its NPWP, (v) evidence of Deposit payment, (iv) evidence of KID payment, (v) details of management and shareholder composition (for business entities only), (vi) list of mining experts or geologists with minimum 3 years of experience, (vii) last year’s financial statements audited by a public accountant, (viii) evidence of fixed fee contribution, (ix) evidence of working experience in the field of mining and</p>

Legal Basis	Remarks
	<p>(ix) a capability statement re compliance with the environmental laws and regulations.</p> <p>(e) Once the tender winner fulfills the requirements set out in 2.1(d) above and obtains a recommendation from the Relevant Government Authority, MoEMR will issue an Exploration IUPK to the tender winner.</p> <p>(f) In the event the tender winner fails to fulfill the requirements in 2.1(d) above within the required time, the tender winner will be considered to have withdrawn its application to obtain the IUP and the Deposit will not be refunded by the Government.</p> <p>(g) In the situation contemplated by 2.1(g) above, the position of the tender winner will be granted to the tender participant with the next highest ranking provided that the amount of KID compensation offered by that participant is the same as the amount of KID compensation offered by the original tender winner.</p> <p>2.2 The Production Operation IUPK will be granted by MoMER to an Exploration IUPK holder in the following manner:</p> <p>(a) BUMN and BUMD, on the basis of priority rights, and</p> <p>(b) BUMS, on the basis of application,</p> <p>each having fulfilled the same administrative, technical and financial requirements as set out in 1.3 above.</p> <p>(c) A Production Operation IUPK may be directly granted to BUMN/BUMD/BUMS if there is already available sufficient WIUPK data regarding exploration, a Feasibility Study Report and an Environmental Study Report.</p> <p>3. <u>The rights of a IUP/IUPK holder are as follows:</u></p> <p>A. In the event the Exploration IUP/IUPK holder determines that there are minerals present in its IUP/IUPK area, other than the minerals specified in its Exploration IUP/IUPK, the Exploration IUP/IUPK holder has a first priority right to exploit these other minerals by submitting a new application to the Relevant Government Authority and obtaining a separate Exploration IUP for the same. An Exploration IUP/IUPK holder wishing to exercise its first priority right must establish a new business entity to hold the separate Exploration IUP/IUPK.</p> <p>B. The Exploration IUP/IUPK holder is guaranteed the right to obtain an upgraded Production Operation IUP/IUPK, without a tender, by way of application together with the supporting documents as provided for in 1.3 above.</p> <p>C. The Production Operation IUP/IUPK holder may extend its Production Operation IUP by submitting an extension application to the Relevant Government Authority, not earlier than 2 years after the issuance of the Production Operation IUP and not later than 6 months prior to the expiry date of its Production Operation IUP/IUPK, together with the required supporting documents.</p>

Legal Basis	Remarks
	<p>D. The WIUP/WIUPK of a Production Operation IUP/IUPK, that has already been extended twice, must be returned to the Relevant Government Authority. If the Production Operation IUP/IUPK holder wishes to, thereafter, continue its operations in the subject WIUP/WIUPK, then such IUP/IUPK holder must participate in a tender process, subject to it having priority rights.</p> <p>E. The IUP/IUPK holder may, at any time, partly or entirely relinquish its WIUP/WIUPK, by way of an application, to the Relevant Government Authority, accompanied by the required supporting documents.</p> <p>4. <u>The obligations of an IUP/IUPK holder are as follows:</u></p> <p>A. The Exploration IUP/IUPK holder must relinquish its WIUP/WIUPK in accordance with the following schedule:</p> <p>(a) For metal mineral IUPs/IUPKs:</p> <p>(i) in the 4th year, the area to be retained can only be a maximum of 50,000 Ha; and</p> <p>(ii) in the 8th year or at the end of the exploration stage, the area to be retained can only be a maximum of 25,000 Ha.</p> <p>(b) For coal IUPs/IUPKs:</p> <p>(i) in the 4th year, the area to be retained can only be a maximum of 25,000 Ha; and</p> <p>(ii) in the 7th year or at the end of the exploration stage, the area to be retained can only be a maximum of 15,000 Ha.</p> <p>(c) For non-metal mineral IUPs:</p> <p>(i) in the 2nd year, the area to be retained can only be a maximum of 12,500 Ha; and</p> <p>(ii) in the 3rd year or at the end of the exploration stage, the area to be retained can only be a maximum of 5,000 Ha.</p> <p>(d) For rock IUPs:</p> <p>(i) in the 2nd year, the area to be retained can only be a maximum of 2,500 Ha; and</p> <p>(ii) in the 8th year or at end of the exploration stage, the area to be retained can only be a maximum area of 1,000 Ha.</p> <p>B. If the retained area has already reached the applicable limit specified in 4A above, the Exploration IUP/IUPK holder is not obliged to further reduce the area.</p> <p>5. <u>Land Utilization for Production Operation Activities</u></p> <p>A. The rights of a Production Operation IUP/IUPK holder do not include any rights over the subject land.</p>

Legal Basis	Remarks
	<p>B. In the event that the Exploration IUP/IUPK holder wishes to upgrade its IUP/IUPK to become a Production Operation IUP/IUPK, it must compensate the owner of the land pursuant to an amicable settlement on compensation.</p> <p>C. In the event that it is not possible for the upgrading Exploration IUP/IUPK holder and the land owner to reach an amicable settlement on compensation, the Relevant Government Authority will endeavor to facilitate an amicable settlement between the parties.</p> <p>D. If, pursuant to 5C above, an amicable settlement cannot be reached, then the District Court, having jurisdiction over the WIUP/WIUPK, has the authority to finally settle the land compensation issue, with all expenses relating thereto being borne by the IUP/IUPK holder.</p> <p>E. If the IUP/IUPK holder has reached a settlement on compensation with the land owner, then the area covered by the WIUP/WIUPK is to be declared a “mining area” by the Relevant Government Authority with the result that no land title in respect of this area may be granted to another party.</p>

3. REPORTING OBLIGATIONS

Legal Basis	Remarks
<p>Articles 26 - 30 Article 78</p>	<p>(a) The IUP/IUPK holder must submit (i) all exploration and/or production operation data and (ii) periodic reports covering, among other things, the Work Plan, mining activities undertaken and progress within the specified period, to the Relevant Government Authority.</p> <p>(b) The periodic reports that must be submitted by the Exploration IUP/IUPK holder are as follows:</p> <ul style="list-style-type: none"> (i) Quarterly Report; (ii) Annual Report; (iii) End of General Survey Activities Report; (iv) Work Plan And Budget for Exploration Activities Report; (v) End of Exploration Activities Stage Report; (vi) Work Plan and Budget for Feasibility Study Activities Stage Report; (vii) End of Feasibility Study Activities Stage Report; (viii) Work Plan and Budget For Upgrading to Construction Activities Stage Report; (ix) Annual Work Plan and Budget Report; (x) Area Reduction Report; (xi) Report on Permit Termination; and (xii) Financial Reports audited by a public accountant. <p>(c) The periodic reports that must be submitted by the Production Operation IUP/IUPK holder are as follows:</p>

Legal Basis	Remarks
	<ul style="list-style-type: none"> (i) Bi-weekly statistics of production and sales (mineral); (ii) Monthly statistics of production and sales (coal, rocks and non-metal); (iii) Quarterly Report; (iv) Annual Report; (v) End of Construction Activities Stage Report; (vi) Work Plan and Budget for Mining Activities Stage Report; (vii) Annual Work Plan for Engineering and Environmental Report; (viii) Annual Work Plan and Budget Report; (ix) Area Reduction Report; (x) Report on Permit Termination; (xi) Financial Reports audited by a public accountant; (xii) Report on Work Plan for Extension of IUP Production Operation; (xiii) Reclamation Plan Report; (xiv) Implementation of Reclamation Report; (xv) Post Mining Report; and (xvi) Implementation of Post Mining Report. <p>(d) The Relevant Government Authority may query/question a Report, which query/question must be responded to within 30 business days by the IUP/IUPK holder.</p> <p>(e) An IUP/IUPK holder, which intentionally submits a false periodical Report or false information, will be subject to penal sanctions in accordance with the applicable laws and regulations.</p>

4. DOMESTIC INTEREST PRIORITY, PRODUCTION CONTROL AND MINERAL AND COAL SELLING PRICE CONTROL

Legal Basis	Remarks
Articles 43 – 51	<ul style="list-style-type: none"> (a) So long as a Production Operation IUP/IUPK holder is able to fulfill the domestic needs for the subject mineral/coal within a certain period of time, the Production Operation IUP/IUPK holder is allowed to export its mineral/coal production. (b) In the event that the Production Operation IUP/IUPK holder for coal has entered into a long term supply contract that is still on-going, the said IUP/IUPK holder may, with approval from MoEMR, increase its production so as to fulfill the domestic needs as required in (a) so long as the same meets the applicable environmental and coal resource conservation requirements. (c) In carrying out mineral and coal mining activities, the Production Operation IUP/IUPK holder must prioritize the utilization of local human resources, goods, equipment, materials and/or supporting materials or imported products already sold in Indonesia: <ul style="list-style-type: none"> (i) if the same fulfill the standards of quality and pre-sales in general; and (ii) if the supplier of the same is able to guarantee the continuity of supply and the

Legal Basis	Remarks
	<p>agreed delivery schedule.</p> <p>(d) In the event that the IUP/IUPK holder wants to employ foreigners, the relevant Government institution will first carry out a technical evaluation of the IUP/IUPK holder's employee needs.</p> <p>(e) The IUP/ IUPK holder is obliged to submit, to the Government, a purchase plan for capital goods, equipment, machinery and other supporting materials in the form of a Master List to be incorporated in the holder's Work Plan and Expense Budget.</p> <p>(f) With due consideration of the domestic need for minerals and coal, MoEMR will:</p> <p>(i) stipulate the details of the Production Operation IUP/IUPK holder's obligations to provide minerals and coal for domestic consumption; and</p> <p>(ii) otherwise control the production and selling of minerals and coal being carried out by the Production Operation IUP/IUPK holder.</p>

5. LOCAL VALUE ADDED, PROCESSING AND PURIFICATION OF MINERALS AND COAL

Legal Basis	Remarks
Articles 52 - 55	<p>(a) The Mineral Production Operation IUP/IUPK holder is (i) obliged to carry out the processing and refining of minerals in Indonesia, whether directly or through cooperation with another party (including BUMN, BUMD, BUMS, a Cooperative or individual that has obtained a Production Operation IUP solely for Processing and Refining activity) and (ii) prohibited from exporting the minerals, whether directly or through cooperation with any other party (including BUMN, BUMD, BUMS, a Cooperative or individual that has obtained Production Operation IUP solely for Processing and Refining Activity), prior to the local processing and refining taking place.</p> <p>(b) The following activities are deemed to constitute the “processing and refining of Minerals” - (i) metal processing, (ii) metal smelting, (iii) metal refining, (iv) non-metal mineral processing and (v) rock processing.</p> <p>(c) The Coal Production Operation IUP/IUPK holder is (i) obliged to carry out the processing and washing of coal in Indonesia and (ii) is otherwise prohibited from exporting coal prior to the local processing and washing taking place.</p> <p>(d) The following activities are deemed to constitute the “processing and refining of coal” - (i) coal crushing, (ii) coal washing, (iii) coal blending, (iv) coal upgrading, (v) coal briquetting, (vi) coal liquification and (vii) coal gasification.</p>

6. MINERALS AND COAL BENCHMARK PRICES

Legal Basis	Remarks
Articles 56 - 65	<p>1. <u>Minerals</u></p> <p>(a) Benchmark Price:</p> <p>(i) MoEMR will determine the benchmark price of metal and non-metal minerals, based on the applicable price in the international market and a “market mechanism” respectively, as the minimum permitted selling price of metal and non-metal minerals for Production Operation IUP/IUPK holders;</p> <p>(ii) The Relevant Government Authority will determine the benchmark price of rock minerals, based on a market mechanism, as the minimum permitted selling price of rock minerals for Production Operation IUP/IUPK holders.</p> <p>(b) Minerals Selling Price</p> <p>(i) The benchmark price, as referred to in 1(a) above, is the minimum permitted selling price of minerals as determined by the Relevant Government Authority (“Benchmark Price”); and</p> <p>(ii) if the actual selling price of the minerals is less than the Benchmark Price, then the minerals selling price must be brought into line with the Benchmark Price, by means of a price adjustment, as determined by the Relevant Government Authority.</p> <p>2. <u>Coal</u></p> <p>(a) Benchmark Price:</p> <p>(i) MoEMR will determine the Benchmark Price of coal (“Coal Benchmark Price”);</p> <p>(ii) the Steam Coal and Coking Coal Benchmark Price will be based on the average Coal Price Index published by an internationally recognized institution; and</p> <p>(iii) the Coal Benchmark Price will assume Free on Board (“FOB”) delivery.</p> <p>(b) Coal Selling Price: If a particular sale is, in fact, not being conducted on a FOB basis, the coal price must still reflect the Coal Benchmark Price but with an appropriate price adjustment as determined by MoEMR;</p> <p>3. <u>Prohibition and Obligations</u></p> <p>(a) Prohibition on Sales below Benchmark Price:</p>

Legal Basis	Remarks
	<p>(i) Mineral and coal IUP/IUPK holders are prohibited from selling minerals and coal below the applicable Benchmark Price, which prohibition includes sales to their affiliates; and</p> <p>(ii) any sales of mineral and coal by the IUP/IUPK holders to their affiliates must obtain prior approval from the MoEMR.</p> <p>(b) Each mineral and coal IUP/IUPK holder must submit a monthly production and selling report to the Relevant Government Authority together with the required supporting documents.</p>

7. DIVESTMENT BY IUP IUPK HOLDERS WITH FOREIGN SHAREHOLDERS

Legal Basis	Remarks
Articles 66 – 67	<p>(a) After 5 years of production, a 100% foreign owned IUP/IUPK holder, must divest some of its shares (“Divestiture Shares”) to Indonesian parties (being the Government, Regional Governments, BUMN, BUMD or BUMS National) by way of “direct ownership”.</p> <p>(b) The Divestiture Shares must be offered, in the first instance, to the Government. In this regard, the Government may appoint a BUMN to acquire the Divestiture Shares.</p> <p>(c) If the Government is not interested in acquiring the Divestiture Shares, the Divestiture Shares must then be offered to the Regional Government. In this regard, the Regional Government may appoint a BUMD to acquire the Divestiture Shares.</p> <p>(d) In acquiring the Divestiture Shares, BUMN and BUMD are allowed to cooperate with or involve other parties.</p> <p>(e) The number of Divestiture Shares must be such that Indonesian parties hold not less than 20% of the IUP/IUPK holder’s issued shares.</p> <p>(f) The Divestiture Shares cannot be subsequently transferred to foreign parties.</p> <p>(g) The value of the Divestiture Shares will be determined based on the amount of investment spent by the Production Operation IUP/IUPK holder from the exploration stage until the 5th year of production operation less depreciation in accordance with the prevailing laws and regulations.</p> <p>(h) The IUP/IUPK holder must offer the Divestiture Shares not later than 90 business days after the 5th anniversary of production.</p> <p>(i) The Government, Regional Government, BUMN and/or BUMD must express their interest in acquiring the Divestiture Shares not later than 60 business days after the offer is made by the IUP/IUPK holder.</p>

Legal Basis	Remarks
	<p>(j) In the event the Government and Regional Government are not interested in acquiring the Divestiture Shares, the Divestiture Shares will then be offered to national private business entities, within 30 business days.</p> <p>(k) Payment for and transfer of the Divestiture Shares that have been purchased by the Indonesian party must be made not later than 90 business days after the date on which the Indonesian party expressed its interest in acquiring the Divestiture Shares.</p> <p>(l) If the payment obligation in respect of Divestiture Shares cannot be met, the Divestiture Shares must be re-offered in the next year.</p> <p>(m) In the event the IUP/IUPK holder subsequently increases its capital, the shareholding of the Indonesian party must not be diluted.</p>

8. SANCTIONS

Legal Basis	Remarks
Articles 78 - 79	<p>(a) The Relevant Government Authority is entitled to impose administrative sanctions on IUP/IUPK holders which have violated the Implementing Regulation.</p> <p>(b) The administrative sanctions referred to in 8(a) above may be in the form of:</p> <ul style="list-style-type: none"> (i) written warnings; (ii) suspension of part or all of the activities of (i) exploration or (ii) production operation; and/or (iii) revocation of the IUP/IUPK. <p>(c) The written warnings referred to in 8(b)(i) above may be given a maximum of 3 times and not more frequently than once a month. If the written warnings are not complied with, the Relevant Government Authority has the right to suspend or revoke the relevant IUP/IUPK.</p>

9. RIGHT TO MATCH

Legal Basis	Remarks
Articles 80	<p>(a) Not later than 3 years prior to the expiry date of its Production Operation IUP/IUPK, the holder of a Production Operation IUP/IUPK must report to the Relevant Government Authority the estimated remaining reserves of minerals or coal in its WIUP or WIUPK.</p>

Legal Basis	Remarks
	<p>(b) Subject to 9(a) above, where a particular WIUP or WIUPK still has material remaining reserves, MoEMR may offer the subject WIUP or WIUPK by way of a tender in which the previous IUP or IUPK holder has “the right to match”. [Editor’s note – presumably, this means the previous IUP/IUPK holder has the right to, once again, control the WIUP/WIUPK if it is willing to offer not less than the price submitted by the highest tenderer.]</p>

10. EXISTING KP’S, CONTRACTS OF WORK AND CONTRACTS OF WORK FOR COAL PERJANJIAN KARYA PENGUSAHAAN PERTAMBANGAN BATUBARA OR “PKP2B”

Legal Basis	Remarks
Articles 81	<p>(a) Contracts of Work and PKP2Bs, which were in existence before the enactment of the Implementing Regulation, will continue to be valid until they expire and are extendable twice, each for a period of 10 years, in the form of IUPs without the holders of the Contracts of Work and PKP2B having to participate in a tender.</p> <p>(b) Contracts of Work and PKP2Bs, which were in existence before the enactment of the Implementing Regulation, have been the subject of production operation activities and which were extended once before the enactment of the Implementing Regulation, are still extendable once for a period of 10 years.</p> <p>(c) KPs, as which were in existence before the enactment of the Implementing Regulation, will continue to be valid until they expire but must be converted into IUPs.</p> <p>(d) KPs, referred to in 10(c) above, must be converted into IUPs not later than 1 year after the date of the enactment of the Implementing Regulation.</p> <p>(e) A KP holder, which has commenced exploration activities or production operation activities, must submit an activity report to the Relevant Government Authority on its entire KP area covering the period up to the expiry date of the KP.</p> <p>(f) Within 5 years of the enactment of the New Mining Law, the holder of an existing KP, that has started to produce, must commence carrying out refining activities in Indonesia.</p> <p>(g) A KP application, that was received by the Relevant Government Authority before the enactment of the New Mining Law, is to be processed without resort to the tender procedures and not later than 3 months after the date of the enactment of the Implementing Regulation.</p> <p>(h) Holder of KPs, Contract of Works and PKP2Bs, in the production operation stage and that have processing facilities, are allowed to accept mining materials from other IUP/IUPK/IPR/Contract of Works/PKP2B holders for processing up to the level of installed production capacity.</p>

Legal Basis	Remarks
	<p>(i) A KP/KK/PKP2B holder referred to in 10(h) above is obliged to have a Memorandum of Understanding in place with the IUP/IUPK/IPR/Contract of Works/PKP2B holder [for which it is carrying out processing activities].</p> <p>(j) A party that has more than 1 KP and/or in respect of more than 1 commodity prior to the enactment of the New Mining Law is allowed to keep the KPs until the expiry of the KPs provided that:</p> <ul style="list-style-type: none"> (a) once the KPs have been expired, the same must be converted into IUPs; and (b) if the areas covered by the KPs are situated within the same Regency/City, those KPs may be combined of become 1 IUP regardless to the size of the area.

PROPOSED AMENDMENTS TO CONTRACTS OF WORK (“CoWs”) AND PK2BS

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
1.	2	3	4	5
1.	Appointment and Responsibility of CoW Company (2)	The CoW Holder may employ registered subcontractors, whether affiliated with the CoW Holder or not, for carrying out operations if deemed necessary by the CoW Holder.	<p>Article 124:</p> <ol style="list-style-type: none"> 1. Mining Business Licenses (<i>Ijin Usaha Pertambangan</i> or “IUP”)/Special Mining Business Licenses (<i>Ijin Usaha Pertambangan Khusus</i> or “IUPK”) holders are obliged to employ local and/or <u>national</u> mining services companies. 2. In the event that there is no mining services company, as mentioned in Paragraph 1 above, the IUP/IUPK holder may employ another Indonesian mining services company. 3. The categories of mining services business consist of: <ol style="list-style-type: none"> (a) Consultancy, planning, implementation and testing of equipment, in the field of: <ol style="list-style-type: none"> (i) general survey; (ii) exploration; (iii) feasibility study; (iv) mining construction; 	<p>In the event the CoW Holder employs registered subcontractors, it must utilize local and/or national mining services companies. If the said subcontractor is an affiliate of the CoW Holder, then prior approval from the Government must be obtained.</p> <p>At the production operation stage, the CoW Holder must carry out the planning, mining and marketing activities by itself.</p> <p>At the production operation stage, the CoW Holder may assign the following mining activities only to a mining services company:</p> <ol style="list-style-type: none"> (a) removal of overburden; (b) blasting; and (c) loading and transportation of minerals.

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
			<ul style="list-style-type: none"> (v) mining environment; (vi) transportation; (vii) post mining and reclamation and/or (viii) health and safety of work force <ul style="list-style-type: none"> (b) Consultancy, planning and testing of equipment in the field of: <ul style="list-style-type: none"> (i) mining; and/or (ii) processing and refining. 	
2.	Method or Modus Operandi (3)	Regulating: <ol style="list-style-type: none"> 1. the establishment of the head office, representative/ coordinating office in the Capital City of a Province; 2. the stages of activities; 3. the utilization of subcontractors (mining services companies); 4. the contractor covenants that there will be no interruption in carrying out the activities except in accordance with laws and Regulation; and 5. temporary cessation of the company's activities. 	Article 114 <ol style="list-style-type: none"> 1. The period of temporary cessation based on force majeure and/or hindering conditions, as mentioned in Article 113.1, shall be for a maximum period of 1 year and extendable, once, for a further 1 year. 2. In the event that, before the expiration of the temporary cessation period and during that time, the IUP/IUPK holder has continued to carry on its operations, the said activities must be reported to the Relevant Government Authority. 3. The Relevant Government Authority has the power to revoke the temporary cessation decision upon receipt of a report as mentioned in Paragraph 2 above. 	<ol style="list-style-type: none"> 1. Temporary cessation, based on force majeure, may be granted one time or more than once after obtaining approval from the Minister; 2. Temporary cessation, based on hindering conditions, may be granted once, for a period of 1 year and extendable once for another 1 year period, for each stage of the activities with prior approval from the Minister. 3. In the event that the temporary cessation period, as mentioned in Paragraph 2 above, is not sufficient, the CoW Holder may be granted additional time subject to the evaluation of the Minister

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
3.	Areas of the Contract of Work (4)	In accordance with size of the area at the time the CoW is executed and after the reduction of the area or change of the area (the retained area)	<p>Article 171</p> <ol style="list-style-type: none"> <li data-bbox="1021 280 1447 831">1. The holders of CoW and Contracts of Work for Coal (<i>Perjanjian Karya Pengusahaan Pertambangan Batubara</i> or “PKP2B”), as referred to in Article 169, which have commenced exploration, feasibility study, construction or production operation activities, at the latest 1 year after the enactment of the New Mining Law, shall submit activity plans, on their entire CoW/PKP2B areas and until the expiry of the CoW/PKP2B, for the Government’s approval. <li data-bbox="1021 874 1447 1086">2. In the event that the Paragraph 1 requirement is not fulfilled, the size of the mining area, which has been granted to the CoW or PKP2B holders, shall be adjusted in accordance with the New Mining Law. 	If the CoW Holder cannot complete its activities in accordance with the existing area covered by the CoW, then the size of the CoW area shall be adjusted in accordance with the areas as provided in the New Mining Law.
4.	Operation Period (10)	The CoW Holder must process the ore to produce the marketable metal or concentrate. The CoW Holder has to cooperate with and assist the Government to promote downstream development policy which is related to smelting, processing and/or establishment of metal manufacturing.	<p>Article 103</p> <p>Production Operation IUP/IUPK holders are obliged to carry out the processing and refining of minerals in Indonesia.</p> <p>Article 170</p>	<p>A CoW Holder, which has reached the production stage, must carry out processing and refining activities in Indonesia not later than 5 years after the enactment of the New Mining Law.</p> <p>In the event that the CoW Holder has extended the CoW once for 1x10 years and a second time also for a period of 1x10 years, then any further extension shall be in the form of a Mining Business License/IUP.</p>

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
			The KK holder, as mentioned in Article 169, that has commenced production must carries out refining activities, as mentioned in Article 103.1, not later than 5 years after the enactment of the New Mining Law.	
5.	Taxes and Other Financial Obligations of the CoW Holder (13)	Regulating State revenues in the form of tax and non-tax.	<p>Article 128</p> <ol style="list-style-type: none"> 1. IUP/IUPK holders are obliged to pay state revenues and regional revenues. 2. The state revenue, as mentioned in Paragraph 1 above, shall consist of tax revenue or non-tax revenue. 3. The regional revenue, as mentioned in Paragraph 1 above, shall consist of (a) regional tax; (b) regional contribution and (c) other legal revenue based on the prevailing laws and Regulation (additional payment of 10% of the net profit). 	<ol style="list-style-type: none"> 1. The financial obligations which must be fulfilled by CoW Holders include, among other things: regional revenue, regional tax, regional contribution and other legal revenue based on the prevailing laws and Regulation. 2. Fulfilment of the Non-Tax State Revenues (royalty and fixed fee) obligations must be in accordance with the prevailing laws and Regulation.
6.	Force Majeur (19)	Regulating the postponement of activities caused by events beyond the CoW Holder's control.	Articles 113 to 116 (Force Majeur)	<ol style="list-style-type: none"> 1. Temporary cessation, based on force majeure, may be granted 1 time or more often with Minister approval. 2. Temporary cessation, based on hindering conditions, in respect of mining activities may be granted for a period of 1 year, extendable once, for another period of 1 year for each mining activities stage with approval of the Minister.

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
				3. In the event that the temporary cessation period as mentioned in Paragraph 2 above, is not sufficient, the CoW Holder can be granted an additional time, subject to the evaluation of the Minister.
7.	Dispute Settlement (21)	Regulating the methods that will be taken by Government or the CoW Holders to settle disputes which occur.	Article 154 The dispute shall be settled through court and arbitration proceedings in Indonesia.	Indonesian National Board of Arbitration (<i>Badan Arbitrase Nasional Indonesia</i> or BANI) is to be the arbitration forum applied after the conversion of a CoW into a IUP.
8.	National Interest Promotion (24)	The percentage of the shares that has to be offered to Indonesian participants shall fulfill the provisions of Government Regulation No. 20 of 1994 as the prevailing provision on share ownership in the framework of foreign investment.	Article 112: 1. After 5 years of production, the holder of an IUP/IUPK must divest part of its foreign shareholding to the Government, regional government, State Owned Company (BUMN), Regional State Owned Company (BUMD) or national privately owned company (BUMS). 2. Share divestment, as mentioned in Paragraph 1 above, shall be the subject of government Regulation.	Provisions regarding national interest promotion need to be added in order to regulate the divestment process after a CoW is converted into a IUP, in accordance with government Regulation.
9.	Local Business Activities Development (27)	Regulating the requirement of a CoW Holder to improve, support, encourage and assist Indonesian citizens who are willing to establish a company or start a business.	Article 107 In carrying out production operation activities, IUP/IUPK holders must ask local entrepreneurs to participate in accordance with the prevailing laws and Regulation.	1. The CoW holder must prepare a Development and Empowerment of the Community Program for the local community following consultation with the government, regional government and the community covering, among other things, Community Relations, Community Empowerment and Community Services. 2. As part of the planning for the Development and Empowerment of the Community

NO.	RELEVANT CoW ARTICLE	PRESENT CoW POSITION	NEW MINING LAW JUSTIFICATION	PROPOSED CoW AMENDMENT
				Program, the Regional Government, together with the community and the CoW Holder, shall establish a Development and Utilization of the Community Institution in the Regency.
10.	Transfer of Rights (29)	Providing terms on the Transfer of Rights	<p>Article 9</p> <ol style="list-style-type: none"> 1. IUP and IUPK holders cannot transfer their IUPs and IUPKs to other parties. 2. The transfer of ownership and/or shares on the Indonesia Stock Exchange may only be carried out after the company commences exploration activities. 3. The transfer of ownership and/or shares, as mentioned in Paragraph 2 above, may only be carried out in accordance with the following requirements: <ol style="list-style-type: none"> (a) prior notification to the Minister, Governor or Regent/Mayor in accordance with its respective authority; and (b) to the extent that the transfer of ownership and/or shares is not in conflict with the prevailing laws and Regulation. 	The CoW provisions dealing with the transfer of rights need to be amended so as to provide that the transfer of ownership and/or shares may only be carried out after (i) completing exploration activities and (ii) obtaining written approval from the Minister.