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**MINISTER OF ENERGY AND MINERAL
RESOURCES REGULATION ON
PRIORITIZATION OF COAL AND MINERAL
SUPPLY FOR DOMESTIC INTEREST**

SUMMARY AND ANALYSIS

OF

KEY ARTICLES

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INTRODUCTORY NOTES

This Summary & Analysis is intended as an overview only of the newly introduced Regulation re Prioritization of Coal and Mineral Supply for Domestic Interest (“**Domestic Interest Regulation**”).

This Summary & Analysis reflects our current understanding only of the Domestic Interest Regulation and is subject to change as that understanding develops and evolves.

This Summary & Analysis should be read in conjunction with our earlier (i) Summary & Analysis, dated 9 January, 2009, of the New Mining Law, (ii) Summary & Analysis, dated 31 November 2009, of the Implementing Regulation re Mining Services, (iii) Summary & Analysis, dated 31 December 2009, of the fourth draft of the Implementing Regulation re Mining Business Activities and (iv) Summary & Analysis, dated 7 January, 2010, of the second draft of three additional Implementing Regulations re (A) Mining Area Determination, (B) Direction & Supervision of the Management & Implementation of Mining Business and (C) Reclamation & Post Mining Activities.

The Domestic Interest Regulation is a critical part of the new regulatory regime for mining in Indonesia to the extent that the Domestic Interest Regulation will provide much of the detail lacking in the New Mining Law itself.

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 Domestic Interest Regulation 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. Mining Business Actors must prioritize the supply of Mining Materials for domestic interest and by way of selling Mining Materials to Domestic Users.
2. A Mining Business Actor is only allowed to export its Mining Materials once it has fulfilled the Minimum Selling Percentage determined by MoEMR.
3. The price of the Mining Materials to be sold domestically must be in accordance with the Benchmark Price for Mining Materials whether for direct selling or for long term selling.
4. Mining Business Actors are obliged to submit to MoEMR c.q. Director General, the following:
 - (a) Work Plan and Budget for mineral and coal mining business activities; and
 - (b) Quarterly Reports re fulfillment of the Mining Materials for domestic interest obligation.
5. In the event that a Mining Business Actor is not able to fulfill the Minimum Selling Percentage in the first quarter, the shortfall of the Minimum Selling Percentage will be carried forward to the second quarter and so on.
6. Domestic Users are obliged to purchase Mining Materials from Mining Business Actors. In the event that a Domestic User is not able to purchase the Mining Materials from Mining Business Actors, then the relevant Domestic User must provide 1 month's prior notice to the Mining Business Actors with copies to MoEMR c.q. Director General.
7. MoEMR/Governor/Regent or Mayor in accordance with their respective authority (“**Relevant Government Authority**”) is entitled to impose administrative sanctions on Mining Business Actors which have failed to (i) report their inability to fulfill the Prioritization Requirement, (ii) failed to submit its Quarterly Reports and/or (iii) failed to fulfill, in subsequent quarters, the shortfall in meeting the Minimum Selling Percentage in an earlier quarter.
8. MoEMR is entitled to impose administrative sanctions on Domestic Users which have failed to fulfill their obligation to purchase Mining Materials from Mining Business Actors.

SUMMARY AND ANALYSIS

1 OBLIGATION TO PRIORITIZE COAL AND MINERALS FOR DOMESTIC INTEREST

Legal Basis	Remarks
2 - 8	<p>A. Mineral and Coal Mining Business Entities (“Mining Business Actors”) must prioritize coal and mineral (“Mining Materials”) supply for domestic interest, by way of selling Mining Materials to Domestic Users.</p> <p>B. The term “Domestic Users”, as mentioned in 1A above, refers to any Indonesian individuals or entities conducting business activities in Indonesia and:</p> <ul style="list-style-type: none"> (a) using minerals for their main materials [/business inputs]; and/or (b) directly use minerals in carrying out their business activities; and/or (c) using coal as their main materials [/business inputs]; and/or (d) using coal for fuel. <p>C. Domestic Users’ “activities”, as mentioned in 1B(a) above, comprise:</p> <ul style="list-style-type: none"> (a) metal smelting; (b) metal refining; (c) non-metal minerals processing; and (d) rock processing. <p>D. Domestic Users’ “activities”, as mentioned in 1B(b) above, comprise:</p> <ul style="list-style-type: none"> (a) processing industry sector; and (b) construction sector <p>E. Domestic Users’ “activities”, as mentioned in 1B(c) above, comprise:</p> <ul style="list-style-type: none"> (a) coal briquette producing; (b) metal processing; (c) coal liquefaction; (d) coal gasification; and (e) coal upgrading. <p>F. Domestic Users’ “activities”, as mentioned in 1B(d) above, comprise:</p> <ul style="list-style-type: none"> (a) electricity generating sector activities; (b) industry sector activities; (c) micro business sector activities; and (d) household sector activities. <p>G. The obligation to prioritize Mining Materials supply for domestic interest, as mentioned in 1A above, will be determined based on a minimum Mining Materials selling percentage to be stipulated by the Minister of Energy and Mineral Resources (“MoEMR”) (“Minimum Selling Percentage”).</p>

Legal Basis	Remarks
	<p>H. The Minimum Selling Percentage must be set out in the Sale and Purchase of Mining Materials Agreement to be entered into between Mining Business Actors and Domestic Users.</p> <p>I. A Mining Business Actor is only allowed to export its Mining Materials once it has fulfilled the Minimum Selling Percentage.</p> <p>J. MoEMR will plan and prepare for the prioritization of mineral and coal supply for domestic interest (“Prioritization Requirement”) (“Planning & Preparation”) over the next 1 year, which Prioritization Requirement will be implemented by the Director General of Mineral, Coal and Geothermal (“Director General”).</p> <p>K. The Planning & Preparation will be carried out by dividing the estimated Prioritization Requirement of all Domestic Users by the estimated Mining Materials production of each Mining Business Actor.</p> <p>L. For the purpose of Planning & Preparation, Domestic Users must submit, no later than March of the current year, their estimated Prioritization Requirement together with the volume and specification of the relevant Mining Materials required for the subsequent year.</p>

<p>2 MINERAL AND COAL PRICE</p>
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Legal Basis	Remarks
<p>Article 9</p>	<p>A. The price of Mining Materials to be sold domestically must be in accordance with the Benchmark Price for Mining Materials whether for direct selling or for long term selling.</p> <p>B. The Benchmark Price for Mining Materials will be further regulated in another MoEMR Regulation.</p>

<p>3 WORK PLAN AND BUDGET</p>

Legal Basis	Remarks
<p>Article 10 - 12</p>	<p>A. The Mining Business Actor is obliged to submit a Work Plan and Budget for mineral and coal mining business activities to the Relevant Government Authority no later than November of the current year.</p> <p>B. The Work Plan and Budget, as mentioned in 3A above, must include the Minimum Selling Percentage.</p>

Legal Basis	Remarks
	<p>C. If the Work Plan and Budget does not include the Minimum Selling Percentage, the relevant Mining Business Actor must revise its Work Plan and Budget so as to include the Minimum Selling Percentage.</p> <p>D. In fulfilling the Minimum Selling Percentage, the Mining Business Actor may enter into a Sale and Purchase Agreement with a Mining Materials Trading Business Entity during the period June – November of the current year.</p> <p>E. The Mining Materials Trading Business Entity must obtain a special Production Operation IUP for Sales & Transportation from the Relevant Government Authority.</p> <p>F. The Sale and Purchase agreement, as mentioned in 3D above, must be attached to the Work Plan and Budget.</p>

4 IMPLEMENTATION OF PRIORITIZATION OF MINERAL AND COAL SUPPLY FOR DOMESTIC INTEREST

Legal Basis	Remarks
Article 13 - 18	<p>A. Mining Business Actors are obliged to sell Mining Materials for the purpose of fulfilling the Prioritization Requirement.</p> <p>B. A Mining Business Actor, which is not able to fulfill the Prioritization Requirement, is obliged to notify such inability to MoEMR c.q. Director General with copies to Domestic Users.</p> <p>C. Mining Business Actors are obliged to submit quarterly reports re the fulfillment of the Mining Materials for domestic interest obligation to MoEMR c.q. Director General, at the end of March, June, September and December in each year.</p> <p>D. In the event that a Mining Business Actor is not able to fulfill the Minimum Selling Percentage in the first quarter, the shortfall in the Minimum Selling Percentage shall be carried forward to the second quarter and so on.</p> <p>E. Domestic Users are obliged to purchase Mining Materials from Mining Business Actors.</p> <p>F. In the event that a Domestic User is not able to purchase the Mining Materials from Mining Business Actors, as mentioned in 4E above, then the relevant Domestic User must provide 1 month's prior notice to the Mining Business Actor with a copy to the MoEMR c.q. Director General.</p> <p>G. Domestic Users, which have purchased Mining Materials from Mining Business Actors, are not allowed to export the Mining Materials that have been so purchased.</p>

Legal Basis	Remarks
	<p>H. Fulfillment of the Minimum Selling Percentage, for the purpose of prioritizing the mineral and coal supply for domestic interest, can be satisfied by:</p> <ul style="list-style-type: none"> (a) selling of Mining Materials by the relevant Mining Business Actor; (b) selling of Mining Materials by other Mining Business Actors; and (c) selling of Mining Materials by Mining Materials Trading Business Entities. <p>I. In the event that a Mining Business Actor exceeds the Minimum Selling Percentage, the relevant Mining Business Actor may transfer the excess Minimum Selling Percentage to other Mining Business Actors that are not able to fulfill their respective Minimum Selling Percentages.</p> <p>J. The excess of the Minimum Selling Percentage, as mentioned in 4I above, must be sold at a price not more than the Benchmark Price for the current month.</p> <p>K. In the event that a Domestic User is not able to fulfill the obligation to purchase Mining Materials, as mentioned in 4E above, the relevant Mining Business Actor is allowed to sell the subject Mining Materials to other parties.</p> <p>L. The selling of Mining Materials, as mentioned in 4K above, must first be approved by MoEMR c.q. Director General and shall be deemed as fulfillment of the Minimum Selling Percentage [by the relevant Mining Business Actor].</p>

5 ADMINISTRATIVE SANCTIONS

Legal Basis	Remarks
Article 20	<p>A. The Relevant Government Authority is entitled to impose administrative sanctions on Mining Business Actors which have:</p> <ul style="list-style-type: none"> (a) failed to report their inability to fulfill the Prioritization Requirement; (b) failed to submit their quarterly reports as mentioned in 4C above; and/or (c) failed to fulfill the shortfall as mentioned in 4D above. <p>B. MoEMR is entitled to impose administrative sanctions on Domestic Users which have failed to fulfill the obligation to purchase Mining Materials from Mining Business Actors as mentioned in 4E above.</p> <p>C. The administrative sanctions, as mentioned in 5A above, may be in the form of:</p> <ul style="list-style-type: none"> (a) written warnings; and (b) deduction/[withholding] not more than 50% of the relevant Mining Business Actor's production in the subsequent year. <p>D. The administrative sanctions, as mentioned in 5B above, may be in the form of:</p> <ul style="list-style-type: none"> (a) written warnings; and (b) deduction/[withholding] not more than 50% of the relevant Domestic User's Prioritization Requirement for the subsequent year.

Legal Basis	Remarks
	<p>E. The written warnings, as mentioned in 5C(a) and 5D(a) above, may be given a maximum of 3 times and not more frequently than once in any period of 1 month.</p> <p>F. If a written warning, as mentioned in 5C(a) above, is not complied with, not more than 50% of the Mining Business Actor's production for the subsequent year will be deducted.</p> <p>G. If a written warning, as mentioned in 5D(a) above, is not complied with, not more than 50% of Domestic Users' Prioritization Requirement for the subsequent year will be deducted.</p>