

Indonesian **COAL**

3rd Edition June 2007

COAL & 10,000MW Crash Program *Answer Future Electricity Need*



“ The problem is whether it could be executed in such a short time. ”



“ The program to accelerate the development of coal-fired power plant (PLTU) of 10,000-MW capacity was a bold program of Indonesian government. ”



“ The 10,000-MW Crash Program is an effort made by the PLN to raise a target of electrification ratio to 100 percent by year 2020 in keeping up with the growth of economy throughout the country. ”

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From the Editor

Dear Readers,

There is something different in our present edition: the various articles we present are full of the work of APBI-ICMA's 'contributors'. Most of them are players in the world of coal industry. The rest are experts and persons interested in the coal industry.

This time we try to apply the strategy of 'searching new format'. Our aim is to introduce more detailed information. More simple. One of the ways, or the only way is to invite them in the form of writings. The writings they themselves produce, based on their thoughts, opinions and what they heard, and their personal experience.

Is Indonesian Coal to be a pure scientific magazine? It's probably not the time yet. Or we can say, No. We remain to appear by synergizing our presentation in scientific and popular formulation. Meaning that we will remain to provide news in a somewhat scientific format, but in some parts writings that are popular and informative in nature.

Hopefully, our presentation in the new format of 'synergizing the two poles' (scientific and popular) could spoil our readers with information and more interesting opinions and certainly in detail. Thereby opening our perception and the community's ingeneral, that the general mining industry is a strategic industry. An industry that helps to fatten the state's money bag, but unfortunately were in a suspended animation in the last few years due to being discredited.

We are very grateful for being able to appear again, with our third edition. Thank you is the only word we can say for the supports given by various quarters, either in the form of advertorial, purchasing our magazine or praise and criticism.

There is no ivory without a crack. So are we. We are fully aware that there are shortcomings here and there which we must perfect in this magazine, the content, the layout etc. Let's hope that with moral and material support, we could do better and could make progress. Our commitment is to 'satisfy our readers'.*****

There is still another problem: What about the overlapping of mining area and forest area? The forestry policy to lessen other activities other than forestry is of course legal. But the other sector which overlaps need to be given attention. Moreover, they have to supply coal from their mining location in the forest area for the 10,000 MW power plants program. This matter should not be considered as a complicated one, because compared to the forest itself, the mining area is very small less than 1% of it. Furthermore, mining is temporary. Once mining is ended the area will be restored to its function as a forest.

Thus, with the attitude of giving priority to the most important thing, 'first thing first', let's make a joint vision so that the 10,000 MW program will materialize. Good luck. □

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The editorial section accept contributions of articles and photos around mining activities and energy or other related matters. Articles to be typed neatly with two space maximum six page quarto. We have the right to change the wordings as long as it does not change the substance.

Mining Industry Hampered by Forestry?

By Sudarsono Soedomo, Ph.D



Harmonization refers to every situation where difference in inter-sector (could be inter-province or state) taxation may be reduced through a cooperation between sectors or through a government policy which is single in nature. However, a uniform tax system is possibly not optimal as a whole and also impractical. Various circles view coordination as a form of consultation process of organizing the taxation system with a similar method. Given such interpretation, coordination constitutes a low harmonization level.

There are two approaches which could be used to analyze the concept of harmonization. First, the equality approach, obliges every sector to be convergence until eventually a similar fiscal system is reached. Second, differential approach or a fiscal diversity, allows every sector to use its taxation system as a policy instrument in achieving its goal. Tax harmonization has also been carried out by referring to the process of eliminating hindrances and fiscal differences among the tax systems of various sectors.

Up to which level does harmonization is desired? To observe the level of harmonization wished to be reached, it is necessary to priorly view the main component of the tax system. The main component includes the on-going tax, tax base, tax rate, and the method of tax administration. A complete harmonization or tax standardization happen if all sectors apply a similar tax system. In such a case, every sector applies the same tax (for instance the value added tax), is borne by the same tax base (goods, services) on the same tax level. Conversely, without harmonization allows the respective sector to apply tax differently. Between extreme points of complete harmonization and absolutely without harmonization, there is a possibility of a gradation of the harmonization level.

The mining industry in Indonesia is experiencing a serious obstacle. Investment in this sector tends to slow down. The high tax burden, consistence and uncertainty constitute elements which cause the investment environment less attractive. "For example, tax provision, exploration and exploitation fees, royalty and the non-tax state income as arranged in PP No.45/2003,

apparently in the regions they are imposed with more taxes and similar levies in the form of general mining tax, contribution of a third party, retribution or tax contribution," PT Timah Tbk. President Director Thobrani Alwi pointed out (Jawa Pos of 19 January 2007).

This short article reviews the obstacles from the forestry sector after the Forestry Ministerial Regulation P.14/Menhut-II/2006 was issued. As a broad outline, the said Regulation contains uncertainty, unfairness and disobedience toward the limit of authority.

Obstacles from Forestry

- The obligation of the applicant who acquires a permit in principle for a borrow and use forest area with an area for compensation, is i.a.: to make a statement of willingness before a notary public to provide facilities to forestry apparatuses in the central as well as in the regions during their field monitoring and evaluating (Article 12 sub-article (2) sub h). After the borrow and use area has been given a compensation, have the forestry apparatuses the authority to monitor and evaluate the area which has been compensated, all the more so if the area for compensation is twice the size of the area being used? Thus, what is the meaning of compensation if the area being used remains to be considered as a borrow and use area? Article 21 sub-article (3) states that the cost of monitoring and evaluation as referred to in sub-article (1) and (2) is borne by the holder of the borrow and use forest area. What to be monitored and evaluated are un-

clear, but the transaction cost is certain.

- In the case the requested forest area is a plantation forest, a) an indemnification on the value of the stands is paid to the rights holder or to the government for those without any rights burden; b) the Forest Resources Provision (PSDH) and Reboisation Fund (DR) is to be paid to the government (Article 12 sub-article (3) sub a and b). Once the stands have been indemnified, what is the ground of being obliged to pay the PSDH? This payment clearly has no validity base and causes a double payment. This concept is adopted incorrectly from the natural forest case.
- In the case the requested forest area is a natural forest, the indemnification for the stands is paid to the government (Article 12 sub-article (4) sub a). Why is this indemnification on the value of the stands imposed on mining entrepreneurs, but not on holders of a Business License to Utilize Forest Timber (IUPHHK)? The government has clearly enforced a double standard and therefore it is unfair. A fair and correct action in accordance with Article 3 of Law No.41/1999 is to impose indemnification on the value of the stands on all parties. All these years, the value of the stands has been transferred free of charge to holders of the IUPHHK. This cannot be justified.
- The borrow and use of a forest area as referred to in Article 16 sub-article (1) sub a is determined with the provision: For a borrow and use of forest area which is commercial in nature, the applicant is obliged to make ready and transfer an area for compensation twice the size of the forest area used to the Forestry Department, 'clear and clean' and regreened (Article 17 sub-article (1) sub a).
- The same article and sub-article sub b states: For a borrow and use forest area of non-commercial nature in a province which forest area

is less than 30% of the land area of the province concerned, the applicant should make ready and transfer an area for compensation one time the size of the forest area used to the Forestry Department, 'clear and clean' and regreened.

- Why does a commercial activity is given a heavier obligation? Isn't it a strong sign that the forestry minister is hampering the much needed investment to reduce the still high unemployment rate at the moment? It is undeniable that Article 17 sub-article (1) sub a constitutes a hindrance on investment in the mining sector.
- If within a period of two years the applicant of the borrow and use area is unable to deliver the area for compensation, for the borrow and use forest area of commercial nature the area for compensation is substituted by a fund which becomes a non-tax state income of the Forestry Department amounted to 1% (one percent) of the price value per production unit of their total volume of production (Article 17 sub-article (3) Forestry Ministerial Regulation No.P.14/Menhut-II/2006).

The forestry minister clearly has no authority to impose levies as stated in Article 17 sub-article (3) Ministerial Regulation P.14/Menhut-II/2006. The said levies are none other than royalty (ad valorem) covered in Article 1 sub-article (2) sub c PP No.45/2003 regarding tariff on the type of non-tax state income valid at the Department of Energy and Mineral Resources.

Thus, the forestry minister has acted beyond his authority.

Conclusion

- Ministerial Regulation P.14/Menhut-II/2006 clearly hampers investment in the mining sector. The unclearness, unfairness, and the disobedience toward the authority limit constitute a defect which should immediately be corrected. This Ministerial Regulation needs to be

come one of the mining industry's fiscal harmonization objects.

- An institution the level of a state minister needs to be established to manage the national reserve areas and is responsible for the allocation of area utilization. All state land is free to be included in the national reserve areas. So is the land which has been burdened with rights but in a non-productive condition, preferably included in the national reserve areas. Technical departments, including the Forestry Department, are only responsible for the management of forest areas.

Suggestions

- An institution the level of a state minister needs to be established to manage the national reserve areas and is responsible for the allocation of area utilization. All state land is free to be included in the national reserve areas. So is the land which has been burdened with rights but in a non-productive condition, preferably included in the national reserve areas. Technical departments, including the Forestry Department, are only responsible for the management of forest areas.
- Preferably, the tax from the mining industry is collected by one and only one government institution. The various departments that represent the interest of the state to priorly agree to the rate and type of tax to be imposed. The allocation of the collected tax becomes the government's concern which does not need to trouble the entrepreneurs.
- All forms of non-tax state income from the mining industry should be avoided as much as possible. The stipulation of this non-tax state income tends to create difficulty to entrepreneurs. Therefore, non-tax state income should as far as possible be converted into state income from tax. □

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