

Domestic Market Obligation - Mining Business Activities Regulation

Government Regulation No. 23 of 2010 on the Implementation of Mineral and Coal Mining Business Activities, as one of the implementing instruments to Law No. 4 of 2009 on Mineral and Coal Mining, not only governs matter relating to the awarding of Mining Business License ('IUP'), Special Mining Business License ('IUPK'), and Community Mining License ('IPR'), but also regulates the control of mineral and coal production to ensure their availability for domestic necessities. This control is known as the Domestic Market Obligation ('DMO'), and as such is stipulated in Chapter VII (Articles 84 - 92) of the regulation.

Generally, as stated in Article 84 (1), extractive companies that are bound by the DMO are every IUP and IUPK Production Operation. This provision requires those license holders to prioritize the domestic needs of mineral and coal, which in this context refer to the sectors as set out in Article 84 (2): mineral and coal processing industries, and domestic mineral and coal users.

The regulation sets out that once the domestic needs of mineral and coal have been satisfied, the license holders can export their mineral and coal production. However, the export must comply with the price that the government will determine (Article 85).

The regulation also provides that the DMO for IUP and IUPK holders as a whole (including IUP and IUPK Exploration holders) cover the obligation to prioritize the following points:

- Employing local human resources, and;
- Utilizing mineral and coal mining related-goods, equipments, raw materials, supporting materials, and imported goods that are sold in Indonesia.

Additionally, the Minister of Energy and Mineral Resources will control the production and sales of mineral and coal for the purpose of, among other things, maintaining the national mineral and coal price stability. And as a means to implement the DMO, IUP and IUPK holders, particularly those of IUP and IUPK Production Operation holders, must abide to the Minister's policy in controlling the mineral and coal production and sales.

The DMO provisions within the regulation are general in nature, thus not all of those provisions provide detail explanation to implement the DMO. For that reason, the regulation reserves further details on the subject in a more technical instrument, which will take in the form of a Minister of Energy and Mineral Resources Regulation.

Interestingly, the abovementioned Ministerial Regulation has been issued and came into force even before this regulation was released. That Ministerial Regulation is the Minister of Energy and Mineral Resources Regulation No. 34 of 2009 on Prioritizing the Supply of Mineral and Coal for the National Interest (see ILB No. 1281 19/01/2010).

The Government Regulation has been in force since 1 February 2010. 

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