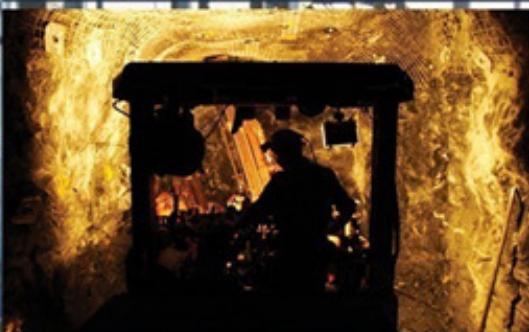




LAPORAN EITI INDONESIA

2014

CONTEXTUAL REPORT



COORDINATING MINISTRY FOR ECONOMIC AFFAIRS
REPUBLIC OF INDONESIA

EITI
Extractive
Industries
Transparency
Initiative
INDONESIA

This page intentionally left blank



KEMENTERIAN KOORDINATOR BIDANG PEREKONOMIAN
REPUBLIK INDONESIA

EITI INDONESIA REPORT 2014 **CONTEXTUAL REPORT**

This page intentionally left blank

KATA PENGANTAR

Puji dan syukur ke hadirat Tuhan yang Maha Esa atas terbitnya Laporan Inisiatif Transparansi Industri Ekstraktif (EITI) Indonesia ini yang disusun sesuai dengan standar EITI 2016. Laporan ini merupakan laporan keempat EITI Indonesia sejak menjadi negara pelaksana EITI (EITI Implementing Country). Laporan pertama disusun dan dipublikasikan pada tahun 2013 dan laporan kedua pada tahun 2014 masih mengacu pada EITI Rules tahun 2011 yang isinya berfokus pada aspek rekonsiliasi penerimaan negara dari industri ekstraktif. Laporan ketiga tahun 2015 mengacu pada standar EITI 2013, selain berisi rekonsiliasi penerimaan negara juga berisi informasi kontekstual dari rantai nilai (value chains) industri ekstraktif.

Landasan hukum pelaksanaan EITI di Indonesia adalah Peraturan Presiden Nomor 26 Tahun 2010 Tentang Transparansi Pendapatan Negara dan Pendapatan Daerah Yang Diperoleh Dari Industri Ekstraktif.

Isi Laporan Laporan Keempat EITI Indonesia tahun 2017 ini mengacu pada standar EITI yang baru yaitu Standar EITI tahun 2016 di mana informasi kontekstual diperkaya antara lain dengan informasi tentang beneficial ownership (BO) dari industri ekstraktif. Penerapan Standar EITI 2016 diharapkan dapat mendekatkan tujuan dari transparansi EITI yaitu memperbaiki tata kelola industri migas dan tambang.

Laporan ini disusun oleh Administrator Independent – Kantor Akuntan Publik (KAP) Ernst & Young. Proses penyusunan laporan dimulai sejak awal bulan Desember 2016 dan selesai disusun pada tanggal 27 Februari 2017. Seluruh tahapan dalam proses penyusunan laporan diawasi oleh Tim Pelaksana Transparansi Industri Ekstraktif melalui rapat-rapat Tim Pelaksana maupun rapat-rapat Tim Teknis. Laporan Keempat EITI Indonesia ini mendapatkan persetujuan untuk dipublikasi dari Tim Pelaksana Transparansi Industri Ekstraktif melalui rapat yang diselenggarakan pada tanggal 20 Februari 2017.

Maksud dan tujuan utama dari penerbitan Laporan ini adalah untuk memberikan penjelasan yang lengkap mengenai pelaksanaan kegiatan EITI di Indonesia dalam rangka untuk lebih meningkatkan pemahaman dan kesamaan persepsi dari para pemangku kepentingan EITI di Indonesia. Kami menyadari bahwa keberhasilan pelaksanaan EITI di Indonesia akan sangat ditentukan oleh adanya kesamaan pemahaman dan persepsi dari seluruh pemangku kepentingan.

Akhir kata, kami sampaikan terima kasih kepada Tim Pengarah, Tim Pelaksana, Tim Teknis serta seluruh pemangku kepentingan EITI Indonesia yang selama ini telah turut berkontribusi terhadap kelancaran pelaksanaan kegiatan EITI Indonesia. Tidak lupa juga kami sampaikan terima kasih kepada pihak Bank Dunia yang telah memberikan dukungan finansial melalui dana hibah dari negara donor terhadap pelaksanaan kegiatan EITI Indonesia.

Deputi Bidang Koordinasi Pengelolaan Energi
Sumber Daya Alam dan Lingkungan Hidup
Selaku Ketua Tim Pelaksana Transparansi
Industri Ekstraktif



Montty Girianna



Table of Content

TABLE OF CONTENT	VI
LIST OF FIGURES	VIII
LIST OF TABLES	X
LIST OF ABBREVIATIONS AND DEFINITIONS	XII
1. Foreword and Background	1
1.1 Foreword	1
1.2 Background	2
2. Indonesia's Extractive Industry Governance	9
2.1 Laws and Regulations Related to Oil and Gas and Minerals and Coals Mining Industry	10
2.2 Duties, Roles and Responsibilities of Government Agencies Associated with the Extractive Industries	23
2.3. Ongoing Changes and Improvements of Governance Associated with the Extractive Industries	30
3. Licensing, Zoning of Oil and Gas and Mineral and Coal Working Area and Contracting	35
3.1. Determination and Offering Process of Oil and Gas Working Area	35
3.2. Process of Determining and Granting Mineral and Coal Mining Working Zone License	43
3.3. Extractive Industries Contract System and Licensing	56
3.4. Contract Disclosure	59
3.5. Extractive Industries Information System	60



3.6 Beneficial Ownerships	61
4. Extractive Industries Management in Indonesia	63
4.1. Indonesia's Extractive Industry in a Global Context	63
4.2. Current Condition of Indonesia's Oil and Gas Industry	66
4.3. Current Condition of Indonesia's Mineral and Coal Industry	71
5. Management of Revenue Generated from Extractive Sector in Indonesia	77
5.1. Fiscal Policy on Management of State Revenue Generated from Industry Extractive	77
5.2. Planning, Budgeting and Auditing Process	81
6. State-Owned Enterprises (SOE)	85
6.1. Relationship between SOE and Government	86
6.2. PT Pertamina (Persero)	90
6.3. PT Aneka Tambang (Persero) Tbk	99
6.4. PT Bukit Asam (Persero) Tbk	105
6.5. PT Timah (Persero) Tbk	108
7. Social and Environmental Responsibility	111
7.1. Oil and Gas Sector: Abandonment and Site Restoration Fund (ASR Fund)	111
7.2. Mineral and Coal Mining Sector: Reclamation and Post Mining Fund	114
7.3. Corporate Social and Environmental Responsibilities Program	118
APPENDIX	121



List of Figures

Figure 1.1 The EITI Standard	2
Figure 1.2 EITI Status Acquisition Process	3
Figure 1.3 Tasks of Transparency Team Secretariat	8
Figure 2.1 The Flow of Regulations regarding to Oil and Gas Sector	16
Figure 2.2 Hierarchical forms of regulation in the oil and gas sector	18
Figure 2.3 The Flow of Regulations regarding to Mineral and Coal Sector	19
Figure 2.4 Hierarchical forms of regulation in the mineral and coal sector	23
Figure 2.5 The Association of Ministry of Energy and Mineral Resources and Ministry of Finance related to role of contractors	24
Figure 2.6 The Association of Ministry of Energy and Mineral Resources and Ministry of Finance related to mineral and coal sector	25
Figure 2.7 Work Prioritization of Directorate General of Mineral and Coal	33
Figure 3.1 Procedure of offering oil and gas and methane butane gas working area	40
Figure 3.2 Process flow of payments from Mining Permit and Special Mining Permit holders	44
Figure 3.3 Changes of Contract of Works/Kontrak Karya (KK) into Special Mining Permit/Izin Usaha Pertambangan Khusus (IUPK)	53
Figure 3.4 Progress of IUP arrangement 2011-2014	54
Figure 3.5 Transparency Work Plan of Beneficial Ownership	62
Figure 4.1 Average of Indonesian Crude Oil Price (ICP) in 2005 - 2014	63
Figure 4.2 Average of Regional Coal Price in 2005 - 2014	64



Figure 4.3 Investment realization of PSC Contractor in Exploitation in 2010 - 2014	65
Figure 4.4 Investment realization of PSC Contractor in Exploration in 2011 - 2014	64
Figure 4.5 Investment Realization of Mineral and Coal Sector in 2010 - 2014	65
Figure 4.6 Indonesia's Oil Reserves Indonesia in 2011 - 2014	66
Figure 4.7 Indonesia's Crude Oil and Condensate Production in 2011 - 2014	66
Figure 4.8 Drilling of Exploration Wells in 2011 - 2014	67
Figure 4.9 Indonesia's Gas Reserves in 2010 - 2014	67
Figure 4.10 Indonesia's Gas Production in 2010 - 2014	68
Figure 4.11 The revenue realization of oil and gas sector in 2014	70
Figure 4.12 Indonesia's Coal Production and Consumption in 2010 to 2014	71
Figure 5.1 Contribution of Extractive Industry to the Economy	78
Figure 5.2 Realization of State Revenue from Income Tax	78
Figure 5.3 Realization of Non-Tax Stare Revenue	79
Figure 6.1 Relationship between SOEs and the Government	87
Figure 6.2 The Role of Government Regulation 72/2016 for SOE Holding	88
Figure 6.3 Proposed SOE Energy Holding Structure	89
Figure 6.4 Distribution Flow for Subsidized Fuel	91
Figure 7.1 Provision of ASR fund in state owned banks 2011-2015	113
Figure 7.2 Reclamation area for PKP2B year 2011-2015	117



List of Tables

Table 2.1 Construction of mineral processing and refining facilities (Smelter)	22
Table 3.1 Conventional oil and gas working area	40
Table 3.2 Non-conventional oil and gas working area	41
Table 3.3 Direct offer of conventional oil and gas working area	42
Table 3.4 Conventional oil and gas working area regular winners	42
Table 3.5 Non-Conventional Direct Offer of Working Area Winning Bidder	43
Table 3.6 Determination of mining zones from 2013 to 2014	48
Table 4.1 Upstream Oil and Gas Projects that are On-Stream in 2014	68
Table 4.2 Indonesia's Registered Mineral Resources and Reserves in 2015	72
Table 4.3 Indonesia's Key Mineral Productions in 2010 to 2014	73
Table 4.4 Operating Smelter in 2015	73
Table 6.1 List of Subsidiary and Association Companies of PT Pertamina (Persero)	92
Table 6.2 List of PT Pertamina (Persero) Associated Companies	94
Table 6.3 List of PT Pertamina (Persero) Joint Arrangements	94
Table 6.4 List of Changes in PT Pertamina (Persero)'s Participating Interest of Working Areas	95
Table 6.5 Subsidiaries of PT Aneka Tambang (Persero)	100
Table 6.6 Realization of PT Aneka Tambang CSR 2014 (in million rupiah)	104
Table 6.7 List of PT Bukit Asam (Persero) Subsidiaries	106
Table 6.8 Realization of PT Bukit Asam CSR 2014 (in million rupiah)	107
Table 6.9 List of PT Timah (Persero) Subsidiaries	109
Table 6.10 Realization of PT Timah CSR 2014 (in million rupiah)	110

List of Abbreviations and Definitions

Accrual Basis	An accounting method in recognizing income and or expense when it is earned and it occurs, not when cash is received or disbursed by the company/reporting entity		crude oil, stabilized and used as feedstock for refineries and other
APBN	<i>Anggaran Pendapatan dan Belanja Negara</i>	Cost Recovery	A return on operating costs incurred by the PSC Contractor (KKKS) of the production (in kind) derived from related work areas, in accordance with the provisions of the Cooperation Contract and related regulations
AuP	Agreed upon Procedures		
Barel	Unit oil and condensate equivalent to 42 US gallons or 158.99 liters at 60 ° F (sixty degrees Fahrenheit)	CSR	Corporate Social Responsibility
BOB	<i>Badan Operasi Bersama</i> Joint Operating Entity	DAK	<i>Dana Alokasi Khusus</i> Special Allocation Fund
BPHTB	<i>Bea Perolehan Hak atas Tanah dan Bangunan</i> Tax on Acquisition of Land and Building	DAU	<i>Dana Alokasi Umum</i> General Allocation Fund
BPK	<i>Badan Pemeriksa Keuangan</i> Indonesia Audit Board	DBH	<i>Dana Bagi Hasil</i> Revenue Sharing
BPKP	<i>Badan Pengawasan Keuangan dan Pembangunan</i> Financial and Development Supervision Agency	DBH SDA	<i>Dana Bagi Hasil Sumber Daya Alam</i> Revenue Sharing for Natural Resources
BPMIGAS	<i>Badan Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi</i> Indonesia Upstream Oil and Gas Regulatory Body	Development Bonus	Bonus that will be paid by the KKKS to the Government at the time of first commercial development of an area of work in accordance with Cooperation Contract
BUMN	<i>Badan Usaha Milik Negara</i> State-owned enterprises	DHPB	<i>Dana Hasil Penjualan Batubara</i> Obligation that must be paid by mining companies to the State amounted to 13.5% of the sales value of coal does not depend on the level of coal calorie
Cash Basis	An accounting method in recognizing income and or expense when cash is received and or when cash is disbursed by company/reporting entity	DG PNBP	Non Tax Revenue Directorate, the Directorate General of Budget, Ministry of Finance (MoF)
Corporate & Dividend Tax	Income Tax and Dividend Tax owed by a taxpayer on taxable income in a tax year plus the dividend tax in accordance with the applicable tax provisions	DG Oil and Gas	Direktorat General of Oil and Gas, Ministry of Energy and Mineral Resources (MoEMR)
Condensate	Gas oil, naphtha and other relatively light hydrocarbons (with some dissolved hydrocarbon gas such as butane and propane) that remain liquid at normal temperature and pressure. Derived mainly from the	DG Mineral and Coal	Direktorat General of Mineral and Coal, Ministry of Energy and Mineral Resources (MoEMR)
		DG Tax	Direktorat General of Taxation, Ministry of Finance (MoF)
		Dividend	Distribution of a portion of a company's earnings to its shareholders who are entitled under the approval of the RUPS
		DG Budget	Direktorat General of Budgeting, Ministry of Finance (MoF)

DG Treasury	Directorate General of Treasury, Ministry of Finance (MoF)		
DG Fiscal Balance	Directorate General of Fiscal Balance, Ministry of Finance (MoF)	FTP	
DMO	Domestic Market Obligation – obligation of delivery from KKKS/companies' entitlement to deliver oil, natural gas or coal to meet domestic demand		
DMO Fee	Compensation to be paid by the Government to the KKKS on the delivery of oil and/or gas to meet domestic needs by using prices set by the Minister in the field of duties and responsibilities includes the business activities of Oil and Gas	Gas/Natural Gas	
Dry Hole	Drilling exploration wells where no proved oil and gas reserve		
EITI	Extractive Industries Transparency Initiative	IA	
ESDM	Energy and Mineral Resources <i>Energi Sumber Daya Mineral</i>	IAPI	
ETBS	Equity To Be Split	ICP	
Executive team	Stakeholder group, Multi Stakeholder Group (MSG), which is implementing the EITI, where the member is accordance with Presidential Decree No. 26 of 2010 Section 10		
Fixed Fee	(<i>Land Rent</i>) is a contributions that state received in return for the opportunity General Survey, Exploration or Exploitation in a work area	IDR	
FQR	<i>Quarterly Financial Report is a report that must be submitted by the KKKS to SKK Migas Quarterly, which presents information about KKKS activities which include:</i> 1) Total Lifting Gas 2) First Tranche Petroleum 3) Investment Credit 4) Cost Recovery 5) DMO at ICP 6) DMO Fees 7) Profit sharing between the Government and the KKKS 8) Calculation of Income Tax on	IFRS INTOSAI Investment Credit	First Tranche Petroleum is a certain amount of crude oil and/or gas produced from a work area in a calendar year, which can be taken and accepted by the Regulatory Body and/or KKKS in each calendar year, before deducting the cost recovery of operation and handling of production (own use) The result of natural processes such as hydrocarbon in atmospheric pressure and temperature conditions in the form of gas, which is obtained from the extraction of oil and gas. Natural gas can be processed into pipeline gas, LNG and LPG Independent Administrator, designed to compose Indonesia EITI Report 2014 Institut Akuntan Publik Indonesia Indonesian Crude Price - The price of Crude Oil/Condensate Indonesia established by the Government of Indonesia with a certain formula for the implementation of the PSC Contract of Oil and Gas and sale of Crude Oil/Condensate from Government entitlement derived from the implementation of the PSC Contract of Oil and Gas Rupiah (Rp), Republic of Indonesia currency International Financial Reporting Standard International Organization of Supreme Audit Institutions Investment incentives are additional refund in the amount of certain capital costs, directly related to the production facilities, which is given as an incentive for the development of oil fields and/or certain natural gas International Public Sector Accounting Standards

ISSAI	<i>International Standards of Supreme Audit Institutions</i>	KP	Mining Authority is the authority granted to entities/individuals to carry out mining operations
IUP	<i>Izin Usaha Pertambangan</i> Mining Business Permit pertambangan	KPPN	<i>Kantor Pelayanan Perbendaharaan Negara</i> State Treasury Offices
IUPK	<i>Izin Usaha Pertambangan Khusus</i> Special Mining Business Permit, is permit to operate mining business in special mining business area	LAKIP	<i>Laporan Akuntabilitas Kinerja Instansi Pemerintah</i> Government Agencies Performance Accountability Report
JOB	Joint Operation Body	Lifting	A number of crude oil and/or gas that is sold or divided at the point of delivery (custody transfer point)
Joint Lifting	Lifting activities carried out jointly between the KKKS and the Government using the vessel/pipeline for the same purpose, where the result is divided by the estimated temporary entitlement	LKPP	<i>Laporan Keuangan Pemerintah Pusat</i> /Government of Indonesia
JV	Joint Venture	LPG	Financial Liquefied Natural Gas is natural gas that is converted into liquid form which requires refrigeration process for easy transport
KAP	<i>Kantor Akuntan Publik</i> / Public Accountant Firm		Liquefied Petroleum Gas is a gas (usually butane and propane) are stored and transported as a liquid under pressure. Unlike LNG, LPG does not require refrigeration to be liquefied
KESDM	Ministry of Energy and Mineral Resource	MSCF	Thousands Standard Cubic Feet. is the amount of gas needed to fill the room 1 (one) cubic feet, with a pressure of
KK	An agreement between the Government of the Republic of Indonesia with Indonesian legal entity in the context of foreign investment to conduct mineral mining		14.73 psi (fourteen and seven-tenths of a pound per square inch) or 14.696 psi (fourteen and six nine six per hundred pounds per square inch) and at 60
KKKS	Contractor Joint Cooperation Contracts are business entities or permanent establishments that are set to conduct exploration and exploitation of oil and gas in a working area under the Cooperation Contract with the Implementing Body	MSG	° F (sixty degrees Fahrenheit) in dry conditions
KKS	Joint Cooperation Contracts is a form of cooperation in the Upstream Oil		Multi Stakeholder Group – see Implementing Team

Offshore	Oil operations over the mainland	PKP2B	Coal Contract of Work is an agreement between the Government of the Republic of Indonesia and Indonesian legal entity in the context of foreign investment or domestic investment to coal mining
Onshore	Oil operations in mainland		
Operator	Contractor or in the case of contractors consisting of several holders of participating interests, one of the participating interest holder designated as representative by the other participating interest holders in accordance with a cooperation contract.	PNBP	Non-tax revenue
Otsus	<i>Otonomi Khusus/ Special Autonomy</i>	PNBP utilization of area of forest	Non-tax revenues derived from the use of forest areas for development outside forestry activities in lieu of land compensation
Over/(Under) Lifting	Over Lifting is taking excess oil and natural gas by one party than the entitlement stipulated in the Cooperation Agreement in any particular period. Under Lifting is a shortage of oil and gas decision by one of the parties than the entitlement stipulated in the Cooperation Agreement in certain periods.	PP	Government regulations
Income tax (VAT) Firm	Income tax is payable by the taxpayer on taxable income in a tax year in accordance with the rules applicable tax provisions	PPN	Value-added Tax
Partner	Participating Interest holder in the PSC other than PSC Operator	Production Bonus	A bonus that will be paid by the KKKS to the Government after reaching accumulation and (or) a certain level of production in accordance with KKS
PBB	Land and Building Tax is a tax calculated based on the area of land and buildings constructed on it. The UN paid by the taxpayer in accordance Tax Payable letter issued by the Tax Office	Profit Sharing	Result of production available to be divided (Lifting) between the Government and PSC net of FTP (First Tranche Petroleum), investment incentives (if any) and the return on operating costs
PDRD	Local Tax and Levies	PSC	Production Sharing Contract
GOI	Government of Indonesia	Reconciliation	The process of comparing the financial information and volume reported by the company/KKKS and the relevant Government agencies as well as the explanation of the differences can be resolved and identification of differences that cannot be solved
PHT	<i>Penjualan Hasil Tambang</i> is the obligation of the license holder PKP2B that is regulated in a separate contract. PHT is the difference between DHPB (13.5% of the sales value of coal) less royalties (3% till 7% of the sales value of coal depends on coal calories)	Reporting Entity	In the context of this report, the reporting entity is a company/KKKS and Government Agencies
PI	<i>Participating Interest</i>	Royalty	Exploration and Exploitation Fees from authority power in production contribution of mining on the results of exploration opportunities/exploitation
PKB	Coal Cooperation Agreement an	SAIPI	<i>Standar Audit Intern Pemerintah Indonesia</i>
		SAK	<i>Standar Akuntansi Keuangan</i>
		SAT	<i>Standar Atestasi</i>
		Scoping Study	Research scope for the manufacture of EITI Report 2014 conducted by the Independent Administrator in this case

Offshore	Oil operations over the mainland	PKP2B	Coal Contract of Work is an agreement between the Government of the Republic of Indonesia and Indonesian legal entity in the context of foreign investment or domestic investment to coal mining
Onshore	Oil operations in mainland	PNBP	Non-tax revenue
Operator	Contractor or in the case of contractors consisting of several holders of participating interests, one of the participating interest holder designated as representative by the other participating interest holders in accordance with a cooperation contract.	PNBP utilization of area of forest	Non-tax revenues derived from the use of forest areas for development outside forestry activities in lieu of land compensation
Otsus	<i>Otonomi Khusus/ Special Autonomy</i>	PP	Government regulations
Over/(Under) Lifting	Over Lifting is taking excess oil and natural gas by one party than the entitlement stipulated in the Cooperation Agreement in any particular period. Under Lifting is a shortage of oil and gas decision by one of the parties than the entitlement stipulated in the Cooperation Agreement in certain periods.	PPN	Value-added Tax
Income tax (VAT) Firm	Income tax is payable by the taxpayer on taxable income in a tax year in accordance with the rules applicable tax provisions	Production Bonus	A bonus that will be paid by the KKKS to the Government after reaching accumulation and (or) a certain level of production in accordance with KKS
Partner	Participating Interest holder in the PSC other than PSC Operator	Profit Sharing	Result of production available to be divided (Lifting) between the Government and PSC net of FTP (First Tranche Petroleum), investment incentives (if any) and the return on operating costs
PBB	Land and Building Tax is a tax calculated based on the area of land and buildings constructed on it. The UN paid by the taxpayer in accordance Tax Payable letter issued by the Tax Office	PSC	Production Sharing Contract
PDRD	Local Tax and Levies	Reconciliation	The process of comparing the financial information and volume reported by the company/KKKS and the relevant Government agencies as well as the explanation of the differences can be resolved and identification of differences that cannot be solved
GOI	Government of Indonesia	Reporting Entity	In the context of this report, the reporting entity is a company/KKKS and Government Agencies
PHT	<i>Penjualan Hasil Tambang</i> is the obligation of the license holder PKP2B that is regulated in a separate contract. PHT is the difference between DHPB (13.5% of the sales value of coal) less royalties (3% till 7% of the sales value of coal depends on coal calories)	Royalty	Exploration and Exploitation Fees from authority power in production contribution of mining on the results of exploration opportunities/exploitation
PI	<i>Participating Interest</i>	SAIPI	<i>Standar Audit Intern Pemerintah Indonesia</i>
PKB	Coal Cooperation Agreement an	SAK	<i>Standar Akuntansi Keuangan</i>
		SAT	<i>Standar Atestasi</i>
		Scoping Study	Research scope for the manufacture of EITI Report 2014 conducted by the Independent Administrator in this case

SDA	<i>Sumber Daya Alam</i> Natural Resources
Secretariat	Secretariat of EITI
Signature Bonus	Contractor pays bonus to the Government after signing of the PSC no later than 30 days
SKK Migas	<i>Satuan Khusus Kegiatan Usaha Hulu Minyak dan Gas Bumi/</i> Special Taskforce for Upstream Oil and Gas Business Activities
SKPKB	<i>Surat Ketetapan Pajak Kurang Bayar/</i> Tax assessments that determines the amount of the principal amount of tax, the tax shortfall principal payments, the amount of administrative sanctions, and the amount of tax to be paid
SKPKBT	<i>Surat Ketetapan Pajak Kurang Bayar Tambahan/</i> Tax assessments that determines the addition of a predetermined amount of tax
SPAP	<i>Standar Profesional Akuntan Publik</i>
SPKN	<i>Standar Pemeriksaan Keuangan Negara</i>
SSBP	<i>Standar Pemeriksaan Keuangan Negara</i>
SSBP	<i>Surat Setoran Bukan Pajak/Non Tax Slip</i>
STP	<i>Surat Tagihan Pajak</i>
	Letter to the tax bill and/or administrative sanctions in the form of interest and/or penalties
Technical Team	A Small Team that represents the Implementing Team
USD or	United State Dollar currency

1

Foreword and Background



1.1 Foreword

All activities that extracts natural resources from the earth including minerals, coal, oil, and natural gases are considered extractive activities. The extractive industry is divided into 2 categories which are upstream and downstream.

Upstream activities are commercial activities that focuses on exploration and exploitation activities. Exploration activities constitutes activities that aims to gather information regarding geological condition to locate and gather reserve estimates. Exploitation is a chain of activities including drilling/mining, transportation infrastructure development, storage, and processing for separation and purification that aims to produce products that can be used directly by consumers which includes coal, oil, natural gases, and other minerals

Downstream activities are processing activities that constitutes purification, quality improvement, value adding, transportation process, storage, and/or commercial activities. This report focuses on upstream business activities. As for extractive industry, this report only constitute oil and gas sector, and mineral and coal (mining) sector based on the extractive industry definition of Presidential Regulation No. 26 Year 2010 regarding National Revenue and Regional Revenue Obtained from Extractive Industry Transparency.

This first chapter discusses the background of the establishment of EITI, the implementation of EITI in Indonesia, and The EITI Standard applied. Furthermore, this report will discuss the regulatory framework regarding information freedom and the transparency of the national and regional revenue that is obtained from the extractive industry.

1.2 Background

Extractive Industries Transparency Initiative (EITI) is an international agreement that constitute provisions that encourages transparency and accountability in natural resources management in member states that requires corporations in the country that produces oil and gas, and general mining, to publicize the type of transaction to the Government and the Government to publicize payment acceptance from corporations in the member state. Through the declaration process, EITI member states hope that the push for information freedom for the general public within the framework of system improvement will increase the trust towards the Government, as well as towards the corporation that becomes a part of the people.

In the EITI 2016 standards, EITI has 2 basic concepts which are illustrated in Figure 1.1 EITI standard:

- Transparency: Corporations in the extractive industry (oil and gas, minerals, and coal) report information regarding activities and payments towards governments, while governments report acceptance, fund distribution based on region, social and infrastructure investment. Appointed independent administration performs reconciliation process towards payments, acceptance, and annual publication in the EITI report including other information regarding the extractive industry in Indonesia.
- Accountability: Formation of the Multi Stakeholder Group (MSG) with representatives from governments, corporations, and the general public to oversee the process and communicate the EITI report findings, and encourage the integrity of EITI in the attempt to improve transparency. In Indonesia, MSG is equivalent to the Transparency Implementing Team as listed in Presidential Regulation No. 26 Year 2010 regarding National Revenue and Regional Revenue Obtained from Extractive Industry Transparency.

Figure 1.1 The EITI Standard



Source: <http://eiti.org>

The nature of EITI is an agreement where each state and organizational member performs voluntary activities to enforce EITI principles and criteria through its own state's regulations and policies. Moreover, members may elect to amend the law or regulations to implement EITI.

There are 2 categories of states that implement The EITI Standard:

1. EITI state that is a candidate to implement The EITI Standard 2016 are categorized as EITI Candidate;
2. EITI state that fulfils the implementation requirements of The EITI Standard 2016 are categorized as EITI Compliant.

EITI Candidate is a temporarily status for states that are in the process of implementing The EITI Standard 2016. These states must publicize the report within 18 months after the state is accepted as an EITI Candidate state. Subsequently, in order to obtain the EITI Compliant status, the EITI Candidate state will go through a validation process for 2,5 years since becoming an EITI Candidate state.

Until 2016, 44 states have produced EITI reports out of 51 states that have implemented EITI, and have successfully documented state revenues equivalent to USD 2,09 Billion¹. Indonesia is one of the states that has the status EITI Compliant.

1.2.1 Scope of EITI in Indonesia

As a background, extractive industry is commonly associated with conflict and corruption that worried the industry stakeholders. Starting from the emergence of academic assessments that reviews the beneficial potential of extractive industry that is not well managed, that in general, is marked with benefits domination by particular elites and the complexity of processes in the industry.

The social movement is emerged by various parties encouraging improvement on transparency of flow of funds generated in extractive industries. In December 1999 appeared a social movement with slogan "Publish What You Pay" (PWYP) that is based on a report from Global Witness organization related to false governance on oil sector in Angola. The social movement aimed to require transparency of extractive industries in Angola and other countries with similar economic and social backgrounds.

Until 2002, British Prime Minister Tony Blair launched a transparency initiative for the extractive industry (EITI) at the World Summit on Sustainable Development forum that was held in Johannesburg.

Not long after the initiative was launched, states who are members of the Group of Eight (G8) announced the importance of transparency in the development and collection of data during the G8 Summit² oil and gas sector and mineral and coal (mining) sector

Figure 1.2 EITI Status Acquisition Process



¹ <https://eiti.org/>

² <https://eiti.org/history>

Country revenues transparency initiatives from the Indonesian extractive industry started in 2007 when the Minister of Finance at that time, Sri Mulyani, stated that the Government supports the importance of EITI implementation through delegates from Transparency International Indonesia. In 2008, coordination meeting that was led by Economic Coordination Minister at that time, Boediono, discussed the basis for EITI implementation in Indonesia. On the 23rd April 2010, the then President Susilo Bambang Yudhoyono signed Presidential Regulation Number 26 Year 2010 regarding National Revenue Transparency and Regional Revenue Obtained from Extractive Industry.³

The recommendation that Indonesia becomes an EITI Candidate was announced in October 2010 at Dar-Es-Salaam, Tanzania at an EITI Council Meeting. Compliance towards EITI criteria must be achieved by Indonesia within 2.5 (two and a half) years since the declaration.

The membership of Indonesia in EITI implies that the Indonesian Government has committed to reveal all state revenues from the extractive industry which includes oil and gas sector and mineral and coal (mining) sector. State revenues that are declared includes revenues from taxes, royalties and fees.

Furthermore, corporations in the extractive sector that operates in Indonesia will provide the relevant information regarding all payments that are made to the Government. The information will be reconciled by an Independent Administrator (IA) using a process that is supervised by representatives from Government, industry, and civil organizations.

Currently, EITI implementation activities in Indonesia requires the active involvement of representatives from the Government, community, and private sector that is named Multi-stakeholders Group (MSG).

EITI reporting implementation sits under the coordination of Energy, Mineral Resources, and Forestry Deputy of the Coordinating Ministry of Economics. EITI Indonesia has also established an EITI Indonesia Secretariat that sits under the Coordinating Ministry of Economics.

1.2.2 The EITI Standard 2016

The process of participation of member states in the EITI forum is accompanied by an even reporting needs. Related to this matter, at the EITI Global Conference in Lima in February 2016, The EITI Standard 2016 was issued as a reference in implementing EITI. Other than the standardization requirements, principles that have been agreed upon by EITI members are also introduced. The Principles are as the following:

- A. We share a belief that the prudent use of natural resource wealth should be an important engine for sustainable economic growth that contributes to sustainable development and poverty reduction, but if not managed properly, can create negative economic and social impacts;
- B. We affirm that management of natural resource wealth for the benefit of a country's citizens is in the domain of sovereign governments to be exercised in the interest of their national development;
- C. We recognize that the benefits of resource extraction occur as revenue streams over many years and can be highly price dependent;

³ <http://eiti.e.kon.go.id>

- D. We recognize that a public understanding of Government revenues and expenditure over time could help public debate and inform choice of appropriate and realistic options for sustainable development;
- E. We underline the importance of transparency by governments and companies in the extractive industries and the need to enhance public financial management and accountability;
- F. We recognize that achievement of greater transparency must be set in the context of respect for contracts and laws;
- G. We recognize the enhanced environment for domestic and foreign direct investment that financial transparency may bring;
- H. We believe in the principle and practice of accountability by Government to all citizens for the stewardship of revenue streams and public expenditure;
- I. We are committed to encouraging high standards of transparency and accountability in public life, Government operations and in business;
- J. We believe that a broadly consistent and workable approach to the disclosure of payments and revenues is required, which is simple to undertake and to use;
- K. We believe that payments' disclosure in a given country should involve all extractive industry companies operating in that country;
- L. In seeking solutions, we believe that all stakeholders have important and relevant contributions to make – including governments and their agencies, extractive industry companies, service companies, multilateral organizations, financial organizations, investors and non-governmental organizations.

Aside from the principles, EITI also has number of

same basic provisions among the members, as follows: Other than principles, EITI has minimum requirements that are the same for implementing countries:

- A. *Oversight by the multi-stakeholder group*: EITI requires effective multi-stakeholder oversight;
- B. *Legal and institutional framework, including allocation of contracts and licenses*: EITI requires disclosures of information related to the rules for how the extractive sector is managed;
- C. *Exploration and Production*: EITI requires disclosures of information related to exploration and production;
- D. *Revenue Collection*: EITI requires a comprehensive reconciliation of company payments and Government revenues from the extractive industries;
- E. *Revenue Allocations*: EITI requires disclosures of information related to allocations of revenues from the extractive industry;
- F. *Social and Economic Spending*: EITI requires disclosures of information related to social expenditures and the impact of the extractive sector on the economy;
- G. *Outcomes and Impact*: The EITI requires public awareness of EITI reports and their public discussion to discover how natural resources can be managed better;; EITI requires public awareness regarding the EITI report and seek to ensure that stakeholders are engaged in dialogue on how to better manage natural resources;
- H. *Compliance and deadlines for implementing countries*: EITI outlines the timeframe established for publication of EITI Reports for implementing countries.

Based on the Requirement number 2, 3, 5 and 6 of The EITI Standard 2016, EITI Report shall contain the information and contextual data that publicly and transparently explain the implementation of management of extractive industry, including elaboration and data related to exploration and production activities. In accordance to the settlement with the Multi-Stakeholder Group (MSG), contextual information will be published in a separate information that is referred as Contextual Report.

Several information and contextual data proposed to be explained transparently in the EITI Reports are as follows:

- A. Legal framework and fiscal regime (Requirement 2.1);
- B. License allocation (Requirement 2.2);
- C. State participation (Requirement 2.6);
- D. Exploration Activities (Requirement 3.1);
- E. Production Activities (Requirement 3.2);
- F. Exports Data (Requirement 3.3);
- G. Distribution of extractive industry revenues (Requirement 5.1);
- H. Data sharing of revenue between the Central and Local Government (Requirement 5.2);
- I. Social expenditures by extractive companies (Requirement 6.1);
- J. The contribution of the extractive sector to the economy (Requirement 6.3).

The party responsible for the preparation of Contextual Report as part of the EITI Report must be approved by the MSG (Requirement 3.1).

Revenue streams specified and requested to be reconciled in the EITI Report are as follows:

- A. Value of Government revenue rights from production activities;
- B. Value of production rights by SOEs;

- C. Profit tax;
- D. Royalty;
- E. Dividend;
- F. Bonuses including: Signature Bonus, Discovery Bonus and Production Bonus;
- G. Fees;
- H. Other significant revenues.

Other than the above revenues, revenues that require to be declared and reconciled are as the following:

- A. Sale of the state's share of production or other revenues collected in kind (Requirement 4.2);
- B. Collective revenues from natural resources as compensation for exploration and production rights (for instance Infrastructure provisions and barter arrangements etc.)
- C. Transportation revenues from extractive industry (Requirement 4.4);
- D. Revenues from transactions related to state-owned enterprises (Requirement 4.5);
- E. Revenues received directly by the Local Governments (Requirement 4.6);

Moreover, the impact of changes in requirements of EITI following The EITI Standard 2016 require changes in the template for reconciliation of five (5) points above. In addition to payments and revenues reconciliation, there is also other information needed to be included in the EITI Report but are categorized as Non-Reconciled.

According to the Terms of Reference (TOR), the non-reconciled information for oil and gas sector is as the following:

- A. Property Tax;
- B. Value Added Tax;
- C. Local Tax and Levies;
- D. Corporate Social Responsibility (CSR);

- E. Firm commitment (penalty given to oil and gas companies that have not completed the entire certain commitment in the first 3 years of operation);
- F. Revenue from the use and transfer of state assets to other parties.

Non-reconciled information for the coal and mineral sector is as the following:

- A. Land rent;
- B. Property Tax;
- C. Local Tax and Levies;
- D. Direct payments to Local Government;
- E. Transportation Fees to SOEs;
- F. Corporate Social Responsibility (CSR);
- G. Infrastructure provision;
- H. Non Tax State Revenue (PNBP) from Borrow to Use Permit for Forest Area (IPPKH).

1.2.3 Legal Framework EITI in Indonesia

Indonesia encourages the role of society in public policy decision-making process through Law No. 14/2008 in Public Information Transparency. This Law supports the realization of a good management of country's information in the form of transparency, effective, efficient and accountable.

Law No. 14/2008 outlines the obligations of public agencies in providing public information to the public in regular basis. Public agencies referred in this Law is executive, legislative, judicial body and other bodies funded by the state or local budget, including State Owned Enterprises or Regional Owned Enterprises and other governmental organizations.

In addition, this Law requires disclosure of public information such as information about the activities and performance of public agencies and information on financial statements.

The Law No. 14/2008 becomes one of the elements of the Presidential Regulation No. 26/2010 on State and Local Revenue Transparency from Extractive Industries. This regulation defines the extractive industry and revenues from extractive industries, including the establishment of Transparency Team, and structure and duties of Transparency Team.

The establishment of Transparency Team complies with Requirement No. 1 of The EITI Standard 2016 which in line with a form of supervision by the Multi-Stakeholder Group.

Presidential Regulation No. 26/2010 also explains about the Transparency Team that tasked to implement state revenue and local revenue transparency from extractive industry. In doing this job, the team is authorized to request information, additional data, input and/or consultation with central Government agencies, local Government and extractive industry companies.

Transparency Team on Presidential Regulation No. 26/2010 consisted of the Steering Committee and Implementing Team. Both team consists of representatives from Coordinating Ministry for Economic Affairs, Ministry of Energy and Natural Resources, Ministry of Finance, Ministry of Home Affairs, Financial and Development Supervision Agency (*Badan Pengawasan Keuangan dan Pembangunan/BPKP*), SKK Migas, PT Pertamina (Persero), representatives of local Government, business associations of mineral and coal as well as oil and gas, and representatives of civil society.

Steering committee chaired by the Coordinating Ministry of Economic Affairs that reported at least once a year to the President. Implementing Team is responsible to the Steering Committee.

As a follow-up to Presidential Regulation No. 26/2010, in 2012, Coordinating Ministry of Economic Affairs Decree No. KEP-19/M.EKON/04/2012 was issued concerning on the Secretariat of Extractive Industries Transparency Team. Based on the corresponding decision, the Transparency Team Secretariat has nine (9) main tasks as illustrated in the figure below.

Figure 1.3 Tasks of Transparency Team Secretariat



2

Extractive Industry Governance in Indonesia



The 1945 Constitution of the State of the Republic of Indonesia, as the highest legislation in Indonesia, regulates the management of Indonesia's natural resources, as stated in Article 33, Verse 3, as follows: "The land and water and the natural resources contained therein shall be controlled by the state and shall be used for the greatest prosperity of the people."

The article also supports through Verse 1: "The economy shall be organized as a common endeavor based upon the principle of family system (*kekeluargaan*)," as well as Verse 2: "Production branches which are important for the state and which affect the livelihood of the people at large shall be controlled by the state." The 1945 Constitution mandates the regulation of natural resources to be controlled by the Government of Indonesia.

The 1945 Constitution also grants rights for Government through Article 5, Verse 1: "The President shall have the right to propose bills to House of Representatives", as well as Article 20, Verse 1: "House of Representatives shall have the power to make law"; Verse 2: "Every bill shall be discussed by House of Representatives and the President to obtain a joint approval"; Verse 3: "In the event that a bill does not obtain joint approval, it may not be re-submitted during the same session of House of Representatives."

Verse 4: "The President shall ratify bills which have obtained joint approval to become a law"; and Verse 5: "In the event that a bill which has obtained joint approval is not ratified by the President within thirty days as from the time at which such bill is approved, the bill concerned shall legally become a law and it must be enacted."

In addition to the constitution above, this chapter will provide an overview of related laws and regulations, including type of contracts and licensing, as well as Government agencies involved in extractive industries.

2.1 Laws and Regulations Related to Oil and Gas and Minerals and Coals Mining Industry

This section explains several main rules along with technical regulations related to oil and gas and minerals and coals mining industry. The regulations listed below also become references to the regulations contained in website of Ministry of Energy and Mineral Resources, which is the Technical Ministry of the extractive industry. Provisions of the legislation are as follows:

A. Law No. 22 Year 2001 regarding Oil and Gas

Law No. 22 Year 2001 emphasizes that oil and gas are natural resources strategic and regarded as national assets controlled by the State. Therefore, the implementation of oil and gas operational activities is conducted by the Government as the owner of mining rights. In this Law, the Government is represented by the Implementing Agency. As a consequence, the regulatory authority owned by Pertamina which was regulated by previous Law switching to Implementing Agency.

On 13 November 2012, the Constitutional Court issued a decision No. 36/PUU-X/2012 which annulled several provisions contained in Law No. 22 Year 2001 regarding Oil and Gas. As a consequence of this decision, The

Implementing Agency for Upstream Oil and Natural Gas Businesses or *Badan Pelaksana Kegiatan Usaha Hulu Minyak dan Gas Bumi (BP Migas)*, an upstream regulator of oil and gas sector is no longer declared constitutional. Primary consideration related to this decision is the 1945 Constitution, Article 33 which affects Law No. 44 Year 1960 regarding Oil and Gas which then amended into Law No. 22 Year 2001.

In Law No. 44 Year 1960, Pertamina is considered as the Government representative in arranging agreements and operations of oil and gas sector. Pertamina is regarded as a State-Owned Enterprise, which established based on Law No. 7 Year 1971. Subsequently, Law No. 22 of 2001 declared BP Migas as the replacement of Pertamina as a regulator and supervisor of oil and gas upstream sector through PSC scheme developed by *BP Migas*.

The issuance process of Law No. 22 Year 2001 is the consequence of Memorandum of Economic and Finance Policies (Letter of Intent of the Government) as part of the request for financial support from International Monetary Fund (IMF) as of 20 January 2000. In this memo, Government's role is to prepare a legal basis related to oil and gas in accordance with the latest legal requirements.

The Constitutional Court gave three underlying reasons for *BP Migas* to be considered unconstitutional. Firstly, the Government had difficulty in running the direct role of natural resource management, resulted in the allowance of appointing State-Owned Enterprises to manage the working area of oil and gas upstream sector. Verse 4: "The President shall ratify bills which have obtained joint approval to become a law"; and Verse 5: "In the event that a bill which has obtained joint approval is not ratified by the President within thirty days as from the time at which such bill is approved, the bill concerned shall legally become a law and it must be enacted."

In addition to the constitution above, this chapter will provide an overview of related laws and regulations, including type of contracts and licensing, as well as Government agencies involved in extractive industries.

Secondly, the Government was bound over the entire term of the contract when *BP Migas* signed the PSC. Therefore, the Government lost the discretion in composing regulations – in which contradict to PSC.

Thirdly, the Government's inability to produce economic profits for community, including the possibility in dominating oil and gas industry based on business competition principles. Within this authority, the Government should have taken an active role in oil and gas industry domination, for issuing regulations and policies, managing capability, operating and monitoring oil and gas resources.

Forms of contract that are set in this Law is the Production Sharing Contracts and Joint Cooperation Agreements. The Law regulates main provisions that must be included in the contracts and contract period of cooperation as well as the limitation of working area of Permanent Establishment or *Badan Usaha Tetap (BUT)*.

B. Law No. 4 Year 2009 regarding Mineral and Coal Mining

Law No. 4 Year 2009 regulates provisions in the implementation and supervision of mineral and coal mining activities. The Law gives a greater authority to the Regional Government to grant Mining Permits or *Izin Usaha Pertambangan (IUP)*, Small-Scale Mining Permits or *Izin Pertambangan Rakyat (IPR)*, as well as the establishment of regional regulation that is not specified in the previous Law regarding Mineral and Coal Mining. Another purpose of this Law is also to prioritize the needs or demands of minerals and coals in the country.

On 4 June 2012, the Constitutional Court through a decree No. 25/PUU-VIII/2010 granted the petition of Law No. 4 Year 2009. In particular, the Constitutional Court revoked Article 22 (e) and (f) along the phrase "and or", also Article 52 Verse (1) throughout the phrase

"with a size of at least 5,000 (five thousand) hectares and," as it was contrary to the 1945 Constitution. Hence, it is no longer required to have at least 5,000 hectares Mining Permit Area or *Wilayah Izin Usaha Pertambangan (WIUP)*.

Through a decree No. 30/PUU-VIII/2010, the Constitutional Court also revoked Article 55 Verse (1) and Article 61 Verse (1) along the phrase "with a size of at least 5,000 (five thousand) hectares and," as well as Article 51 and Article 60 along the phrase "through bids." Furthermore, Article 74 Verse (4) was considered contrary to the 1945 Constitution, throughout the phrase "The bidding of Mining Permit Areas (WIUP) or Special Mining Permit Areas (*Wilayah Izin Usaha Pertambangan Khusus* or WIUPK) are conducted by equalizing all participants in terms of administrative capacity or management, technical, environmental, and financial differently to the objects that will be on bids"

Moreover, there are other provisions which not specific to oil and gas and mineral and coal sector as follows:

C. Law No. 2 Year 2012 regarding Land Procurement for Public Utilities Construction

Law No. 2 Year 2012 is a fundamental regulation issued by the Government in completing the land procurement. The most frequently encountered constraints by the Government is difficulty in land procurement process, particularly related to public utilities constructions.

The provisions in the Law are created in order to realize a just and prosperous society based on Pancasila and the 1945 Constitution. In addition, the provisions also ensure the implementation of public utilities construction in which necessary to have a land procurement that put forward the principle of humanity, democratic and fair.

For the procurement process, a coordination with the Provincial Government is required in order to create the guidelines of land procurement planning for public utilities construction as a form of elaboration of Law No. 2 Year 2012. Secondly, it is necessary to delegate the authority to District Government in issuing a Decree or *Surat Keputusan (SK)* on location determination for public utilities construction in accordance with provisions of Presidential Regulation level.

D. Law No. 12 Year 2011 regarding Establishment of Laws and Regulations

Law No. 12 Year 2011 contains of provisions that regulate laws basis, as well as the oil and gas and mineral and coal industry.

The Law explains the hierarchy of rules in which consists of:

- (1) The 1945 Constitution of the State of the Republic of Indonesia
- (2) The People's Consultative Assembly Decree
- (3) Law or Government Regulation in Lieu of Law
- (4) Government Regulation
- (5) Presidential Regulation (6) Province Regulation
- (7) Regency/Municipality Regulation

Furthermore, the establishment of laws and regulation must be done in accordance with Principles of Good Regulation Establishment as follows:

- (1) Clear purpose
- (2) Proper institution and officers
- (3) Compatibility between types, hierarchy, and material content
- (4) Feasible Implementation
- (5) Usefulness and result
- (6) Clarity of formulation
- (7) Openness

The existence of Law No. 12 Year 2011 is also constituted by the management of extractive industries that requires completeness of legislation in order to obtain beneficial results for community.

E. Law No. 30 Year 2009 regarding Electricity

Law No. 30 Year 2009 regulates the basic provisions related to electricity sector. Most domestic electricity is supplied by thermal power plant fueled by gas and coal, therefore the implementation of provision is needed as it will affect the extractive industry.

On 14 December 2016, the Constitutional Court through a decree No. 111/PUU-XIII/2015 declared that Law No. 30 Year 2009 Article 10 Verse 2 was contrary to the 1945 Constitution conditionally. The provision had no binding legal force if it was interpreted into a justification of unbundling practices in the electricity supply business for public interest in a way that eliminated the State Control principle.

In addition, Article 11 Verse 1 was also declared as a contrary to the 1945 Constitution conditionally, and had no binding legal force if the principle of "*under State control*" being eliminated from the provision.

The examination process of this Law resulted a necessity of State's involvement, as well as an obligation for electricity supply businesses to be integrated. Within implementation, the Government's role to provide opportunities to private sector in participating Independent Power Producers (IPP) was possible, with the support of mineral and coal business activities – which essentially the energy sources to be converted into electricity.

F. Law No. 25 Year 2009 regarding Public Service

Law No. 25 Year 2009 regarding Public Service provides an overview of the importance of public services. The association of this Law is fulfillment of public services, including regulation assigned to PT Pertamina (Persero) in distributing premium class gasoline at the same retail price throughout Indonesia.

Within the Law, public service fulfillments also includes the provision of three-kilo gas cylinder or tank for particular level of communities in conversion of kerosene to gas. Several associations of the Law are part of the downstream business activities, which found to be beyond the scope of extractive industries.

G. Law No. 32 Year 2009 regarding Environmental Protection and Management

Law No. 32 Year 2009 provides overview of the importance of public services, including the management of oil and gas and mineral and coal sector.

Incentives and/or disincentives set in the Article 42 Verse 2c are applied in the form of application of taxes, levies and subsidies for environment. The intended environment taxes are the levies collected by Government and Regional Government on any individual who utilizes natural resources, such as

groundwater extraction tax, fuel tax, and swallow's nest tax.

In Article 49, Minister obliges the environmental audit towards a business and/or certain activities with high risk to the environment. A business and/or certain activity with high risk is any activity that may result great impacts on human's health and environment condition in case of accidents and/or emergencies, such as petrochemicals, oil and gas refineries, as well as nuclear power plants.

H. Law No. 14 Year 2008 regarding Public Information Disclosure

Law No. 14 Year 2008 provides a background regarding the information usage. The applied principle according to Article 2 is that *“Every Public Information is open and accessible by every User of Public Information.”*

In Article 2 Verse 2, *“An exception to the Public Information is information that is restrictive and limited.”* Verse 3, *“Every Public Information Applicant shall be able to obtain Public Information fast and promptly at low cost and in a simple manner.”* Verse 4, *“Public Information that is classified is confidential information pursuant to the Law, ethics, and the interest of the public, based on an examination in terms of the consequences that occur if the information is provided to the public and after careful consideration that covering up Public Information can protect a larger interest rather than opening it or vice versa.”*

However, there is an exception in disclosing the public information, as stated in Article 17d, “*Every Public Agency is obliged to open the access to obtain Public Information for every Public Information Applicant, except: (d) Public Information that if disclosed and supplied to the Public Information Applicant could reveal the natural wealth of Indonesia.*

Article 18 provides types of information that are not categorized as classified, such as:

- (1) *Court decisions*
- (2) *A binding as well as non-binding prevailing provision, decision, regulation, circular or any other form of policy internally or externally as well as the consideration of a law enforcement institute*
- (3) *An order to stop an investigation or prosecution;*
- (4) *The annual expenditures plan of a law enforcement institute*
- (5) *The annual financial report of a law enforcement institute*
- (6) *The report on the money repayment scheme from corruptive acts*

Public information that has been stated as open to the public according to the mechanism of objections and/or declared as public information that can be accessed by User of Public Information.

Article 19 states that “*The Information Management and Documentation Officer at every Public Agency is obliged to examine the consequences as referred to in Article 17 accurately and conscientiously prior to stating that a specific Public Information is classified for access by every individual.*”

I. Law No. 30 Year 2007 regarding Energy

Law No. 30 Year 2007 provides a legal basis relating to energy. The principles and objectives of Energy as stated in Article 2 is “*Energy shall be managed under the principles of beneficial use, rationality, fair efficiency, value added enhancement, sustainability, people's welfare, environmental functions preservation, national resilience, and integration by prioritizing the nation's Capability.*”

The energy usage is elaborated in Article 1, stated that “*Non-renewable energy sources shall mean the energy sources produced from non replenishable energy resources if continuously exploited, such as oil, natural gas, coal, turf, and bituminous shale.*” The impact of definition is as part of the extractive industries.

2.1.1 Laws and Regulations Related to Oil and Gas Mining Industry

To elaborate the Laws above, there are several technical regulations that become aligned basis with the concept of extractive industries, as follows:

A. Government Regulation No. 23 Year 2015 regarding Joint Management of Oil and Gas Resources in Aceh

Government Regulation No. 23 Year 2015 regarding Joint Management of Oil and Gas Resources in Aceh is an elaboration of a Law No. 11 Year 2006 regarding Governance of Aceh, stated that “*Based on Indonesian state administration history, Aceh constitutes a special provincial administration due to the unique nature of the Acehnese struggle in the past which exhibited exceptional perseverance and resolution.*”

The management of oil and gas resources is stated in the Law No. 11 Year 2006 Article 160 as follows:

- (1) *"The Government and Aceh Government shall jointly manage the oil and gas resources located on land and in the sea within Aceh territory."*
- (2) *To implement the management referred to in Verse (1), the Government and Aceh Government may appoint or form an implementing agency to be jointly affirmed.*
- (3) *Cooperation contracts entered into with other parties to conduct exploration and exploitation for the management of oil and gas may be executed provided that the entire content of such cooperation contract agreements has been jointly agreed by the Government and Aceh Government.*
- (4) *Prior to discussing with the Government any cooperation contracts as referred to in Verse (3), the Aceh Government must obtain approval from the DPRA.*
- (5) *Further provisions related to the matters referred to in paragraphs (1), (2), and (3) shall be governed by Government Regulations."*

Furthermore, the Government Regulation No. 23 Year 2015 also includes a decision to establish The Implementing Agency for Oil and Natural Gas Business Aceh or *Badan Pengelola Migas Aceh (BPMA)* in Article 10 as follows:

- (1) *"Through this Government Regulation, The Implementing Agency for Oil and Natural Gas Business Aceh or Badan Pengelola Migas Aceh (BPMA) is established."*
- (2) *The Implementing Agency for Oil and Natural Gas Business Aceh referred to in Verse (1) is the Agency Government."*

The governance of agency is also stated in Article 11 as follows:

- (1) *"The Implementing Agency for Oil and Natural Gas*

Business Aceh is domiciled and headquartered in Banda Aceh.

- (2) *The Implementing Agency for Oil and Natural Gas Business Aceh is under the Minister and responsible to the Minister and the Governor."*

By the establishment of this agency, the management of oil and gas resources – which is considered as part of extractive industry – required to be covered in the Contextual Report. Within the report, it is necessary to explain the cadastral condition, reserves and production that have been generated by Aceh, and particularly can be consolidated as part of Contextual and Reconciliation Report.

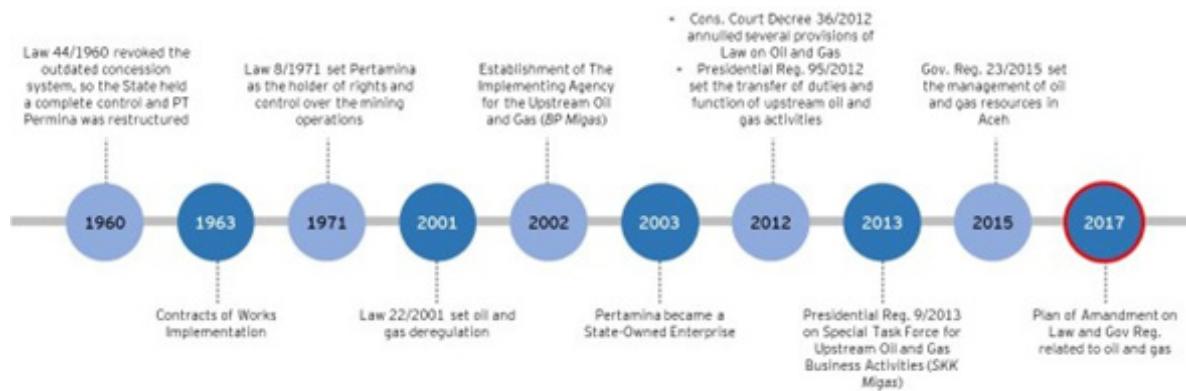
B. Government Regulation No. 79 Year 2014 regarding The National Energy Policy

Government Regulation No. 79 Year 2014 regarding The National Energy Policy is an elaboration of a provision in Article 11 Verse 2 of Law Number 30 Year 2007 regarding Energy, concerning the necessity to formulate a national energy policy.

The main principles of National Energy as stated in Article 3 Verse (1) is *"The national energy policy as referred to in Article 2 is comprised of principal policy and supporting policy,"* and Verse (2) *"The principal policy as referred to in sub-article (1) encompasses: availability of Energy for national requirement; priority in developing Energy; utilization of national Energy Resources; and national Energy Reserve."*

In achieving the objective in Article 3 Verse 2, it will certainly have impacts on energy development prioritization which including oil and gas sector and mineral and coal sector. Apart from the general provisions that regulate local energy usage, the fulfillment of national energy needs is also covered in the energy development prioritization as part of extractive industry.

Figure 2.1 The Flow of Regulations regarding to Oil and Gas Sector



C. Government Regulation No. 9 Year 2012 regarding Category and Tariff of Non-Tax State Revenue Components Applicable at The Ministry of Energy and Mineral Resources

The stipulation of category and tariff of Non-Tax State Revenue components that applied to the Ministry of Energy and Mineral Resources are part of Government Revenue resulted from the cooperation of oil and gas management and data utilization services. The substance of this regulation is to arrange the type and tariff at the Directorate General of Oil and Gas as stated in Article 3 Verse 1 as follows:

- *“Signature bonus which is an obligation of the petroleum and natural gas contractor;*
- *financial obligations on termination of collaboration contract which has not met exploration definite commitment.”*

According to Article 3 Verse 2, *“The amount of signature bonus as referred to in Verse 1a shall be defined in the collaboration contract.”* Furthermore, Article 3 Verse 3 stated that *“The amount of financial obligation as referred to in Verse 1b shall be determined based on total exploration definite commitment which has not been carried out when the collaboration contract is terminated.”*

D. Government Regulation No. 79 Year 2010 regarding Operating Cost that Can be Recovered and Treatment for Income Tax in the Upstream Oil and Gas Business Sector

Government Regulation No. 79 Year 2010 is established

to clarify the details of cost recovery policies and the taxation applied in the upstream oil and gas business sector.

This regulation is the legal basis in monitoring the contract implementation for control institution to oversee the operating cost that can be recovered. Meanwhile, the cost recovery audit will be conducted by SKK Migas, BPKP and the Directorate General of Taxation (DGT). In the implementation of this audit, Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) and State Development Audit Agency (BPKP) will focus on the Government part and the Directorate General of Tax on potential tax revenue.

One emphasis in this regulation is the uniformity principle concept, in which the treatment for calculating income taxes for PSC contractor is different compared to income tax calculation in general. The difference mainly lies in the arrangement fees that can be deductible (tax deductible), as well as the refundable arrangement fee (cost recoverable) based on the contract and regulation. Furthermore, tax losses from oil and gas sector can be carried forward until the contract expires. Whereas if referring to the Tax Law, tax losses can only be compensated within 5 years.

This regulation also arranges the types of taxable income outside of oil and gas lifting, such as uplift and income from Participating Interest transfer.

With the debate over the constitutionality of The Implementing Agency for Upstream Oil and Natural Gas Business (BP Migas) as outlined in Law No. 22 Year 2001 regarding Oil and Gas as mentioned in previous section, it is necessary to revise the Government Regulation No. 35 Year 2004 regarding Oil and Gas Upstream Business Activities.

E. Government Regulation No. 35 Year 2004 regarding Oil and Gas Upstream Business Activities

As the implementing regulation of Law No. 22 Year 2001 regarding Oil and Gas, the Government issued Government Regulation No. 35 Year 2004

regarding Oil and Gas Upstream Business Activities.

This regulation sets several new provisions, including the obligation to offer a 10% Participating Interest to the Regional Owned Enterprises (*Badan Usaha Milik Daerah* or *BUMD*) after the approval of Plan of Development (POD). In addition, the regulation sets a Domestic Market Obligation (DMO) for natural gas as much as 25% from the contractor.

One of the inputs related to this regulation is the clarity of Special Task Force for Upstream Oil and Gas Business Activities (*SKK Migas*) role as an organization which is mandated to implement the following provision. In Article 2, it is stated that “(1) *The Upstream Business Activities shall be performed in an Operational Area; (2) The Operational Area referred to in Verse (1) shall be planned and prepared by the Minister by considering the opinions of the Implementing Agency.*”

With the debate over the constitutionality agency BP Migas as outlined in Law 22 of 2001 on oil and gas that is mentioned in the section above, it is necessary to revise the Government Regulation No. 35 Year 2004 on upstream activities of oil and gas. However, with the debate over the constitutionality of The Implementing Agency for Upstream Oil and Natural Gas Business (*BP Migas*), the Government is therefore required to revise the Government Regulation No. 35 Year 2004 regarding Oil and Gas Upstream Business Activities.

F. Presidential Regulation No. 39 Year 2014 regarding List of Business Fields that are Closed to Investment and Business Fields that are Conditionally Open for Investment

Presidential Regulation No. 39 Year 2014 arranges the list of business fields that are closed to foreign investors, including for oil and gas industry.

Types of services that are closed to foreign investors are: production installation services and onshore pipelines installation services, horizontal/vertical tanks, onshore drilling services, and oil and gas support services. Platforms installation services and drilling services at sea is limited to 75% foreign ownership, while surveying services and spherical tanks and marine pipelines installation services are limited to 49% foreign ownership.

Furthermore, the regulation also gives the opportunity to foreign investors to platform, offshore drilling services, and spherical tanks and marine pipelines survey and installation services.

G. Presidential Regulation No. 9 Year 2013 regarding Management of Upstream Oil and Gas Business Activities

Following the changes or diversion on the implementation of duties, functions and organization of The Implementing Agency for Upstream Oil and Natural Gas Business (*BP Migas*), as well as in regulating the implementation of management of upstream oil and gas activities, the Government stipulates Presidential Regulation No. 9 Year 2013 on the Management of Upstream Oil and Gas Business Activities.

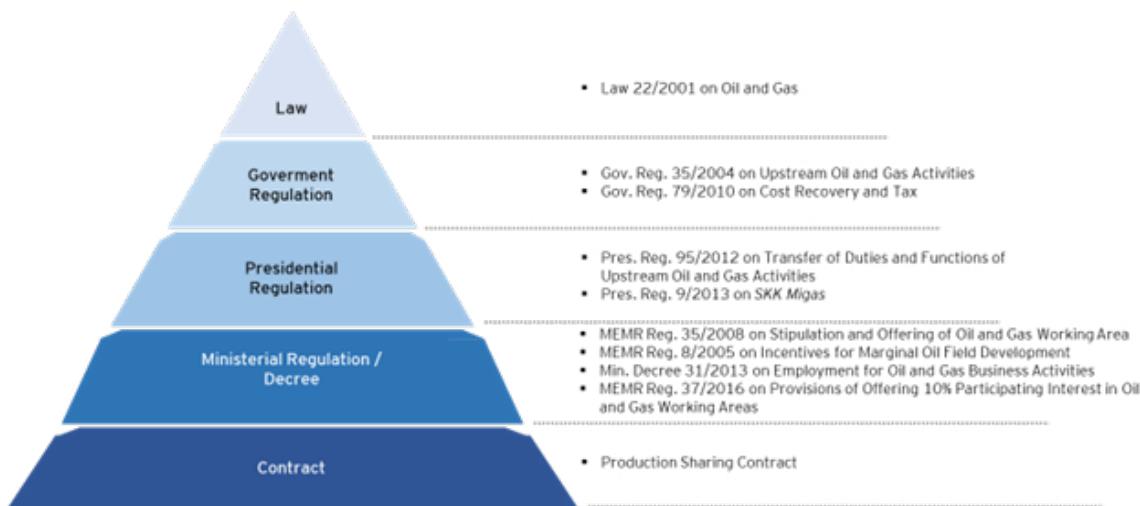
The issuance of this regulation is to follow up on the Constitutional Court Decision No. 36/PUU-X/2012 which annulled some of the provisions contained in Law No. 22 Year 2001 regarding Oil and Gas.

Currently, the implementing agency that is assigned to organize the management of upstream oil and gas activities is the Special Task Force for Upstream Oil and Gas Business Activities (*SKK Migas*). The main purpose of *SKK Migas* is to ensure that oil and gas can generate maximum benefits and increase State Revenues and improve the welfare of the people.

H. Presidential Regulation No. 95 Year 2012 regarding Transfer of Duties and Functions of Upstream Oil and Gas Business Activities

This regulation is issued to assure the continuity of upstream oil and gas, therefore there is a transfer of tasks and functions of supervision and control of oil and gas upstream activities from The Implementing Agency for Upstream Oil and Natural Gas Business (*BP Migas*) to the Minister who hold the Government affairs in oil and gas sector. This provision is a transition after the Constitutional Court Decision No. 36/PUU-X/2012.

Figure 2.2 Hierarchical forms of regulation in the oil and gas sector



2.1.2 Laws and Regulations Related to Mineral and Coal Mining Industry

The Legal Basis below are derived from the Law that has been established by the President and House of Representatives. Through these regulations, the technical execution of activities in mineral and coal mining industry have become clearer and have fulfilled the community needs.

A. Government Regulation No. 1 Year 2014 on the Second Amendment to Government Regulation No. 23 Year 2010 regarding the Implementation of Mineral and Coal Business Activities

Government Regulation No. 1 Year 2014 on the Second Amendment to Government Regulation No. 23 Year 2010 is changing the provisions in implementation of mineral and coal business activities.

This provision provides definitions and additions in Chapter IV of the transitional provisions of Article 112 relating to Contracts of Works and Coal Contracts of Works.

In this provision, the definition of mining area is the area that has potential mineral and coal which not bonded with the limits of Government administration as part of a national spatial plan.

Furthermore, Contracts of Works and Coal Contracts of Works that have not granted the first or and/or second extension can be extended into Mining Permit (*Izin Usaha Pertambangan* or *IUP*) without bidding process. This condition is applied after the expiry of contract and if the business activities conducted in accordance with the legislation, unless related to a more favorable option for State Revenue.

For the issued or published mining concession, regional mining permit, and small-scale mining permit will be adjusted to Mining Permit (*Izin Usaha Pertambangan* or *IUP*) or Utilization of Space Permit (*Izin Pemanfaatan Ruang* or *IPR*). Furthermore, the holder of Mining Concession, Contracts of Works and Coal Contracts of Works in Production Phase that have a long-term agreement to export can increase the production amount in order to meet provisions of the domestic supply.

B. Government Regulation No. 24 Year 2012 on the Amendment to Government Regulation No. 23 Year 2010 regarding the Implementation of Mineral and Coal Business Activities

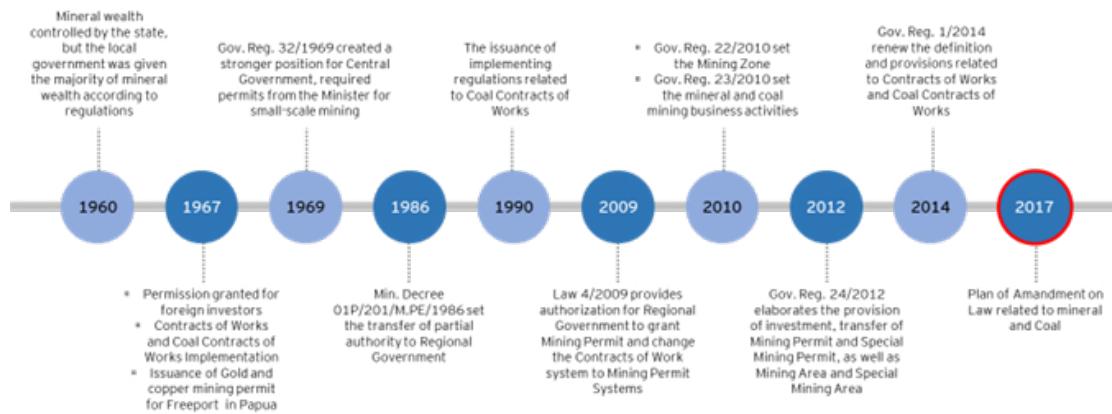
Government Regulation No. 24 Year 2012 on the Amendment to Government Regulation No. 23 Year 2010 regarding the Implementation of Mineral and Coal Business Activities is the implementing regulations of Law No. 4 Year 2009 regarding Mineral and Coal Mining.

Amendment to Government Regulation No. 23 Year 2010 provides legal certainty, particularly related to materials that require further explanation. The principal provisions of this regulation is to change Article 6 regarding to domestic and foreign investment for private enterprises.

Amendment to Article 8, Article 76, Article 97 and Article 98 of Government Regulation No. 23 of 2010 describes the alienation of Mining Permit (*Izin Usaha Pertambangan* or *IUP*) and Special Mining Permit (*Izin Usaha Pertambangan Khusus* or *IUPK*). While Article 9, Article 74 provide an explanation related to the Mining Area (Wilayah Usaha Pertambangan or WUP) and Mineral Mining Permit Area (Wilayah *Izin Usaha Pertambangan Mineral* or *WIUP Mineral*).

In addition, the amendment also includes Article 112 and Article 113 in regards to Contracts of Works and Coal Contracts of Works that have not been accommodated in IUP extension.

Figure 2.3 The Flow of Regulations regarding to Mineral and Coal Sector



C. Government Regulation No. 9 Year 2012 regarding Category and Tariff of Non-Tax State Revenue Components Applicable at The Ministry of Energy and Mineral Resources

The stipulation of category and tariff of Non-Tax State Revenue components that applied to the Ministry of Energy and Mineral Resources are part of Government Revenue resulted from the cooperation of oil and gas management and data utilization services.

The substance of this regulation is to arrange the type and tariff at the Directorate General of Mineral and Coal as stated in Article 4 Verse 1 as follows:

- “Compensation for information data of Exploration Mining Permit Area (*Wilayah Izin Usaha Pertambangan Eksplorasi* or *WIUP Eksplorasi*) or Exploration Special Mining Permit Area (*Wilayah Izin Usaha Pertambangan Khusus Eksplorasi* or *WIUPK Eksplorasi*) of metal and coal minerals that has been terminated;

- *the compensation cost for investment of Production Operation Mining Permit Area or Production Operation Special Mining Permit Area of metal and coal minerals which has been terminated; and*
- *portion of the Government from net profit from the holder of Production Operation Special Mining Permit (Izin Usaha Pertambangan Khusus Produksi dan Operasi) for metal and coal minerals.”*

According to Article 4 Verse 2, “*The amount of compensation for information data and compensation for investment as referred to in Verse 1a & 1b is defined at the amount of result of bid executed according to the provisions of law.*” Furthermore, Article 4 Verse 3 stated that “*The amount of the portion of the Government as referred to in Verse 1c is at 4% (four percent) of the net profit of the holder of Production Operation Special Mining Permit for metal and coal minerals.*”

D. Government Regulation No. 55 Year 2010 regarding Nurturing and Supervising Mineral and Coal Mining Business Management

Government Regulation No. 55 Year 2010 regarding Nurturing and Supervising Mineral and Coal Mining Business Management sets the regulatory guidance on the permit holder by providing guidelines and standards in managing the mining operation; provision of guidance, supervision, and consultation; education and training; and planning, research, development, monitoring, and evaluation of the mineral and coal mining business implementation.

Apart from the regulatory guidance, there are also regulatory supervision on the establishment of Small-Scale Mining Area; establishment and issuance of Mining Permit Area for non-metal and coals; issuance of Mining Permit Area for metal and coals; issuance of Small-Scale Mining Permit; and implementation of nurturing and supervising the activities performed by the permit holders.

The supervision is also conducted through evaluation of plan and implementation report from Mining Permits, Special Mining Permits, and Small-Scale Mining Permit holders; and/or inspections to the sites.

The supervisors for implementing the particular regulation including: mine inspector appointed by the

Minister, governor or regent/mayor through regular inspection or at any time, as well as the integrated inspection; and/or verification and report evaluation from mining permit holders.

E. Government Regulation No. 22 Year 2010 regarding Mining Zone

According to Government Regulation No. 22 Year 2010, Mining Zone is an area that has potential mineral and/or coal and not bonded with the limits of Government administration as part of a national spatial plan. This regulation divides Mining Zone into five areas:

- Mining Area means a part of a Mining Zone that already has data, potential, and/or information about geology available.
- Mining Permit Area means an area that is authorized to a Mining Permit holder.
- Small-scale Mining Area means a part of a Mining Zone where small-scale mining activities are carried out.
- State Reserve Area means a part of Mining Zone that is reserved in the interest of national strategy.
- Special Mining Area a part of a State Reserve Area that may be commercialized.

The Mining Zone planning is divided into two process such as: inventory of mining potential; and preparation of planning. Mineral and coal mining are categorized into five mining commodities: radioactive minerals; metallic mineral; non-metallic minerals; rock; and coal.

The investigation of Mining Zone is divided based on the mandate of Authorized Officer, as follows:

- Minister, for cross-province, the sea at a distance of more than 12 miles of shoreline, and/or directly adjacent to other countries.
- Governor, for investigation and research in the region: cross-district/city and/or 2 sea with a distance of 4 to 12 miles of shoreline.
- Regent/Mayor, for investigation and research on the region: the district/city and/or sea up to 4 miles of shoreline.

F. Presidential Regulation No. 78 Year 2010 regarding Post-Mining Reclamation

Presidential Regulation No. 78 Year 2010 provides a legal basis related to post-mining reclamation activities. The holders of Mining Permit and Special Mining Permit for Exploration, Production and Operation shall carry out reclamation and post-mining activities. These activities take place on the land used for mining activities with open-pit and underground mining method.

The principle of post-mining reclamation is conducted for the protection and management of mining environment, safety and occupational health, and conservation of mineral and coal.

In addition, the post-mining reclamation activities include the protection of the quality of surface water, ground water, sea water, and land and air based quality standard or the standard criteria of environmental damage, protection and restoration of biodiversity, guarantee for stability and security of the overburden pile, tailings pond, mined lands, and other artificial structures, the utilization of mined land according to its purpose, as well as consideration of social values and local culture and protection of ground water quantity.

The governance of post-mining reclamation activity starts from the completion of feasibility study held by Exploration Mining Permit and Special Mining Permit holders. Afterwards, the permit holders must apply for approval of reclamation and post-mining plans to the minister, governor or regent/mayor in accordance with the working area. The Reclamation plan is prepared for a period of five years.

Post-mining reclamation plan must be approved in accordance with geographic jurisdiction of the Minister, governor or regent/mayor no later than 30 calendar days after the Production Operation Mining Permit or Special Mining Permit issued. The Production Operation Mining Permit and Special Mining Permit holder also follow the same path as the Exploration Mining Permit or Special Mining Permit.

G. Minister of Energy and Mineral Resources Government No. 1 Year 2014 regarding The Enhancement of Mineral Value Added through Domestic Mineral Processing and Purification Activities

According to the regulation, mineral processing is a process to improve the quality of mineral or rock that produces products without altering the natural physical characteristics from minerals or rock, such as concentrates of metal mineral and rocks that polished. Products that have different physical and chemical characteristics are metals and alloys.

After the implementation of regulation, a number of investors have proposed constructions of iron smelter in certain areas including Kalimantan and Java. Smelter is part of mineral production process. Minerals mined from nature are usually still mixed with dirt, the useless material have to be cleaned as well as purified. Smelter is the cleaning and/or purifying process for mineral that directly taken from the mining.

Based on data released by Directorate General of Mineral and Coal in 2014, there are 8 iron ore smelters that have been or being built. Five of them are located in South Kalimantan and Central Kalimantan, and the rest are located in Java.

Table 2.1 Construction of mineral processing and refining facilities (Smelter)

Rencana aksi	Satuan	2015	2016	2017	2018	2019
Pembangunan smelter	unit	12	9	6	2	1
Kapasitas terpasang smelter	Juta ton	29,77	37,77	43,47	58,75	58,75

H. Minister of Energy and Mineral Resources Government No. 32 Year 2013 regarding Procedures for Granting Special Permit in Mineral and Coal Mining Industry

This regulation stipulates the guidance and procedures in granting the temporary permit for transporting and selling mineral and coal, as well as Production Operation Mining Permit.

The special permit in mineral and coal mining sector are as follows:

- Temporary Permit to conduct transportation and sales
- Production and Operation Mining Permit
- Production and Operation Mining Permit, particularly to conduct transportation and sales
- Production and Operation Mining Permit, particularly to conduct processing and/or purification

The request for a special permit shall be submitted along with the following documents: a method of exploration, the final report of exploration detail in Mining Permit Area and Special Mining Permit Area, the amount of tonnage of mineral or coal excavated in Mining Permit Area and Special Mining Permit Area, quality mineral or coal excavated in Mining Permit Area and Special Mining Permit Area accompanied by a certificate example and analysis of mineral or coal from the accredited laboratories; proof of payment of fixed fees from the issuance of Exploration Mining Permit and Special Mining Permit; and the sale and purchase agreement with the buyer of mineral or coal.

The issuance of temporary permit for transporting and selling is only given one time and cannot be extended,

with the tonnage according to the results of the examination and evaluation. The Production Operation Mining Permit will be granted to entities that not engaged in excavated mining for metallic minerals, non-metallic minerals, rocks, and/or coal. Additionally, the holders of Mining Permit, Special Mining Permit, Contracts of Works and Coal Contracts of Works who are intended to sell excavated mineral and/or coal required to have a temporary permit for transporting and selling.

The holder of Production Operation Mining Permit or Special Mining Permit is obliged to perform a processing and/or purification directly or through cooperation with companies that have obtained Production Operation Mining Permit specifically for processing and/or purification.

I. Minister of Energy and Mineral Resources Government No. 28 Year 2013 regarding Bid Procedures for Mining Permit Area and Special Mining Permit Area for Metal Minerals and Coal Mining Business Activities

The substance of regulation is to govern the procedures, technical and financial requirements, documentation and license of pricing stipulation of Mining Permit Area and Special Mining Permit Area.

The regulation explains that prior to mining activities, there will be an establishment of Mining Permit Area by bid mechanism and not by a direct appointment.

J. Minister of Energy and Mineral Resources Government No. 23 Year 2010 regarding Implementation of Mineral and Coal Business Activities

The amount of mineral and coal domestic needs or commonly referred as Domestic Market Obligation (DMO) is stipulated by the Minister, both for direct consumption and processing industries in the country.

The holder of Production and Operation Mining Permit and Special Mining Permit may export the mineral and coal if the domestic needs have been fulfilled.

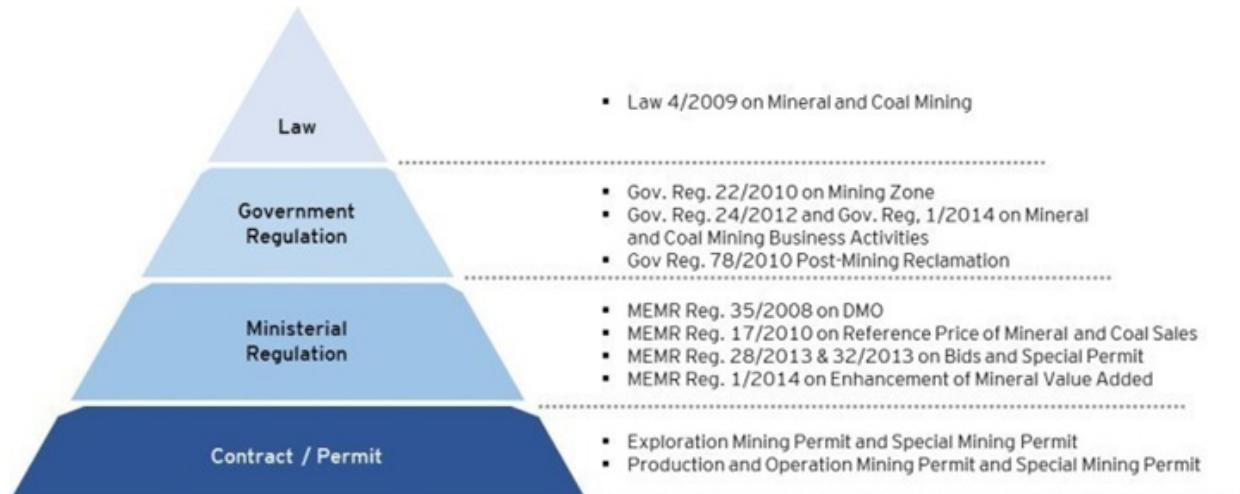
K. Minister of Energy and Mineral Resources Government No. 17 Year 2010 regarding Procedure to Determine Reference Price of Mineral And Coal Sales

This regulation stipulates the reference price of metal mineral monthly sales that is used by the holder of Production Operation Mining Permit and Special Mining Permit in which referring to the global market mechanisms.

The metal mineral reference price is a price of minerals in the form of metal which determined at a delivery point of sale with free on board carrier (vessel) approach.

In addition, the reference price of coal is also set for steam (thermal) coal and cooking (metallurgical) coal each month based on a formula that refers to average coal price index in accordance with market mechanisms and or with the prevailing price in the global market.

Figure 2.4 Hierarchical forms of regulation in the mineral and coal sector



2.2 Duties, Roles and Responsibilities of Government Agencies Associated with the Extractive Industries

The elaboration of stakeholders particularly related to duties, roles and responsibilities of Government agencies, as described below, are not specific to the members of implementation team. However, specifically related to parties with authority to manage oil and gas sector and mineral and coal sector.

2.2.1 Ministry of Energy and Mineral Resources

The establishment of Ministry of Energy and Mineral Resources is regulated in Presidential Regulation No. 47 Year 2009 regarding Formation and Organization of State Ministries, in the context of a successful implementation of State Government in efficient and effective manner, particularly for Government affairs in the field of mining and energy. Ministry of Energy and Mineral

Resources is a ministry that is assigned to assist and manage the government's interest in the sectors of energy and mineral resources. The function of the Ministry as contained in the Ministry of Energy and Mineral Resources Regulation No. 18 Year 2010 regarding Organization and Administration of the Ministry of Energy and Mineral Resources is to formulate, create, and implement technical policies regarding energy and mineral resources at the national level.

In addition to the authority in issuing laws and regulations, the Ministry is also responsible for issuing licenses and contracts. The Ministry is also obliged to ensure the leading mining practices in order that mining activities not harming the natural environment and society.

In the Ministry of Energy and Mineral Resources, there are two directorates general which directly associated to EITI activities, namely the Directorate General of Oil and Gas and Directorate General of Mineral and Coal. The description of main duties and functions of the Directorates General are outlined below:

2.2.1.1 Directorate General of Oil and Gas

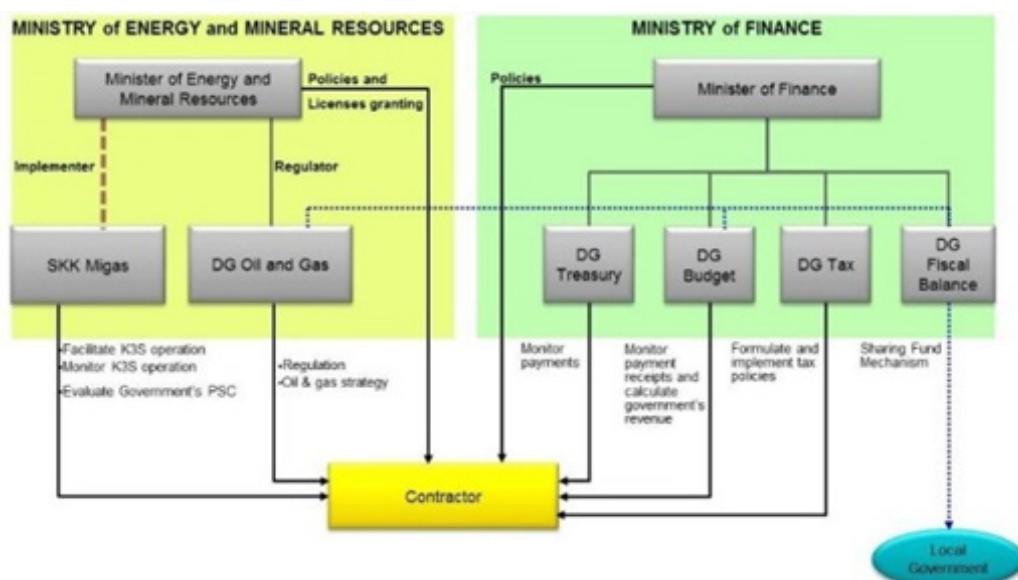
DIRECTORATE GENERAL OF OIL AND GAS has the duty of formulating and implementing regulations and technical standardizations in the field of oil and gas in accordance with regulations of the Ministry of Energy and Mineral Resources Regulation No. 18 Year 2010 regarding Organization and Administration of the Ministry of Energy and Mineral Resources.

While the role of Directorate General of Oil and Gas in the context of State Revenues are:

- Set a lifting plan for the subsequent year based on the oil-producing and government administration regions
- Perform reconciliations / calculation along with the realization of lifting area on a periodic basis

The Directorate consists of 5 functions: oil and gas development program, upstream business development program, downstream upstream business development program, oil and gas infrastructure planning and development, oil and gas engineering and environment with the assistance of Secretary General.

Figure 2.5 The Association of Ministry of Energy and Mineral Resources and Ministry of Finance related to role of contractors



Sumber: Scoping Study EY untuk EITI

2.2.1.2 Directorate General of Mineral and Coal

Direktorat Jenderal Mineral dan Batubara (DGMB) bertanggung jawab untuk mengelola sektor mineral, meningkatkan pasokan mineral dan batubara melalui proses lelang baru, memastikan penciptaan nilai ekonomi mineral dan batubara melalui proses domestik, serta meningkatkan kemampuan untuk memproses mineral dan batubara melalui pengembangan smelter atau pabrik refineries berdasarkan Peraturan Menteri Energi dan Sumber Daya Mineral Nomor 18 Tahun 2010 tentang Organisasi dan Pengelolaan Kementerian Energi dan Sumber Daya Mineral.

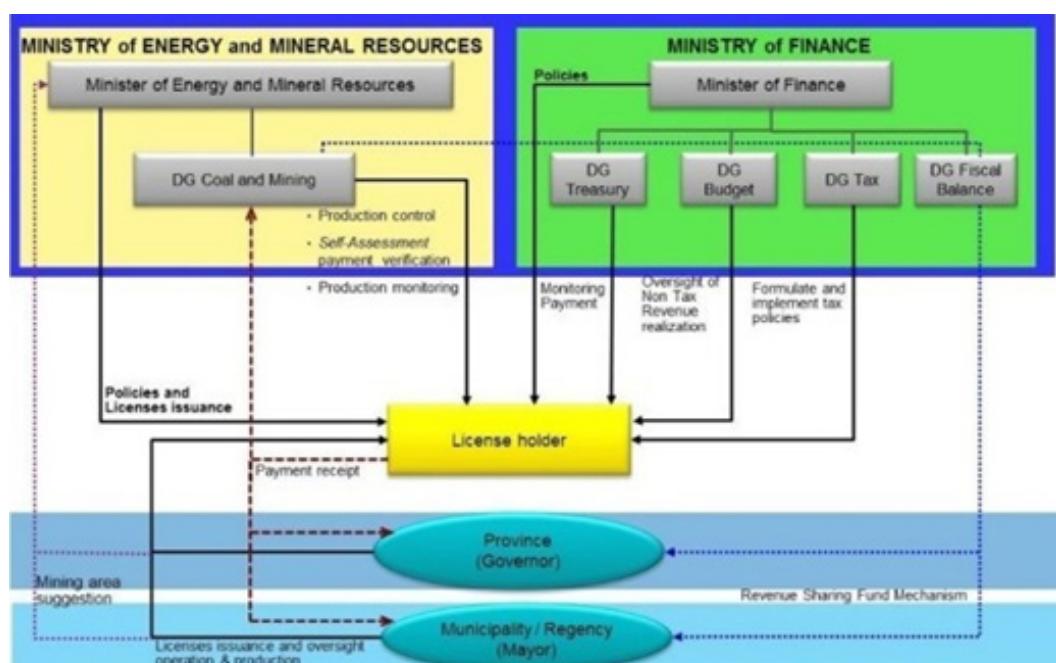
Direktorat Jenderal Mineral memiliki kewajiban untuk merumuskan dan melaksanakan peraturan dan standarisasi teknis dalam bidang mineral dan batubara.

Dalam melaksanakan tugas-tugas tersebut, Direktorat Jenderal Mineral memiliki fungsi-fungsi sebagai berikut:

- Meningkatkan keamanan pasokan mineral dan batubara domestik;
- Meningkatkan nilai ekonomi batubara untuk pengembangan energi;
- Mendorong peningkatan kapabilitas domestik dalam manajemen mineral dan batubara;
- Meningkatkan nilai tambah mineral;
- Meningkatkan panduan, pengawas, pengelolaan, dan pengontrolan kegiatan pertambangan efisien, efektif, kompetitif, berkelanjutan, dan lingkungan teman.

Direktorat ini terdiri dari 5 fungsi: program pengembangan mineral dan batubara, program pengembangan bisnis mineral, program pengembangan bisnis batubara, pendapatan negara dari sektor mineral dan batubara, dan teknologi mineral dan lingkungan dengan bantuan Sekretaris Jenderal.

Figure 2.6 The Association of Ministry of Energy and Mineral Resources and Ministry of Finance related to mineral and coal sector



Sumber: Scoping Study EY untuk EITI

2.2.1.3 Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas)

Special Task Force for Upstream Oil and Gas Business Activities (*SKK Migas*) is a Government institution that responsible for the management of upstream oil and gas business activities. The establishment of *SKK Migas* is a decision of the Constitutional Court after dissolving The Implementing Agency for Upstream Oil and Natural Gas Business (*BP Migas*), due to its incompatibility towards the constitution. Currently, the existing regulations are not eligible to manage reformation in upstream oil and gas sector.

The main duty of *SKK Migas* is regulated under Presidential Regulation No. 9 Year 2013 regarding Management of Upstream Oil and Gas Business Activities, as follow up of Ministry of Energy and Mineral Resources Decree in conducting a management towards upstream oil and gas business activities. This regulation is stipulated up to the release of new Law, as a replacement to previous legislation in the field of oil and gas.

The main purpose of *SKK Migas* is to ensure that oil and gas can generate maximum benefits and increase State Revenues and improve the welfare of the people. To achieve these objectives, *SKK Migas* has some role in supervising the operations of contractor/company:

- *SKK Migas* provides input to the Ministry of Energy and Mineral Resources with respect to the preparation and bidding of blocks.
- Head of *SKK Migas* represents the Government in signing the contract with contractors.
- Assess the plan of contractor's development and submit the evaluation plan to the Ministry of Energy and Mineral Resources for approval.
- *SKK Migas* is also responsible for approving work plans and budgets of the contractors, monitoring and reporting performance of each contractor to the Ministry of Energy and Mineral Resources.
- *SKK Migas* ensures that the lifting/sale of oil and gas in line with the actual lifting plan/sales approved.

2.2.2 Ministry of Finance

Accoring to Law No. 1 Year 2004 regarding State Treasury, Law No. 17 Year 2003 regarding State Finance, and Presidential Regulation No. 28 Year 2015 regarding Ministry of Finance, the main duty of Ministry of Finance is to run governance in regards of State finance in order to assist the President in running the State governance.

The functions of Ministry of Finance in accordance with the Law above are as follows:

- *"Formulating, stipulating, and implementing policies in terms of budgeting, taxes, customs and excise, treasury, State assets management, fiscal balance, and budget financing and risk management;*
- *Formulating, stipulating and providing recommendations in fiscal and financial sector policies;*
- *Coordinating tasks implementation, developing, and providing administration support to entire elements of organization in the Ministry of Finance;*
- *Managing State properties/assets that are under the responsibility of Ministry of Finance;*
- *Supervising tasks implementation in the Ministry of Finance;*
- *Holding technical guidance and supervision for Minister of Finance's affairs in regions;*
- *Implementing technical activities from central to regions;*
- *Holding education, training, and competence certification in terms of State finance; and*
- *Providing substantial support to entire elements of organization in the Ministry of Finance."*

The Ministry of Finance is assigned to manage the State Assets from extractive industry (particularly in oil and gas industry whose fixed assets belong to the State), to formulate and implement monetary policy in extractive industry business activities, represent the Government as shareholder of SOEs in extractive industry in terms of financing and dividend policy, and manage revenues from the extractive industry as well as allocate funds to the regions.

The Ministry of Finance has several entities that directly responsible for the extractive industry, as follows:

2.2.2.1 Directorate General of Budget

The main duty of Directorate General of Budget is to formulate and implement regulation in regards to budgeting and perform technical standardization. Directorate General of Budget has a major role in the preparation of State Budget (APBN).

Extractive industry is one of the most significant contributors to the State Revenues. In the beginning of fiscal year, Directorate General of Budget – in coordination with other relevant Government Institution – manages the State Revenues that budgeted from extractive industry, also reconciles the revenue realization at the end of fiscal year. Directorate General of Budget also coordinates with Directorate General of Fiscal Balance under the Ministry of Finance in regards to the shared revenue as budgeted.

In association extractive industry, Directorate General of Budget has a sub-directorate, namely Directorate of Non-Tax Revenue, that functioning as the management of non-tax revenues, including from oil and gas and mineral and coal sector.

Direktorat of Non-Tax Revenue is responsible for formulation and implementing regulations as well as the technical standards in regards to the non-tax revenues generated from extractive industry, as well as the administration of the State revenues.

The main role of Directorate of Non-Tax Revenue is to calculate the Government's share (profit) from oil and gas sector through the mechanism of Production Sharing Contract (PSC), and monitor the payment of non-tax revenues. In addition, the Directorate is

also coordinating with the Ministry of Energy and Mineral Resources to perform supervision towards the realization of non-tax revenues from extractive industries.

The data accuracy of non-tax revenues supervision is able to enhance the budget quality from production sharing mechanism signed from Directorate General of Fiscal Balance.

Law No. 20 Year 1997 regarding Non-Tax Revenues stipulates a mechanism of implementation and management of non-tax revenues. The non-tax revenues is regulated under Law No. 22 Year 2001 regarding Oil and Gas, particularly in Chapter IV, in regards to State revenues. The regulation explains the type of revenues as well as the institutions that are obliged to make payments.

2.2.2.2 Directorate General of Fiscal Balance

Direktorat General of Fiscal Balance was established in 2004, in accordance with Law No. 1 Year 2004 regarding State Treasury and Law No. 33 Year 2004 regarding Fiscal Balance Between Central Government and Regional Government. The main duty of Directorate General of Fiscal Balance is to formulate and implement regulation in regards to the allocation and management of fund balancing and revenue sharing between Central Government and Regional Government.

Direktorat General of Fiscal Balance takes a major role in stipulating the mechanism of Revenue Sharing Fund in extractive industry, particularly in formulating the percent allocation of Revenue Sharing Fund.

In coordination with the Ministry of Energy and Mineral Resources and Directorate General of Budget, the Directorate General of Fiscal Balance will verify and reconcile the revenue realization as the transfer of fund basis for every three months.

Through Directorate General of Fiscal Balance, the Government expects a balance implementation between financial regulations and technical standardization by Central Government and Regional Government, as well as alignment with the Government's financial roadmap as planned.

2.2.2.3 Directorate General of Tax

According to Ministry of Finance Regulation No. 234/PMK.01/2015 regarding Organization and Working Procedure of Ministry of Finance, the duty of Directorate General of Tax is to formulate and implement regulation in terms of taxes according to legislation.

In carrying out these duties, Directorate General of Tax performs functions of formulating and implementing tax regulations, as well as establishing norms, standards, procedures and criteria for taxes administration, including taxes on companies engaged in the extractive industry.

Every fiscal year, Directorate General of Tax coordinates with Fiscal Policy Agency and Directorate General of Budget in preparing the estimation/projection of tax revenue as part of the State Budget Draft. Once the State Budget Law is approved by House of Representatives, Directorate General of Tax is assigned to collect the tax revenues as targeted in State Budget. Subsequently, the actual tax revenues are reconciled after the fiscal year ends. Directorate General of Tax also coordinates with Directorate General of Fiscal Balance in regards to the allocation of Revenue Sharing Fund for Tax to Regional Government.

2.2.2.4 Directorate General of Treasury

Direktorat General of Treasury was established in 2004, in accordance with Presidential Decree No. 35 Year 2004 regarding on the amendment of Presidential Decree No. 102 Year 2001 regarding The Position, Duties, Function, Authority, Organizational Structure and Working Procedures of Department – whereas the last time being amended by Presidential Decree No. 22 Year 2004 regarding Organization and Ministry of Finance, as well as No. 303/KMK/2004 regarding Organization and Working Procedure of the Regional Office of Directorate General of Treasury and the State Treasury Office.

The main function is to formulate and implement regulations, standards, norms, guidance and procedures in terms of budget implementation, cash and investment management, as well as development

of financial management. The Directorate is responsible for the ownership of State Accounts so that Government revenues from extractive industries being received by Directorate General of Treasury. This revenue is authenticated and reconciled with other relevant Government Agencies such as Directorate General of Budget, Directorate General of Fiscal Balance, and the Directorates under Ministry of Energy and Mineral Resources respectively as part of the supervision of revenue realization from extractive industries.

2.2.2.5 Directorate General of State Assets Management

Direktorat General of State Assets Management has the duty of formulating and implementing regulations and technical standardization in regards of State Properties, Assets, Valuations, State Receivables, and Auction according to legislation.

The functions of Directorate General of State Assets Management are as follows:

- Formulating and implementing regulations in terms of State Properties, Assets, Valuations, State Receivables, and Auction
- Formulating norms, standards, procedures, and criteria in terms of State Properties, Assets, Valuations, State Receivables, and Auction
- Providing technical guidance and supervision in terms of State Properties, Assets, Valuations, State Receivables, and Auction
- Implementing administration of Directorate General of State Assets Management;

2.2.3 Ministry of Environment and Forestry

Ministry of Environment and Forestry has the duty of conducting Government affairs in the field of environment and forestry to assist the President in running the State Government. In performing its duties, the Ministry of Environment and Forestry has the following functions:

- Formulation and stipulation of regulations in the field of implementing the forests stabilization and environmental sustainability, conservation management of natural resources and ecosystems, improvement of carrying capacity on watersheds and forest reserve, production forest management sustainability, improvement of primary forest products industry competitiveness, quality improvement of the environment function, pollution control and environmental damage, climate change impacts control, land and forest fires control, social forestry and environmental partnerships, as well as a decrease in interference, threats and violations of the law environment and forestry;
 - Execution of regulations in the field of implementing the forests stabilization and environmental sustainability, conservation management of natural resources and ecosystems, improvement of carrying capacity on watersheds and forest reserve, production forest management sustainability, improvement of primary forest products industry competitiveness, quality improvement of the environment function, pollution control and environmental damage, climate change impacts control, land and forest fires control, social forestry and environmental partnerships, as well as a decrease in interference, threats and violations of the law environment and forestry;
 - Coordination and synchronization of regulations in the areas of environment, biodiversity management, improvement of carrying capacity on watersheds and forest reserve, quality improvement of the environment function, pollution control and environmental damage, climate change impacts control, land and forest fires control, and environmental partnerships, as well as a decrease in interference, threats and violations of the law environment and forestry;
 - Execution of technical guidance and supervision of implementing the forests stabilization and environmental sustainability, conservation management of natural resources and ecosystems, improvement of carrying capacity on watersheds and forest reserve, production forest management sustainability, improvement of primary forest products industry competitiveness, quality improvement of the environment function, pollution control and environmental damage, climate change impacts control, land and forest fires control, social forestry and environmental partnerships, as well as a decrease in interference, threats and violations of the law environment and forestry;
- impacts control, land and forest fires control, social forestry and environmental partnerships, as well as a decrease in interference, threats and violations of the law environment and forestry;
- Implementation of research, development and innovation in the field of environment and forestry;
 - Implementation of coaching and human resource development in the field of environment and forestry;
 - Implementation of substantial support to all elements of the organization within the Ministry of Environment and Forests;
 - Coaching and provision of administrative support in the Ministry of Environment and Forests;
 - Management of property/wealth of the State are the responsibilities of Ministry of Environment and Forestry; and
 - Supervision over the execution of duties in the Ministry of Environment and Forests.
- The organizational structure of the Ministry of Environment and Forestry consists of:
- Directorate General of Forestry Planning and Environmental Management;
 - Directorate General of Natural Resources Conservation and Ecosystems;
 - Directorate General of Watersheds and Forest Reserve;
 - Directorate General of Sustainable Production Forest Management;
 - Directorate General of Pollution Control and Environmental Degradation;

- Directorate General of Waste Management, Toxic and Hazardous Materials;
- Directorate General of Climate Change;
- Directorate General of Social Forestry and Environment Partnership;
- Directorate General of Law Enforcement for Environment and Forestry;
- Inspectorate;
- Counseling and Human Resources Development Agency;
- Research, Development and Innovation Agency.

2.2.4 Regional Government

The existence of Regional Government is based on Law No. 23 Year 2014 explaining that *“Regional Government is the implementation of Government affairs by the local Government and the legislature according to the principles of autonomy and assistance with the principle of broad autonomy within the system and the principles of the Republic of Indonesia as defined in the Constitution of the Republic of Indonesia Year 1945. Local Government is the head of the official elements of the Regional Government led the implementation of Government affairs under the authority of the autonomous region.”*

Article 2 regarding Distribution Territory explaining that *“The Republic of Indonesia is divided over the province and the province was divided into Regions of districts and cities.”* Furthermore, Article 14 Verse (1) emphasized that *“Implementation of Government Affairs forestry, marine, and energy and mineral resources are shared between the Central Government and the Regions of the province;”* Verse 3 *“Government Affairs field of energy and mineral resources referred to in Verse*

(1) relating to the management of oil and natural gas under the authority of the Central Government;” Verse 4 “Government Affairs field of energy and mineral resources referred to in Verse (1) relating to the direct use of geothermal in the District/City Region under the authority of the district/city.”

The Law No. 23 Year 2014 regarding Regional Government is an amendment of Law No. 32 Year 2004. In the preceding provisions, authority for managing natural resources is in the Regency/Municipal Government, while in the amendment, authority is changed into Provincial Government level. With these changes, there are difficulties in regards to permissions that already given earlier – included transitional provisions for amendments.

2.3 Ongoing Changes and Improvements of Governance Associated with the Extractive Industries

2.3.1 Changes and Improvements of Governance in Oil and Gas Sector

On October 14, 2016, President Joko Widodo and Vice President Jusuf Kalla inaugurated Ignatius Jonan as Minister of Energy and Mineral Resources and Archandra Tahar as Deputy Minister of Energy and Mineral Resources. With the change of Ministers, hence there are several new Program Prioritization for the Ministry of Energy and Mineral Resources, primarily related to Directorate General of Oil and Gas. One of the programs is the completion of amendment on Government Regulation No. 79 Year 2010 regarding Operating Cost that Can be Recovered and Treatment for Income Tax in the Upstream Oil and Gas Business Sector. The primary objective of the amendment is to improve cost efficiency on the oil production cost.

By reducing the production costs, the State revenue from oil and gas sector is expected to be increased. Through this initiative, the Government also expects an improvement in oil and gas sector governance, in which case the production cost tends to get higher when there is a market pressure subjected to the industry.

The improvement in oil and gas sector governance aims to accelerate the completion of Abadi Field (*Lapangan Abadi*) in Masela Block and completion of East Natuna Block's Production Sharing Contract (*Kontrak Bagi Hasil*). The acceleration is expected to increase domestic oil and gas production, which in 2016 totaled 831 thousand MBOPD (Thousand Barrels of Oil per Day).

Aside from the reduction of cost recovery, as well as completion of development plan and contract, the Government also sought to create a more competitive gas price management. The reduction in gas prices in the upstream business will be executed to gas prices which in between US\$ 6-8 per MMBTU amounted to US\$ 0-1 per MMTU (0 to 16.7%) to a minimum of US\$ 6 per MMBTU. There are four types of industries that given a priority on price reduction, as follows: (1) industries that use gas as a raw material, such as fertilizer and petrochemical plants; (2) strategic industries; (3) industries that use gas as a process, resulting in products manufacturing which the function of gas cannot be replaced; (4) the labor-intensive manufacturing industries.

In addition, the Government also sought to improve the governance of oil and gas through an adjustment of Participating Interest (PI) of 10% or the management rights for regional oil and gas blocks. Through the allocation of 10% PI, it is expected to reduce the portion of Revenue Sharing Fund, as well as to increase the capacity of Regional Government in managing oil and gas production in the respective regions.

The changes and improvements of governance initiated by Government is the implementation of Gross Split scheme on several contracts that nearing the end of period. Currently, Production Sharing Contract is the only scheme used in Indonesia, introduced in 1965 by Ibnu Sutowo, after becoming President of PERMINA

and Minister of Oil and Gas.

Both of the Government and oil companies are able to share the oil and gas production result, not the oil and gas sales result as stated in the Working Contract (*Kontrak Karya*). Government as the host also has management authority. PSC scheme has undergone several changes, which is currently used in its third generation since 1988. Under this scheme, the State is getting a revenue share of 85%, the remaining contractors. As for the gas contract, as much as 70% for the State.

In Production Sharing Contract, there is a recovery in production costs or commonly referred as Cost Recovery. The cost recovery is conducted after the oil and gas production being cut by the First Tranche Petroleum (FTP). The cost recovery amount is the most debated component since the Government faces difficulties in determining the value of technology and amount of cost recovery. While through the Gross Split scheme, the Government no longer needs to focus on the production costs, but only to the revenues achieved.

2.3.2 Changes and Improvements of Governance in Mineral and Coal Sector

The changes and improvements in mineral and coal sector governance have been executed on several aspects, one of them was through the arrangement of Non-Clean and Clear (Non-CnC) mineral and coal mining permit (*IUP*). This arrangement was conducted by issuing recommendations for mining permits which already considered as CnC. The CnC recommendations were given by two parties; the Governor or the Head of Region (Province) where mining activities took place and the Head of Department at the provincial level. In order to obtain the CnC recommendation from the Governor, the permit holders must pass the required territorial administration and background. However, several mining permits were found not illegible or unqualified for recommendations from Governor.

Same conditions applied in obtaining the CnC recommendation by the Head of Department. The permit holders must ensure all the territorial administration and background are in line with the provisions set. Thus far, there are still found several mining permits that not yet pass the administration or background required.

The renegotiation of Contracts of Works (*Kontrak Karya*) and Coal Contracts of Works (*Perjanjian Karya Pengusahaan Pertambangan Batubara*) consists of three key points: Contracts of Works and Contracts of Works are applied until the expiration of the contract or agreement, Provisions in Contracts of Works and Contracts of Works must be adjusted no later than 1 year since Law No. 4 Year 2009 being published with the exception of State Revenues, and the particular exception is an effort to increase State Revenues. In the renegotiation, there are four remaining points that require adjustments, namely: Continuation of mining operations, Efforts to increase State revenue, Obligation of processing and refining as well as obligation to divest.

The next priority of Directorate General of Mineral and Coal is preparing the Activity Plans and Budget (*Rencana Kegiatan Anggaran dan Biaya* or *RKAB*) and Annual Work Plan of Technical and Environment (*Rencana Kerja Tahunan Teknis dan Lingkungan* or *RKTTL*). The documents can be the basis for Government to determine national targets, such as: Amount of Production, Non-tax Revenues, Revenue Sharing Fund, Investment, Resources and Reserves, as well as Supervision (company compliance towards the work plan). In addition, the document will be authorized in the early years as a working guideline for companies.

Reclamation and Post-mining Deposit Funds are one of the programs developed by the Directorate General of Mineral and Coal in fulfilling the responsibility of reclamations. The holders of Contracts of Works (*Kontrak Karya*), Coal Contracts of Works (*Perjanjian Karya Pengusahaan*

Pertambangan Batubara), and Mining Permit for Foreign Investment (Izin Usaha Pertambangan Penanaman Modal Asing) are obliged to deposit funds to ensure the reclamation and post-mining activities.

The Government is also working on the withdrawal of outstanding receivable amounts in order to increase the State revenue from Contracts of Works and Coal Contracts of Works.

Integration of mine inspector is one of the efforts in order to handover SK Mine Inspector of the National Civil Service Agency (*Badan Kepegawaian Negara* or *BKN*) to perform integration over mine inspectors under the authority of Central Government and Regional Government (Provincial, Regencies and Municipalities). Apart from the approval of the National Civil Service Agency, it is also necessary to place Mine Inspectors in certain area through SK Director General of Mineral and Coal, delegate the authority of Chief Mine Inspector to Head of Department of Energy and Mineral Resource on provincial level, and also prepare the SOP and Code of Ethics for Mine Inspector.

The mining regulation includes preparation of long-term cross-sectoral regulation document that contains provisions regarding availability, utilization, conservation, development, infrastructure and the environment. The Government also planned the establishment of a working group with the involvement of ministries/institutions, associations, universities and experts in minerals and coal. In the working group, there is also a focus group discussion to prepare a draft on the new mining regulation.

Regulation of increasing added value is divided into four main programs: the provision of concentrate export opportunities with a period of 5 years, ascertainment of smelter constructions, determination of export duty, and the conversion of Contracts of Works into Special Mining Permit (IUPK) or export opportunities.

Currently, the Government is preparing the amendment of Law No. 4 Year 2009 regarding Mineral and Coal Mining. The Law Amendment is driven by four main reasons. Firstly, there are provisions that cannot be implemented or have constraints during the implementation process, including the renegotiation of Contracts of Works and Coal Contracts of Works, the regulation to increase added value, and the issues on Rock Mining Permits. Secondly, there are several provisions that need to be adjusted with Law No. 23 Year 2014 on Government Regulations, particularly in regards to the authority of mineral and coal management. Thirdly, the Law provisions must refer to the Constitutional Court Decree, such as determination of Mining Zones, abolition of minimum Mining Permit Areas for Exploration activities, and also community involvement in determining the Mining Zones. Finally, the amendment is intended to introduce Government regulations in a simplified process of licensing and public services, including issuance of permit in Mineral and Coal Mining Sub-Sector.

Media of Integrated Information and Investment Services (*Ruang Pelayanan Informasi dan Investasi Terpadu* or *RPIIT*) is the Work Program of Directorate General of Mineral and coal with focus on the mechanism of licensing process. To obtain a Mining Permit, the company must submit the required Administration Documents to the Frontliner who is in charge for ensuring the completeness. Subsequently, the designated Evaluator will evaluate the Administration Documents, followed by the Officials under Directorate General of Mineral and Coal to verify and approve the documents in accordance with the authority given in the licensing regulations. The process is continued by generating a signed-off permit (licensing product) as well as the administrative completion, such as numbering and legal stamps, which then will be uploaded to the official website of Directorate General of Mineral and Coal (www.minerba.esdm.go.id). The last process is to pick up the licensing products on the *RPIIT* Counter along with the predetermined retrieval requirements.

Figure 2.7 Work Prioritization of Directorate General of Mineral and Coal



Source: Scoping Study EY for EITI



3

Licensing, Zoning of Oil and Gas and Mineral and Coal Working Area and Contracting



3.1 Determination and Offering Process of Oil and Gas Working Area

According to the Ministry of Energy and Mineral Resources Regulation No. 35/2008 on the procedures for determining and offering Working Area. determination of Working Area. Determination of Working Area is a series of activities conducted by the Government in order to offer certain Working Areas to companies in the form of Business Entity/ *Badan Usaha* (BU) or Permanent Establishment/ *Bentuk Usaha Tetap* (BUT) to carry out exploration and exploitation activities of a Working Area through bid or direct offer.

Working Area is the Indonesia mining area jurisdiction for exploration and exploitation of oil and gas that are determined by Minister of Energy and Mineral Resources as proposed by Director General of Oil and Gas.

Direktorat General of Oil and Gas set up Working Area that derived from Open Area prior to Working Area enactment. Open Area is derived from:

- a. Working Area that has not been designated as Working Area;
- b. Part of Working Area that set aside in accordance to the Production Sharing Contract;
- c. Working Area with ended Production Sharing Contract;
- d. Part of Working Area that has not been developed and/or are producing or once producing which set aside at the proposal of the Contractor;
- e. Part of Working Area that has not been developed and/or are producing or once producing which set aside at the proposal of the Minister.

Preparation of Working Area for offer of Working Area to the BU and BUT conducted through Bid of Working Area/*Lelang Wilayah Kerja* and Direct Offer of Working Area/*Penawaran Langsung Wilayah Kerja* with these stipulations:

- a. For offer through Bid, the Working Area is prepared by the Director General of Oil and Gas to be prescribed by the Minister;
- b. For offer through Direct Offer, Working Area is proposed by BU or BUT from Open Area to Directorate General Oil and Gas to be prescribed in advance as the Working Area by the Minister.

In the implementation, Offer of Working Area through Bid of Working Area and Direct Offer of Working Area are performed by Directorate General of Oil and Gas.

3.1.1 Determination of Working Area

Direktorat General of Oil and Gas appointed by the Minister of Energy and Mineral Resources will set up

a Working Area through technical and economical evaluation stages as well as data processing.

Execution of technical and economical evaluation and data processing can be done by other parties appointed by the Director General of Oil and Gas who has the ability and expertise in accordance with the provisions of regulations and law.

In supporting the preparation of Working Area as mentioned above, the Directorate General of Oil and Gas conduct General Survey covering geological surveys, geophysical surveys and geochemical surveys. General Survey is field activities including collection, analysis and presentation of data related to the information of geological condition in estimating the location and resource potential of oil and gas outside the Working Area. General Survey activities can be carried out by BU after obtaining the permission from Director General based on the technical considerations from Directorate General of Oil and Gas in the event of Working Area planning.

Based on the results of technical and economical evaluation and data processing, Directorate General of Oil and Gas establishes the boundaries of Working Area, governance and procedures, mechanisms and requirements for the execution of the Working Area Offer, and establish the form and principal terms of Production Sharing Contract (PSC). After that, Director General of Oil and Gas proposes to the Minister concerning the establishment of the Working Area that will be offered to BU or BUT in accordance to the technical and economical evaluation results and data processing.

Minister of Energy and Mineral Resources will establish a Working Area proposed by the Director General of Oil and Gas with prior consultation with the Governor whose administrative territory encompasses the Working Area being offered. Consultation that will be carried out by Directorate General of Oil and Gas is intended to provide explanations and obtain information on offers of certain areas that are considered have potential resources of Oil and Gas and become a Working Area.

3.1.2 Bidding of Working Area Procedure

In the implementation of the Offer of Working Area, Director General of Oil and Gas formed a Working Area Offering Team/*Tim Penawaran Wilayah Kerja* consisting of Bid Team/*Tim Lelang* and Assessment Team/*Tim Penilai*. The Team is representative of units in Implementing Agencies and Department, which has main tasks and function as well as competence in the fields of technical, economical, and legal or other fields as needed, and experts from universities in accordance to the required competencies.

In the event of Offer of Working Area either through Bid of Working Area or Direct Offer of Working Area, Director General of Oil and Gas will make an announcement of the Working Area using printed media, electronic media, other media and promotion of the Working Area.

Then, the Director General of Oil and Gas will prepare and publish Bid Document for each Working Area being offered which shall contain procedures of the bidding; geological information and potential resource of oil and gas; estimates of reserves and production of oil and gas; and the concept of Production Sharing Contract. The Bid Document are shall be purchased by BU or BUT who want to become the bidder of the Bid of Working Area of the designated Working Area. Purchase of the Bid Document are also used as record for BU and BUT as a bidder of the Bid or Direct Offer of the Working Area.

If potential Bidder of Bid of Working Area or Bidder of Direct Offer of Working Area will continue its participation as the Bidder of Bid of Working Area or Bidder of Direct Offer of Working Area, then the prospective Bidder shall submit Participating Document to the Offering Team consisting:

- Application form;
- Work plan and budget for six years period exploration;
- Commitment of seismic survey;

- Financial capacity to carry out the work plan firm commitment of 3 (three) first years of Exploration;
- Promissory note declaration of willing to pay bonuses directly;
- Statement letter stating agreement of the consortium establishment and appointment of operator;
- Statement letter of receive and could sign a Production Sharing Contract concept;
- Copy of the proof of purchase documents;
- Copy of the Deed Establishment of Business Entity/*Badan Usaha* (BU) or Permanent Establishment/*Bentuk Usaha Tetap* (BUT)
- Letter of support from parent company stating that the parent company supports the implementation of the commitments;
- Original letter of Offering Insurance/*Jaminan Penawaran*;
- Statement letter from the bidder candidate of Bid of Working Area or Direct Offer of Working Area to abide to the Bid results announced by the Government;
- Other requirements specified in the bid document.

Submission period for Participating Document for Bid of Working Area is no later than 120 calendar days from the date of Bid of Working Area announcement. For Direct Offer of Working Area, the period is no later than 45 calendar days from the date of the Direct Offer of Working Area announcement.

Bid Team attended by at least 5 members that will perform the opening and inspection of Participating Documents from Working Area Bid candidate in accordance with the regulations and law. The final assessment on the Participating Documents of the Bid of Working Area are conducted by Bid Team and must be attended by at least half plus one of the Bid Team members.

Meanwhile the Assessment Team attended by at least 5 members will perform the opening and inspection of Participating Documents from Working Area Direct Offer candidate in accordance with the regulations and law. The final assessment on the Participating Documents of the Direct Offer of Working Area are conducted by Assessment Team and must be attended by at least half plus one of the Assessment Team members.

Upon delivering the Participating Documents, Bid of Working Area or Direct Offer of Working Area bidder must submit offering insurance in the form of a guarantee from prime bank/bank *utama* based in Jakarta that claimed to have the ability to ensure and provide funding of 100% of the signature bonus.

Bid of Working Area or Direct Offer of Working Area bidder is required to submit guarantee in the amount of:

- a. 10% of the total firm commitments of Exploration in the first 3 years of the Exploration phase or at least US\$ 1,500,000 for the region that has not been designated as a Working Area, or part of Working Area that has been set aside under the Production Sharing Contract, or Working Area with ended Production Sharing Contract;
- b. 10% of the total budget of all work plan commitments of the first 2 years of exploitation phase or at least US\$ 1,000,000 whichever is higher, for the area part of the Working Area that has not been developed and/or being or has been produced which are set aside as proposed by the Contractor; or part of Working Area that has not been developed and/or has been produced that are set aside as proposed by the Minister.

Implementation of the final assessment is based on the technical assessment criteria of the first 3 years Exploration phase (firm commitment), financial assessment and performance assessment Bid of Working area or Direct Offer of Working Area bidder. The criteria of the Final assessment implementation are consisted:

- a. Technical assessment conducted on seismic survey commitment; and/or commitment of the number of wildcat well/sumur *taruhan* and drilling plan location based on the geological and geophysical evaluation results and technical justification;
- b. Financial assessment conducted on the amount of the signature bonus and financial ability in supporting the work plan firm commitment for the first 3 years exploration phase; and
- c. Performance assessment conducted on experiences in the field of oil and gas and its compliance to the applicable laws in Indonesia.

After the Bid Team performed assessment on the Participating Document of the Bid of Working Area Bidder, Bid Team will submit a rank order of the Bid of Working Area candidates winner to the Director General of Oil and Gas, which will be then submitted to the Minister to determine the winner. Once determined by the Minister, then the Director General will give a written notice to the Bid of Working Area Winner. Within a period of 14 days after the notification is received, Bid of Working Area Winner shall submit the letter stating the ability to meet all the commitments in the Participating Document to the Director General.

After the Assessment Team performed assessment on the Participating Document of Direct Offer of Working Area bidder, the Director General of Oil and Gas will propose to the Minister of Energy and Mineral Resources to set the Direct Offer of Working Area bidder who perform the Joint Study as the executor of Exploration and Exploitation of the Working Area.

In the case there are other BU or BUT who do not perform the Joint Study and expressed their interest in the Working Area, the Assessment Team will conduct an assessment on the Direct Offer of Working Area bidder. If the results of the final assessment of the Participating Document submitted by Direct Offer of Working Area bidder who performed the Joint Study is lower than the interested Direct Offer of Working Area bidder, Direct Offer of Working Area and Joint Study performer bidder can use their right to match/*hak perubahan penawaran* with the provisions of at least matching the highest bid for technical commitment and financial commitment.

If the Direct Offer of Working Area and Joint Study Performer bidder is willing to change their bid, Director General will propose to the Minister to set Direct Offer of Working Area and Joint Study Performer bidder to be the Direct Offer of Working Area bid winner to carry out the Exploration and Exploitation activities of the Working Area.

If the Direct Offer of Working Area and Joint Study Performer bidder is not willing to change their bid, Director General will propose to the Minister to set the other Direct Offer of Working Area bidder who has the highest score as the Direct Offer of Working Area bid winner to carry out the Exploration and Exploitation activities of the Working Area.

If the Joint Study performer who has completed the Joint Study of a certain area but does not participate in the Direct Offer of Working Area bidding in accordance to the requirement of this Minister Regulation, the right to acquire that area is through right to match for matching the highest bid to be void by law.

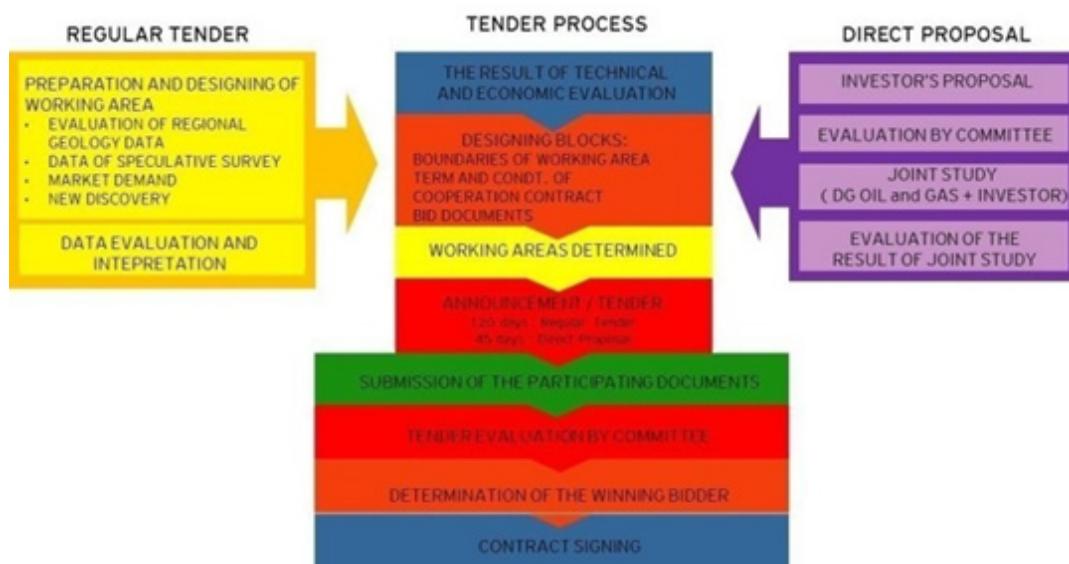
Director General shall give written notice to the Direct Offer of Working Area Winner regarding the enactment of the Direct Offer of Working Area Winner. Within a period of 14 days after the notification is received, Direct Offer of Working Area bid winner shall submit the letter stating the ability to meet all the commitments in the Participating Document, including the approval of Production Sharing Contract concept to the Director General.

3.1.3 Offer of Working Area in Year 2014

In order to increase the long term production of oil and gas, it is necessary to massively open working area and oil and gas exploration. So as to realize the increased of this oil and gas production, in year 2014, the Government offer conventional and non-conventional Oil and Gas Working Area/*Migas Non Konvensional* (MNK).

Number of Conventional Working Areas offered are 13 Working Areas consisted of 6 (six) Working Areas through Direct Offer mechanism, 5 (five) Working Areas through Regular Bidding mechanism and 2 Working Areas through Direct Offer by Pertamina mechanism. Meanwhile, the number of Non-Conventional Working Areas offered are 8 Working Areas consisted of 3 Working Areas MNK through Direct Offer mechanism, 3 Working Areas MNK through Regular Bidding and 2 Working Areas MNK through Direct Offer by Pertamina mechanism.

Figure 3.1 Procedure of offering oil and gas and methane butane gas working area



Source: Directorate General of Oil and Gas, Minister of Energy and Mineral Resources

Below is the name of Conventional and Non-Conventional Oil and Gas Working Area offered:

Table 3.1 Conventional oil and gas working area

No	Working Area	Location	Information
1	North Madura II	Offshore East Java	Regular Bid
2	Yamdena	Offshore Maluku	Regular Bid
3	South Aru II	Offshore Maluku	Regular Bid
4	Aru Trough I	Offshore Maluku	Regular Bid
5	Aru Trough II	Offshore Maluku	Regular Bid
6	North Central Java Offshore	Offshore Maluku	Regular Bid
7	Kualakurun	Onshore, Central Kalimantan	Direct Offer
8	Garung	Onshore and Offshore Central Kalimantan	Direct Offer
9	Offshore Pulau Moa Selatan	Offshore Maluku	Direct Offer
10	Dolok	Onshore and Offshore Papua	Direct Offer
11	South East Papua	Onshore Papua	Direct Offer
12	Abar	Offshore DKI Jakarta and West Java	Direct Offer Pertamina
13	Anggursi	Offshore West Java and Central Java	Direct Offer Pertamina

Table 3.2 Non-conventional oil and gas working area

No	Working Area	Location	Information
1	MNK Sakakemang	Onshore South Sumatera	Direct Offer
2	MNK Selat Panjang	Onshore Riau	Direct Offer
3	MNK Palmerah	Onshore South Sumatera	Direct Offer
4	MNK Shinta	Onshore South Sumatera	Regular Bid
5	MNK North Tarakan	Onshore North Kalimantan	Regular Bid
6	MNK Kutai	Onshore East Kalimantan	Regular Bid
7	MNK Jambi I	Onshore Jambi	Direct Offer Pertamina
8	MNK Jambi II	Onshore Jambi	Direct Offer Pertamina

Source: <http://www.migas.esdm.go.id/>

From the list of Working Area offered above and in the acceleration of exploration activities as well as to increase the number of discoveries of hydrocarbon potential, then for the Working Area located in the area that has sufficient data and the area is proven to be applied the commitment of well drilling exploration as a firm exploration commitment for the first three years in exploration phase. While for the Working Area located in the frontier area with very high risk, the well drilling exploration commitment is not a Firm Commitment, but is expected to begin the drilling immediately when the supporting data is sufficient.

In supporting the acceleration program of oil and gas production, in the year 2014 Non-conventional Oil and Gas Working Area Bid, the Government set a minimum commitment of drilling 1 exploratory wells (vertical) for each MNK block offered.

The success of the New Oil and Gas Working Area is expected to provide an additional new oil and gas resources (conventional and non-conventional) of about 3.5 billion barrels of oil and 10.7 TCF of gas.

It is expected that the additional oil and gas resources can provide a more optimal contribution in the increase of oil and gas reserves for the future generations.

The Government finally announced the winner of Direct Offer and Regular Bid of Oil and Gas Working Area Phase I year 2014, where there are 6 winners Direct Offer Bidders from 8 Conventional Oil and Gas Working Areas offered and 2 Regular Bidding bidders from 5 Conventional Oil and Gas Working Areas offered (Note: For the full list of Oil and Gas bidders see Appendix 2).

Based on the result of the Final Opening, Inspection and Assessment of Participating Document, the followings are bidders named as the winners of the Direct Offer of Oil and Gas Working Area Bid Phase I year 2014 as described in Table 3.3.

Table 3.3 Direct offer of conventional oil and gas working areas

No	Working Area	Location	Bid Winner
1	Kualakurun	Onshore, Central Kalimantan	PT Petcon Resources–Petronas Carigali International E&P BV
2	Garung	Onshore and Offshore Central Kalimantan	PT Mentari Abdi Pertiwi
3	Offshore Pulau Moa Selatan	Offshore Maluku	Shell Exploration Company B.V
4	South East Papua	Onshore Papua	PT Gema Terra- Transform Exploration Pte Ltd
5	Abar	Offshore DKI Jakarta and West Java	PT Pertamina (Persero)
6	Anggursi	Offshore West Java and Central Java	PT Pertamina (Persero)

Source: <http://www.migas.esdm.go.id/>

Exploration firm commitment from 6 winning bidders for 3 (three) years of exploration phase is in the form of G&G study for US\$ 5.59 million, 2D seismic survey for 2,750 km and 2 exploration wells drilling. Total investment of exploration commitment is amounted to US\$ 36.325 million. While the Signature Bonus is amounted to US\$ 6 million.

Meanwhile, based on the results of Final Opening, Inspection and Assessment of Participating Document , the followings are bidders named as the winners of Regular Bid of Oil and Gas Working Area Phase I Year 2014 as described in Table 3.4

Table 3.4 Conventional oil and gas working area regular winners

No	Working Area	Location	Description
1	North Madura II	Offshore East Java	Petronas Carigali International E&P BV
2	Aru Trough I	Offshore Maluku	Statoil ASA

Source: <http://www.migas.esdm.go.id/>

Exploration firm commitment from the 2 winning bidders for 3 (three) years exploration phase are in the form of G&G study for US\$ 2 million, 2D seismic survey for 700 km and 3 exploration wells drilling. Total investment of exploration commitment is amounted to US\$ 70.9 million. While the Signature Bonus is amounted to US\$ 3 million.

For Non-Conventional Oil and Gas Working Area Year 2014, the Government announced the winning bidder

of Direct Offer Phase I year 2014 are 3 winning bidders of Direct Offer from 3 Non-Conventional Oil and Gas Working Area offered.

Based on the results of Final Opening, Inspection and Assessment of Participating Document , the followings are the winners of Direct Offer of Non-Conventional Oil and Gas Working Area Bid year 2014:

Table 3.5 Non-Conventional Direct Offer of Working Area Winning Bidder

No	Working Area	Location	Description
1	MNK Sakakemang	Onshore South Sumatera	Konsorsium Bukit Energy Indonesia Pte.Ltd -Pertamina (Persero)
2	MNK Selat Panjang	Onshore Riau	Petroselat Ltd
3	MNK Palmerah	Onshore South Sumatera & Jambi	Konsorsium: Bukit Energy Resources Palmerah Deep Pte. Ltd.- New Zealand Oil and GasLtd - PT. SNP Indonesia- Bumi Perdana Energy Ltd -Glory Wealth Pacific Ltd

Source: <http://www.migas.esdm.go.id/>

Exploration firm commitment of 3 winning bidders for 3 years exploration phase is in the form of G&G study for US\$ 1.10 million, 2D seismic survey for 500 km and 3 exploration wells drilling. Total investment of exploration commitment is amounted to US\$ 37.025 million. While the Signature Bonus is amounted to US\$ 3 million.

In overall, the total exploration firm commitment from the 11 bid winners for both Conventional Working Areas and Non-Conventional Working Areas are exploration commitment study for US\$ 144.25 million. While the Signature Bonus that will be received directly by the Government are amounted to US\$ 12 million.

3.2 Process of Determining and Granting Mineral and Coal Mining Working Zone License

Mining activities in Indonesia has indeed opened and developed remote areas. With the development of new development centers in several areas, this has benefited in the development of basic infrastructure, increase of revenues and employment.

Mineral and coal contained in the Mineral and Coal Mining Zones/*Wilayah Pertambangan* in Indonesia has a non-renewable nature, unevenly distributed, formed million years ago, not visible, natural and cannot be moved .

Besides having an important role in meeting the livelihood of many people, mineral and coal mining also has impacts on the environment, has risks and high costs of exploration and production operation, and has volatile economic value that may change with time and technology. Therefore, setting the Mining Zones must consider the integration, space utilization within the framework of Unitary State of the Republic of Indonesia that sustained by carrying capacity of the environment

Utilization of mineral and coal resources have the same position with the utilization of other natural resources in the layout of sustainability. Hence, it must be managed wisely in order to add value to the national economy and should be utilized optimally to improve the welfare of the people.

The Government has the authority to manage mineral and coal mining by making the determination of Mining Zones with coordination with local governments and consultation with the House of Representatives (*Dewan Perwakilan Rakyat/DPR*) of the Republic of Indonesia (RI).

Afterwards, the Government will establish an area within the Mining Zones into a Mining Areas/*Wilayah Usaha Pertambangan* based on the potential map of mineral and/or coal, as well as maps of mineral and/or coal potential/reserves. The area inside the Mining Zones that meet the criteria is set to be Mining Areas by the Minister after coordinating with the corresponding Governor and Regent/Mayor.

Then the Government will set the Mining Permit Area/*Wilayah Izin Usaha Pertambangan* (WIUP) in the Mining Area. Mining Permit Area in the Mining Area that meet the criteria is set by the Minister after coordinating with the corresponding Governor or Regent/Mayor.

Mining operations carried out in accordance to the Mining Permit/*Izin Usaha Pertambangan* (IUP) granted by the Minister, Governor, or Regent/Mayor in line with their authority based on the application submitted by the enterprises, cooperatives and individuals. Mining Permit is granted through stages, namely the provision of Mining Permit Area and then later the provision of Mining Permit.

3.2.1 Determination of Mining Areas Allocation

3.2.1.1 Mining Zones Determination

Mining Zones hereinafter referred as *Wilayah Pertambangan* (WP) are area with potential mineral and/or coal, either at ground or underground level, which are in the area of land or sea areas for mining operations, and not bound by the limit of Government administration which is part of the national spatial plan.

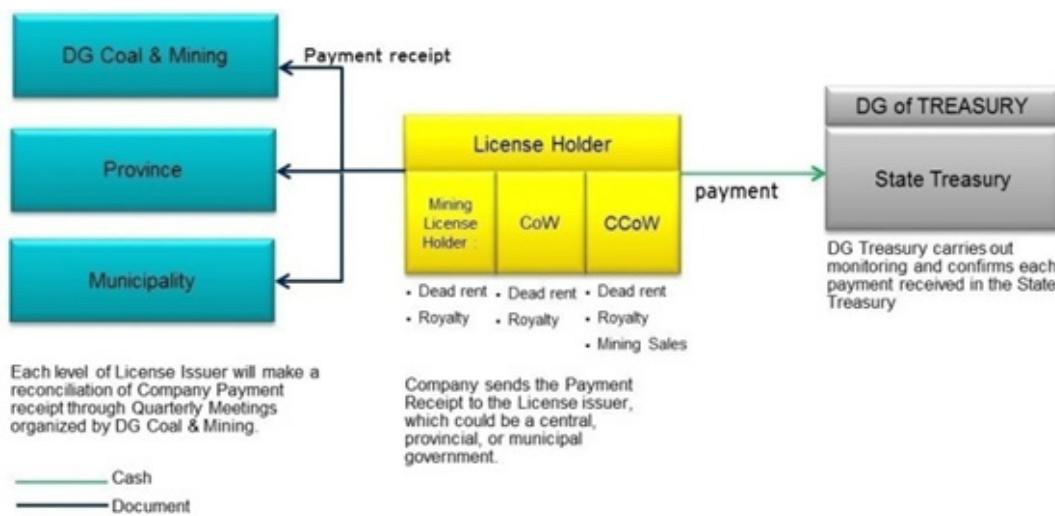
Area that can be designated as WP should have criteria as described below:

There is indication of carrier rock formations of minerals and/or coal; and/or the potential form mineral resources which are in the form of solid and/or liquid.

WP can be divided into:

- Mining Areas/*Wilayah Usaha Pertambangan* (WUP);
- Small-Scale Mining Areas/*Wilayah Pertambangan Rakyat* (WPR);
- State Reserve Areas/*Wilayah Pencadangan Negara* (WPN).

Figure 3.2 Process flow of payments from Mining Permit and Special Mining Permit holders



Source: Scoping Study EY for EITI

WUP are part of WP with data availability, potency and/or geological information. WPR is part of WP which do small-scale mining business activities. While the WPN is part of the WP that is reserved for national strategic interests.

a. Mining Areas

Mining Areas hereinafter referred as WUP is part of the WP with data availability, potency and/or geological information. WUP consist of WUP radioactive mineral, WUP metal mineral, WUP coal, WUP non-metal mineral, and/or WUP rocks. Government may set the WUP after having coordination with local Government and submitted in written to the House of Representatives of the Republic of Indonesia. Coordination is performed with the corresponding the local Government according to the data and information held by the Government or local Government.

Before the area in the WP is set to WUP, Minister of Energy and Mineral Resources or governor in accordance with their authority will develop WUP determination plan based on the map of potential/reserves of mineral and/or coal as well as map of potency/reserves of mineral and/or coal. WUP must meet the following criteria:

- Have carrier rock formations of coal, rock carrier formations of metal mineral, and/or rock carrier formations of radioactive mineral, including offshore based on geological maps;
- Have a geological outcrop for radioactive mineral, metal mineral, coal, non-metal mineral, and/or rocks;
- Have potential mineral resources or coal;
- Have one or more types of mineral including associated minerals and/or coal;
- Do not overlap with WPR and/or WPN;

- An area that can be used for mining activities in a sustainable manner; and
- A mining area in accordance with the spatial plan

In setting the WUP, Minister, governor or regent/mayor in accordance with their authority can perform exploration. Exploration conducted to obtain data and information in the form of geological map and carrier rocks formations map, and/or geochemical map and geophysical map, as well as estimates of resources and reserves. When the data and information of the exploration result found potential mineral and coal resources and reserves that demanded by the market in the WP other than the determined WUP, then the Minister may designate it as new WUP.

b. Small-Scale Mining Areas

Small-Scale Mining Areas hereinafter referred as WPR is part of WP which do small-scale mining business activities. Regent/mayor plan the establishment of an area within the WP to be WPR based on the map of potential mineral and/or coal as well as on the map of potency/reserves of mineral and/or coal. WP criteria that must be met in order to be a WPR are:

- Have a secondary mineral reserves contained in the river and/or between the edges and river banks;
- Have a primary backup of metals or coal with a maximum depth of 25 meters;
- A terrace sediment, flood plains and ancient river sediment;
- WPR with maximum area of 25 hectares;
- Mention the type of commodity to be mined; and/or
- Area or small-scale mining areas that have been worked for at least 15 years;

- Do not overlap with WUP and WPN; and
- A mining area in accordance with the spatial plan

Regents/mayors are obliged to announce the WPR plan to the general public. In setting the WPR, regents/mayors should coordinate with corresponding provincial Government to receive consideration regarding the data and information held by the provincial Government. Regents/mayors should also consult with Regional House of Representatives of the regencies/cities to obtain their consideration. Determination of WPR is submitted in writing by the regent/mayor to the Minister and governor.

In setting WPR, the Minister, governor or regent/mayor in accordance with the authority can perform exploration. Exploration conducted to obtain data and information in the form of geological map and carrier rocks formations map, and/or geochemical map and geophysical map, as well as estimates of resources and reserves. Regents/mayors should coordinate with the Minister and governor in conduct the exploration.

c. State Reserve Areas

State Reserve Areas hereinafter referred as WPN is part of the WP that is reserved for national strategic interests. The Minister sets WPN after the approval by the House of Representatives of the Republic of Indonesia. Minister plan the establishment of an area in the WP to be a WPN based on the map of potential mineral and/or coal as well as on the map of potency/reserves of mineral and/or coal. WP criteria that must be met in order to be a WPN are:

- Have carrier rock formations of radioactive mineral, metal mineral, and/or coal based on geological map/data;
- Have a geological outcrop for radioactive mineral, metal mineral, and/or coal based on geological map/data;

- Have potency/reserves of mineral and/or coal; and
- For mining commodities conservation purposes;
- On the area and/or island which borders with other countries;
- Protected area, and/or
- Located on a small island with maximum area of 2,000 square kilometers in accordance with the requirements of the law.

In order for the part of the area of assigned WPN for particular commodity can be extracted, then its status should be changed to Special Mining Area/*Wilayah Usaha Pertambangan Khusus* (WUPK) with approval from the House of Representatives of the Republic of Indonesia. That change of status is proposed by the Minister with respect to:

- Fulfillment of industrial raw materials and energy in the country;
- Source of state revenue;
- Condition of the area based on the limited facilities and infrastructure;
- Potential to be developed as a center of economic growth;
- Carrying capacity of the environment; and/or
- Use high technology and large capital investment.

In accordance to the Government Regulation No. 22/2010 on Mining Areas, in setting a WP, Central Government (supported by Local Government) will plan the WP that arranged in 2 stages which are inventory recording of potential mining and planning of WP. Inventory recording of potential mining carried through the investigation and research of mining to obtain data and information that consist of:

- Carrier rock formations of metal mineral and/or coal;

- Geological data on the evaluation of mining activities that are ongoing, ending, and/or returned to the Minister, Governor, or Regents/Majors in accordance to their authority;
- Permit data results of inventory recording on the valid permit, expired, and/or returned to the Minister, Governor, or Regent/Mayors in accordance to their authority;
- Interpretation of remote sensing in the form of structural patterns and distribution of lithology.

Mining investigation and research activities conducted with coordination with the Minister, Governor and Regent/Mayor in accordance to their authority. Minister or Governor can give assignments to state research institutions and/or regional research institutions to support the preparation of WIP and the development of science and technology of mining. Under certain conditions, state research institutions can conduct cooperation with foreign research institutions after obtaining the approval from the Minister of Energy and Mineral Resources in accordance with the requirements of the law.

Minister or governor according to their authority decide the assignment of investigation and mining research to be carried out by the state research institution and/or regional research institution and formed into a map. The mining investigation and research data and information performed by Minister, Governor and regen/mayors shall be processed into a map of potential mineral and/or coal, which at least contains information regarding carrier rock formations of mineral and/or coal.

WP plan as outline in the map sheet and in digital form is determined by the Minister to be a WP after the Government coordinated with Local Government based on the data owned by both parties and reported in writing to the House of Representatives. One of the authority of Central Government in determining WP allocation can also be transferred to Provincial Government. After the WP is determined, that WP can be revalidated 1 time in 5 years. Governor or regent in accordance with their authority can propose amendment of WP to the Minister based on the investigation and research results.

3.2.1.2 Determination of Mining Zones for year 2014

Plan and preparation of WP has been performed by the Government which in this case is Directorate General of Mineral and Coal since 2007 to 2008 before the establishment of Law No. 4/2009 on Mining Zones. The Law regulates the implementation of inventory recording of permit data, potential resources and small-scale mining areas with local Government throughout Indonesia. After the issuance of Law No. 4/2009, the Government intensified in conducting inventory recording activities of permit and potency data with local Government held in 2009 to 2012, which culminated in the IUP Reconciliation Phase I in May 2011 and IUP Reconciliation Phase II in October 2012. Intensive discussion about spatial planning across primary sectors, especially with forestry was also performed in coordination with ministries and agencies including BATAN, Ministry of Forestry, Ministry of Public Work and Geospatial Information Agency/*Badan Informasi Geospasial*.

In accordance with Law No. 4/2009, determination of WP is done after coordination with local Government and consultation with House of Representative of the Republic of Indonesia.

The Government has carried out a consultation meeting with Mineral and Coal Committee Commission VII DPR RI from year 2010 to 2013 as many as 9 (nine) times, and the last was held on April 9, 2013 where the Commission recommended the determination of WP by the Government.

The Government must ensure the WP plan prepared by the Government and approved by local Government. Coordination is performed by sending the draft of WP determination of all provinces/ regencies/cities to governors and regents/mayors in throughout Indonesia in May 2013. The Government subsequently requested local Government approval on the draft WP that has been sent by inviting governor and regent/mayor involved in the WP Reconciliation which performed per island in June to September 2013. Once approval is obtained, the Government then determine the WP for each island. WP Reconciliation list and Minister of Energy and Mineral Resources Decree regarding WP determination for each of the island from year 2013 to 2014, as described in Table 3.6.

3.2.1.3 Mining Permit Areas/*Wilayah Izin Usaha Pertambangan* (WIUP)

Mining Permit Areas hereinafter referred as WIUP is the area granted to the Mining Permit/*Izin Usaha Pertambangan* holder. WUP are consisted of 1 or several WIUP that are located at cross-provinces, cross-regencies/cities and/or within one regency/city.

In setting WIUP inside the WUP, it must comply with several criteria, namely:

- Geographical location;
- Conservation principles;
- Carrying capacity of environment;
- Optimization of mineral and/or coal resources; and
- Population density.

No	Island	Execution of WP Reconciliation	Ministerial Decree and Date of WP Determination
1	Sulawesi	13 June 2013	KEPMEN ESDM NOMOR 2737.K/30/MEM/2013 Date 5 July 2013
2	Kalimantan	3 July 2013	KEPMEN ESDM NOMOR 4003.K/30/MEM/2013 Date 19 December 2013
3	Maluku	22 August 2013	KEPMEN ESDM NOMOR 4002.K/30/MEM/2013 Date 19 December 2013
4	Papua	22 August 2013	KEPMEN ESDM NOMOR 4004.K/30/MEM/2013 Date 19 December 2013
5	Sumatera	5 September 2013	KEPMEN ESDM NOMOR 1095.K/30/MEM/2014 Date 26 February 2014
6	Java	12 September 2013	KEPMEN ESDM NOMOR 1204.K/30/MEM/2014 Date 27 February 2014
7	Bali	19 September 2013	KEPMEN ESDM NOMOR1329.K/30/MEM/2014 Date 28 February 2014
8	Nusa Tenggara	19 September 2013	KEPMEN ESDM NOMOR1329.K/30/MEM/2014 Date 28 February 2014

WIUP divided into two, namely WIUP metal mineral and/or coal and WIUP non-metal mineral and/or rocks. WIUP metal mineral and/or coal is set by Minister after coordination with local governor and regent/mayor. WIUP mineral non-metal and/or rocks is set by Minister, governor or regent/mayor according to their authority upon the request of companies, cooperatives or individuals in accordance with the provisions of the law. In the case there is more other commodities in WIUP metal mineral and/or coal, in extracting the other commodities, WIUP shall be determined before

In WIUP non-metal mineral and/or rock that are in the cross-province and/or sea area of more than 12 miles from shorelines, the WUP is determined by the Minister. While WIUP located across the regency/city and/or sea area of up to 4 miles from shorelines, the area is determined by regent/mayor of WUP. For WIUP located in the regency/city and/or sea area of up to 4 miles from the shorelines, the area is determined by the regent/mayor of WUP.

3.2.1.4 Determination of Mining Permit Areas/*Wilayah Izin Usaha Pertambangan* (WIUP) for Year 2014-2016

In year 2014 to 2016, local Government have set the WIUP, either by the local governors or regents/mayors. Information on predefined WIUP can be obtained from each region and accessed from data information system provision services of Directorate General of Mineral and Coal, but the access is subject to applicable fees.

3.2.2. Procedure of Mining Permit Areas Bidding

3.2.2.1 Grant of Mining Permit Areas

WIUP can be obtained through the following methods: WIUP radioactive obtained in accordance to the

requirements of the law, WIUP metal mineral and coal obtained through bidding, while WIUP non - metal mineral and rock obtained by applying regional request.

Before bidding of WIUP metal mineral and coal is conducted, the Minister, governor or regent/mayor in accordance to their authority will publicly announced WIUP that will be bided to companies, cooperatives or individuals within a period of at least 3 months before the bidding. Minister must obtain recommendation in advance than the governor and regent/mayor, while governor must obtain the recommendation in advance than regent/mayor.

Duties and authorities of WIUP metal mineral and/or coal bid committee consists of:

- a. Prepare WIUP bidding;
- b. Prepare WIUP bid documents;
- c. Schedule WIUP bidding;
- d. Announce the time of the WIUP bidding;
- e. Perform re-announcement at most two times, if there only one WIUP bidder;
- f. Assess the qualification of WIUP bidders;
- g. Evaluate the incoming bids;
- h. Perform WIUP bidding;
- i. Prepare official report of the bidding and proposed the WIUP winning bidders.

To participate in the bidding, WIUP bidders must meet the administrative, technical and financial requirements.

Administrative requirements for companies/cooperatives/individuals/firms and limited partnership companies are at least included:

- a. Fill the form that had been prepared by the bid committee;
- b. Profile of the companies/cooperatives/firms and limited partnership companies/ Identity Card (*Kartu Tanda Penduduk*);
- c. Deed establishment of companies/cooperatives/firms and limited partnership companies engaged in the mining business that has been approved by the appropriate authorities; and
- d. Tax ID Number (*Nomor pokok wajib pajak*).

As for the minimum technical requirements include:

- a. Credentials of the companies, cooperatives, or individuals in the field of mineral or coal mining for at least 3 years, or for new companies must have the support from the parent companies, partner or affiliates engaged in mining sector;
- b. Have at least one expert in the field of mining and/or geological with experiences of at least 3 years; and
- c. Have work plan and budget plan for 4 years exploration activities.

Financial requirements include:

Bid committee in accordance with their authority granted by the Minister, governor or regent/mayor can give an opportunity to the WIUP bidders who pass the pre-qualification to conduct field visits in the time period adjusted with the distance of the location that will be bided after the explanation of the bidding. In the case of the WIUP bidders who will conduct field visits engage foreign nationals, bidders must fulfill the requirements in accordance with the provisions of the law. The costs required to conduct field visits are charged to the WIUP bidders.

The result of the WIUP bid reported by the bid committee to the Minister, governor, or regent/mayor in accordance with their authority to determine the winner of the WIUP bid. Minister, governor or regent/mayor in accordance to their authority based on the proposals of the bid committee determine the winning bidder of WIUP of metal mineral and/or coal. Minister, governor or regent/mayor in accordance to their authority shall notify in writing the determination of WIUP winning bidder of metal mineral and/or coal to the winner. If there is only one bidder who place a price quote, then second tender shall be carried out. In the event that in the second tender the bidder remains only one bidder, the bidder is declared the winner with requirements that the offer price must be equal to or higher than the predetermined base price of the bid.

- a. Latest year of financial report that has been audited by public accountant;
- b. Place collateral for the bid in the form of cash in state-owned banks for 10% of the compensation values of information data or from total investment cost replacement for ended WIUP bidding; and
- c. Statement of willing to pay the value of the WIUP bidding within a period of 5 (five) working days after the announcement of the winning bidder.

In order to get WIUP of non-metal mineral or rocks, companies, cooperatives or individuals submit regional application to:

- a. Minister for WIUP application that are located at cross-province and/or sea area of more than 12 miles from the shoreline;
- b. Governor for WIUP application that are located across the regencies/cities in one province and/or sea area for 4 miles up to 12 miles; and
- c. Regent/mayor for WIUP application that are located within one regency/city and/or sea area of up to 4 miles.

Before submitting the WIUP of non-metal mineral or rocks, the Minister must obtain prior recommendation from the Governor and Regent/Mayor; and Governor or Regent/Mayor provides recommendation for a maximum period of five working days after the recommendation request received.

3.2.2.2 Granting the Mining Permit

Mining Permit/*Izin Usaha Pertambangan* hereinafter called IUP is a permit to carry out mining operations. It is the authority of the Government to grant IUP to manage the mineral and coal mining. IUP is granted by the Minister, governor or regent/mayor in accordance to their authority.

IUP is given by the regent/mayor if WIUP are within one regency/city. IUP is granted by the governor if WIUP is in inter regencies/cities in one province after getting a recommendation from regents/mayors according to the provisions of local laws and regulations. IUP is granted by the Minister if WIUP are at cross-province after getting a recommendation from the governor and regent/mayor according to the provisions of local laws and regulations.

IUP consists of IUP Exploration and IUP Production Operation. IUP Exploration and IUP Production consist of metal minerals, coal, non-metal minerals and/or rocks. IUP Exploration activities include general investigation, exploration, and feasibility studies. Production Operation IUP activities include construction, mining, processing and refining, transportation and sales. Holders of IUP Exploration and IUP Production Operation interns can do most or all of the activities of investigation, investigation, exploration, feasibility studies, construction, mining, processing and refining, transportation and sales.

In order to IUP Exploration or IUP Production Operation, the companies/cooperatives/individuals must meet requirements including administrative, technical, environmental and financial requirements.

IUP Exploration for metal mineral mining can be granted with a maximum period of eight years. IUP Exploration for non-metal mineral mining can be granted at latest within a period of 3 years and certain types of non-metal minerals can be granted in a maximum period of 7 years. IUP Exploration for rock mining can be granted within a maximum period of 3 years. IUP Exploration for coal mining can be granted within a maximum period of 7 years.

In terms of exploration and feasibility study activities, holders of IUP Exploration who obtain excavated minerals or coals shall report to the grantor of IUP. IUP Exploration holders who want to sell minerals or coals required to apply for temporary permit for transporting and selling. Temporary permit granted by the Minister, governor or regent/mayor in accordance to their authority. Excavated minerals or coals production are subject to royalties.

Each IUP Exploration holder is guaranteed to obtain IUP Production Operation as a continuation of its mining operations. IUP Production Operation may be granted to companies, cooperatives or individuals based on the result of the WIUP bidding of metal mineral or coal that has had an outcome of the feasibility study.

IUP Production Operation for metal mineral mining can be granted within a maximum period of 20 years and can be extended two times for 10 years each. IUP Production Operation for non-metal mineral mining can be granted within a maximum period of 10 years and can be extended two times for 5 years each.

IUP Production Operation for certain types non-metal mineral mining can be granted within a maximum period of 20 years and can be extended two times for 10 years each. IUP Production Operation for rock mining can be granted within a maximum period of 5 years and can be extended two times for 5 years each. IUP Production Operation for coal mining can be granted within a maximum period of 20 years and can be extended 2 times for 10 years each.

IUP Production Operation is issued by regents/mayors when the mining site, location of processing and refining and the port location are within one regency/city. The Governor can issue IUP Production Operation when the mining site, location of processing and refining and location of port are in the different regency/city after acquiring recommendation from the regents/mayors in accordance with the provisions of local laws and regulations. In addition, the Minister may issue the IUP Production Operation when the mining site, location of processing and refining and location are in the territory of different provinces, after acquiring recommendation from the governors and regents/mayors in accordance with the provisions of local laws and regulations.

IUP Exploration is granted by the Minister for WIUP that are located in cross-province and/or sea area of more than 12 miles from the shoreline. In addition, IUP Exploration is granted by the governor for WIUP that are located in trans regency/city in one province and/or sea area of 4 miles up to 12 miles from the shoreline. IUP Exploration is granted by the regent/mayor for WIUP that are located within one regency/city and/or sea area of up to 4 miles from the shoreline.

IUP Production Operation is granted by regents/mayors when the mining site, location of processing and refining and port location are within one regency/city or sea area of up to 4 miles from the shoreline.

IUP Production Operation is granted by the governor if the mining site, location of processing and refining and port location are in different regency/city within one province or sea area up to 12 miles from the shoreline after acquiring recommendation from regents/mayors. IUP Production Operation can also be granted by the Minister if the mining site, location of processing and refining and port location are in the different provinces or sea area of more than 12 miles from shoreline after acquiring recommendation from governors and local regents/mayors in accordance to their authority.

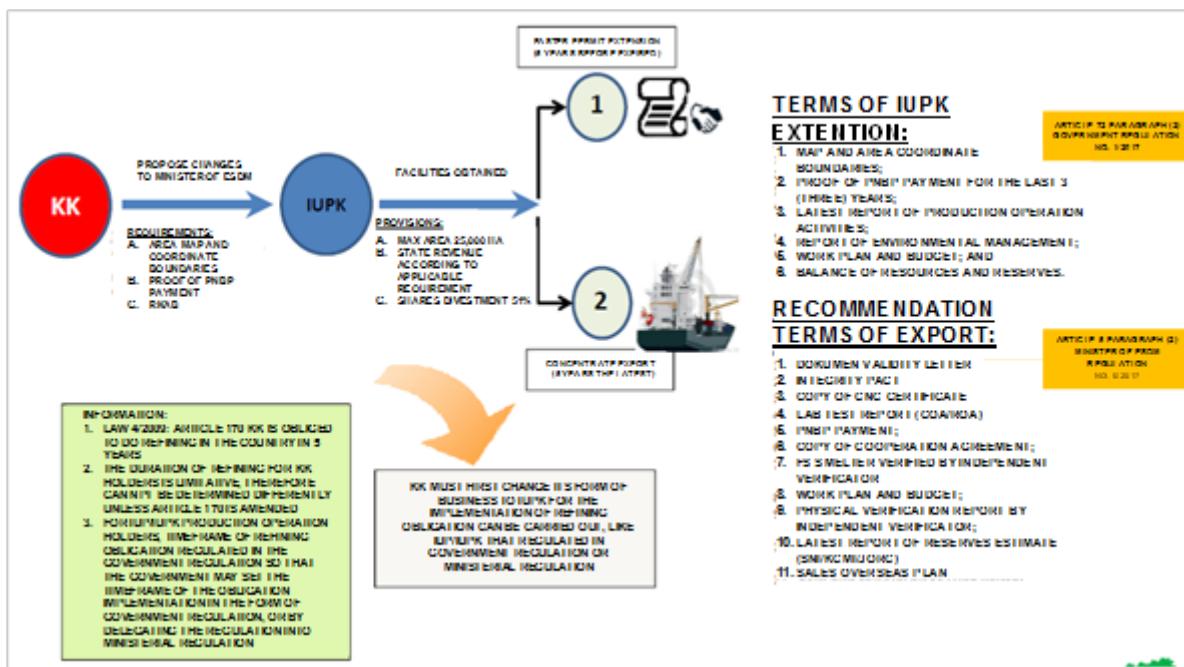
In terms of the mining site, location of processing and refining and port location are within different regions and with different ownership, then each of IUP Production Operation will be granted by the Minister, governor or regent/mayor in accordance to their authority.

3.2.3. Arranging IUP Issuance

The Government has issued a policy for arranging the mining permit through Clean and Clear certification or called CnC. CnC certification is a certificate issued to a licensed IUP and coal company when the company has met all its obligations to the state such as taxes and royalties, conduct a good mine reclamation planning and do the environmentally friendly mining practices.

On December 30, 2015, the Ministry of Energy and Mineral Resources issued new regulations related to evaluation procedures of IUP of mineral and coal issuance, namely the Minister of Energy and Mineral Resources no. 43/2015 ("ESDM 43/2015") on Procedures for Evaluation of Mineral and Coal Mining Permit Issuance. The new regulation is issued in order to curb the IUPs that have been granted before and after the enactment of Law No. 4/2009 on Mineral and Coal Mining

Figure 3.3 Changes of Contract of Works/Kontrak Karya (KK) into Special Mining Permit/Izin Usaha Pertambangan Khusus (IUPK)



Source: Strategic issues and Subsector Mineral and Coal Regulation

Submission of permit documents carried by regent/mayor in accordance to their authority as stipulated in Law No. 23/2014 on Local Government addressed to the governor or minister. Submission of the document in the framework of foreign investment and domestic investment.

Article 5 section (1) Minister Energy and Mineral Resources Regulation No. 43/2015 explained that the evaluation of permit documents are conducted to (i) adjusted IUP from Mining Authority/Kuasa Pertambangan, hereinafter called KP and/or (ii) KP that have not expired but have not been adjusted to IUP.

There are five criteria that serve as an evaluation: (i) administrative criteria, (ii) regional criteria, (iii) technical criteria, (iv) environmental criteria and (v) financial criteria.

Governor shall submit the evaluation result of the IUP issuance to the Minister through Director

General at the latest 90 calendar days after the official report of handover/berita acara serah terima of permit document from Regent or Mayor. If the results of the evaluation cannot be delivered because (i) the governor is absent; (ii) there is no official designated as governor; (iii) other legitimate reason, then the evaluation report on the issuance of IUP is carried out by provincial Government officials in charge in energy and mineral resources.

Director General on behalf of the Minister announced the CnC status based on the evaluation results of the IUP issuance related to aspects described above. In addition, the Director General will also announce IUP status without CnC, in terms of the governor or other authorized officials do not submit the evaluation results of the IUP issuance after the expiration of 90 calendar days period from the signing of official report of handover of the permit document.

Evaluation result of the IUP issuance and IUP CnC recommendation before this Regulation applies, shall remain in force and shall be submitted to the Minister through Director General no later than 90 working days after the stipulation of this regulation.

The Government has repeatedly softened by extending the time limit of reconciliation for IUP with CnC status which was originally December 31, 2014 for 12 provinces and then retreated until April 2015, then retreated again until the end of year 2015. As for IUP in 19 provinces were originally expected to be completed in 30 June 2015 was also extended.

Meanwhile, according to Law No. 23/2014 on Local Government that promulgated on October 2, 2014, mentioned the limit of administrative devolution settlement is two years since regulation was enacted or October 2, 2016.

Such provision referred to Article 404 which states the handover of personnel, funding, facilities and infrastructure, as well as document as a result of the division of Government affairs between central, local, regency/city that is governed by the law is carried out no later than 2 years starting from the laws promulgated.

Progress of IUP arrangement can be seen in the figures below:

Figure 3.4 Progress of IUP arrangement 2011-2014



Source: Materials from Directorate General of Mineral and Coal

Based on public information, the Corruption Eradication Commission/*Komisi Pemberantasan Korupsi* (KPK) has identified as many as 24% of 10,432 IUP does not have a taxpayer identification number/*nomor pokok wajib pajak* (NPWP). The findings of this Commission brought some impact where the tax revenue obtained by the Government from the sector was not optimal.

Associated with the identification of the Commission, the Ministry of Energy and Mineral Resources seeks from various aspects, especially in supporting the IUP portion in supporting state revenues are still low. In 2014, non-tax revenue/*penghasilan negara bukan pajak* (PNBP) of natural resources mining accounted for only 19.3 billion or 7.17% of total non-tax revenues amounted for IDR 345.5 trillion.

Furthermore, the Directorate General of Mineral and Coal of Ministry of Energy and Mineral Resources provides clarification that the portion of revenue from non-tax revenues are still dominated by coal which accounts for almost 80% of mineral and coal PNBP, while minerals only accounted for 20%.

Throughout 2010 and 2014, the deposit of non-tax revenues from coal businesses with IUP license are still very small compared to businesses with Coal Contract of Work/*Perjanjian Karya Pengusahaan Pertambangan Batubara* (PKP2B).

The Ministry of Energy and Mineral Resources continues to reduce the target of mineral and coal PNBP. Last year, targeted mineral and coal PNBP at IDR 52.2 trillion is not reached with realization of IDR 29.63 trillion only. In 2016, the Ministry of Energy and Mineral Resources revised the mineral and coal PNBP from originally targeted at IDR 40.8 trillion in 2016 state budget to be IDR 30.1 trillion in APBN-P 2016.

Direktorat General of Mineral and Coal on the public delivery will also benefit in the moment of revenue sharing area determination to request

complete data from the IUP. With complete data of the IUP, the Government hopes that the state revenues

from the IUP license holders could soon be mapped.

In addition to calculating state revenue projections, the mapping will reveal the arrears in the sector. The Ministry of Energy and Mineral Resources noted arrears of IUP reached IDR 4 trillion and is expected to continue to grow. Additionally, there are arrears of IUP from five years back where some of these IUP filed an objection with the examination carried out. Many also proposed payment by installments.

Furthermore, the Ministry of Energy and Mineral Resources issued Regulation No. 43/2015 on Procedures for Evaluation of Mineral and Coal Mining Permit issuance that set a deadline of arranging the mining sector can be completed in January 2017. In the Article 21 of this regulation, it is given the time to the governor to has 90 days time to submit the evaluation results to the Minister Energy and Mineral Resources through Director General of Mineral and Coal. The 90 days counted since the signing of official letter of the permit documents from regent/mayor. Minister of Energy and Mineral Resources Regulation No. 43/2015 became the legal basis for revocation mechanism of IUP. However, the constraints are on the aspects of IUP for rocks that used to be the IUP with most in the area that needed to support the Government's infrastructure development program.

Another obstacles presented in the industry is the frequent changes in rules and consistency in the mining sector. Data from the KPK also stated that 90% of the 10,000 IUP holders do not submit reclamation and mine closure guarantees that reduce the environmental ecosystem security.

3.2.4. Transfer of Contracts and IUP

Government Regulation No. 24/2012 concerning amendments of the Government Regulation No. 23/2010 on the Implementation of Mineral and Coal Mining, said that holders of IUP and IUPK are not allowed to transfer the IUP and IUPK to another parties

The other party is an entity that is 51% or more of its shares are not owned by the holders of IUP or IUPK. While IUP or IUPK owned by the SOEs, partially of its WIUP or WIUPK of its production operation can be transferred to another party. The other party is an entity that is 51% or more are owned by the SOEs of IUP and IUPK holders.

The same arrangement applies to the contract of work, which partly or wholly of the ownership cannot be transferred to any other party except with prior written approval from the Government. Because of the difficulty in the transfer of ownership in contract or IUP, many of the transfer of ownership in practice are done in an indirect way, namely through transfer of shares of the parent company or company over the company of the contract or IUP owner. However, the shares ownership from the contract holder cannot be transferred before the production operation begins without written permission from the Government.

3.3 Extractive Industries Contract System and Licensing

3.3.1 Applicable Contract in Oil and Gas Mining Sector

With the enactment of Law No. 22/2001 on Oil and Gas which replaced Law No. 8/1971 on Pertamina, this causes a shift in Mining Concession/*Kuasa Pertambangan* (KP) from Pertamina to the Government which is Minister of Energy and Mineral Resources as set out in Article 4 paragraph (3) that states "The Government as the holder of mining concession shall establish the executing agency as meant in Article 1 point 23". The meaning of mining concession here is authority to carry out exploration and exploitation activities as where regulated in Article 12 paragraph (4) "The minister shall stipulate business entities and permanent establishments authorized to undertake exploration and exploitation business activities in the working area as stipulated in paragraph (2)".

Exploration and exploitation activities are carried out by the Joint Cooperation Contract/*Kontrak Kerja Sama*. Joint Cooperation Contract under Article 1 point 19 explains joint cooperation contract or other forms of cooperation contract in exploration and exploitation activities are more beneficial to the State and the results

shall be used for the people's welfare. This means that the Law of oil and gas not only know one form of joint cooperation contract which is the Production Sharing Contract/*Kontrak Bagi Hasil* but also other joint cooperation contract.

There are some differences related to the forms of joint cooperation contract between Concession System and Contract of Work. In the oil and gas sector, Production Sharing Contract was emphasized because the state revenue received by the Government, in this case through the Ministry of Energy and Mineral Resources are greater. In addition, in Production Sharing Contract, there is a control mechanism against the contractor. In this Production Sharing Contract system, contractors are only given the economic rights over mining rights held by the State Enterprise through production sharing pattern, not benefits in form of profit (profit sharing).

Production Sharing Contract (PSC) is a contract that is common in the upstream oil and gas industry in Indonesia in the form of provisions of production sharing. This contract is made between the Government and the contractor stating that the contractor will bear the risks and costs of exploration and development. If commercial reserves is found to be developed, then the output will be reduced by First Trance Petroleum (FTP) before deducted with investment incentives and cost recovery, the rest is equity to be split (profit) which will be shared between the Government and the Contractor in accordance with the Contract. In calculating the profit sharing of oil, oil lifting is multiplied by the price of oil, which refers to the Indonesian Crude Price (ICP). In general, the profit sharing between the Government and the Contractor after taxes is 85:15 for oil and 70:30 for natural gas.

First Trance Petroleum (FTP) is the portion of the allowance for lifting in accordance to the contract before cost recovery (CR). FTP is usually divided between the Government and the Contractor in accordance to the profit sharing split in the contract. However, there is also a PSC who has FTP sharing provisions only for the Government.

Credit Investment/*Kredit Investasi* (KI) is an incentive provided by the Government as an additional return of capital that is directly related to production facilities of oil and gas field development. KI calculated from total lifting after deducting FTP, but before deducting CR.

CR is operating costs recovered, i.e. repaid by the Government to the Contractors for the operating costs that the Contractors incurred during the oil and gas extraction operation. CR is repaid from the lifting assessed using the average price/Weighted Average Price (WAP) of oil and gas in a given period. CR components consist of unrecovered costs in the previous year, current year operating expenses and depreciation costs. Presidential Regulation No. 70/2010 Article 13 sets the type of operating costs that cannot be restored in the CR as well as income tax.

Equity to be Split (ETBS) is the amount of gross lifting that has been reduced with FTP, KI (if any) and CR. ETBS will be divided between Government and Contractor in accordance with the production sharing split in each PSC.

Domestic Market Obligation (DMO) volume is the obligation of the contractor to sell 25% of the contractors' lifting of oil and gas to the Government to meet domestic demand.

DMO fee is the compensation paid by the Government to the contractor for DMO received. The magnitude of the fee is specified in each PSC.

Income tax amount is determined by the Laws in taxation at the time of the Joint Cooperation Contract was signed.

Minister of Energy and Mineral Resources specifies the Business Entity or Permanent Establishment authorized to carry out exploration and exploitation business activities in the

Working Area based on the consideration from SKK Migas. Contract signing executed by SKK Migas as the representatives of the Government

3.3.2. Expired Profit Sharing Contract

The certainty of the extension of the contract period is important for Contractors to be able to recalculate the value of investment in developing a working area. Request for an extension of joint cooperation contract according to Presidential Regulation No. 35/2004 can be delivered as soon as 10 years and no later than 2 years before the contract expires. The Contractor may request an extension contract more quickly on the gas purchase and sale agreement. However, in many

previous occasions, the Government is late in extending the joint cooperation contract and often waited until the last moment, for example Pase block was extended after two year contract expired. These uncertainties may cause delay of oil and gas projects and pose as a threat to national oil and gas production. Indonesia Deepwater Development (IDD) Project of Makassar-Straight Block is delayed by two years from 2018 to 2020, to await the certainty of a contract extension.

3.3.3. Transfer of Participating Interest (PI)

The transfer of PI must be approved by the Minister of Energy and Mineral Resources based on consideration of SKK Migas as stipulated in Presidential Regulation No. 35/2004 Article 33. Contractor may not transfer PI to another parties who are not affiliated during the first 3 years of exploration. If the Contractor opens the data in the context of the transfer of PI to another parties, the opening of this data requires written permission from the Minister of Energy and Mineral Resources through SKK Migas.

According to the Ministry of Energy and Mineral Resources Regulation No. 37/2016 Article 1 Point 4, it states that the contractor is required to offer a 10% PI (with replacement of investment equivalent to 10%) to Regional-Owned Enterprises (BUMD) or State-Owned Enterprises (BUMN). BUMD can only hold 10% PI for Working Area and if the management of the 10% PI is not conducted by the BUMN, then BUMN can appoint regional company as the manager.

If BUMDs do not state the declaration of interests and abilities on the 10% PI, the contractor is required to offer it to the BUMN. BUMD and BUMN cannot transfer the 10% PI during the Joint Cooperation Contract period.

3.3.4 Applicable Permits in Mineral and Coal Mining Sector

In the Law No. 4/2009 on Mineral and Coal mining, mining activities carried out through a permit system which consists of a Mining Permit/*Izin Usaha Pertambangan* (IUP), Small-Scale Mining Permit/*Izin Pertambangan Rakyat* (IPR) and Special Mining

Permit/*Izin Pertambangan Khusus* (IUPK). Whereas in the previous Law, permits and agreements in the form of assignment, Mining Authority/*Kuasa Pertambangan*, *Surat Izin Pertambangan Daerah*, *Surat Izin Pertambangan Rakyat*, Contract of Work/*Kontrak Karya* (KK)/Coal Contract of Work/*Perjanjian Karya Pengusahaan Pertambangan Batubara* (PKP2B).

- a. Mining Permit/IUP (*Izin Usaha Pertambangan*) Is a permit to carry out mining business which consists of:
 - IUP exploration
 - IUP production operation
- b. Small-Scale Mining Permit/IPR (*Izin Pertambangan Rakyat*) Is a permit to carry out mining business in the Small-Scale Mining Areas/*Wilayah Pertambangan Rakyat* (WPR) with limited area and investment.
- c. IUPK (*Izin Usaha Pertambangan Khusus*) Is a permit to carry out mining activities in special mining areas.

With the new establishment set out in the Law, then Contract of Work (KK) and Coal Contract of Work (PKP2B) which is the form of contract from previous Law of Mineral and Coal will remain in force until the expiration of the contract/agreement. Likewise with the Contract of Work and Coal Contract of Work (PKP2B) that are signed before the

enactment of Government Regulation No. 23/2010 on Implementation of Mineral and Coal Mining Business Activities, shall remain valid until the timeframe expires.

Contract of Work and Coal Contract of Work (PKP2B) who have not obtained an extension of the first and/or second can be extended to be IUP extension without going through bidding. The Mining Authority (KP) should be adjusted to IUP or IPR in accordance to the provisions of Government Regulation No. 23/2010 on Implementation of Mineral and Coal Mining Business Activities in a maximum period of 3 (three) months since the enactment of Government Regulation No. 23/2010 on Implementation of Mineral and Coal Mining Business Activities.

Authority to provide IUP Exploration in accordance with Government Regulation No. 23/2010 on Implementation of Mineral and Coal Mining Business Activities given to:

- Minister of Energy and Mineral Resources for the public mining areas located in the cross-province or sea area of more than 12 miles from shoreline
- Governor for public mining areas located within inter-regencies/cities but in one province or sea area of 4 to 12 miles from shoreline
- Regent/Mayor for public mining area located in 1 regency/city or sea area of up to 4 miles from the shoreline.

Authority to give IUP Production Operation depends on the public mining areas including infrastructure such as area of production, road transport, warehousing and port facilities as well as environmental impact of the project granted:

- Minister of Energy and Mineral Resources for mining site, location of processing and refining and location of port that are in different provinces or more than 12 miles from shoreline, after acquiring recommendation from local governors and regents/mayors
- Governor for mining site, location of processing and refining and location of port that are in the different regency/city of a province or sea area up to 12 miles from shore line, after acquiring recommendation from the regents/mayors
- Regent/Mayor for mining site, location of processing and refining and location of port that are within one regency/city or sea area of up to 4 miles from shoreline.

Authority of Local Government in providing permission has been regulated in Government Regulation No. 23/2014 on Local Government. The second section on Public Service Management Article 350 paragraph 1 explains that Regional Heads are required to provide licensing services in accordance with the provisions of the applicable laws.

3.4 Contract Disclosure

Currently, the contracts relating to oil and gas and mineral and coal are still not open to the public sphere in Indonesia although the discussion and discourse on

the benefits of the publication of the contract has been discussed by various groups. One factor that is referred to as the basic yet the disclosure of information related to oil and gas and mineral and gas contracts is Article 17 of Law No. 14/2008. The Law states information that reveal the natural wealth of Indonesia is categorized as exempted information to be disclosed.

EITI Standard 2016 no. 2.4 requests the disclosure of the contents of contracts related to the exploration and exploitation of oil and gas and mineral and coal. With the disclosure of this contract, it is expected will provide benefits for Government, communities and contract holders such as building confidence that the state prioritize people's interests including interests of community groups, and giving confidence to investors and lower the perceived level of corruption. Disclosure will also increase the revenues in the future because when the public acknowledge the contents of the contract, it will minimize the possibility of irregularities in the management of natural resources so that in the long run will benefit the country.

If the contract information is expressed as exempted information under the Law No. 14/2008, then the Ministry of Energy and Mineral Resources PPID must process the consequences test before the opening of the contract information. Up to this time, EITI Report has not gained certainty of the contract disclosure status from the Ministry of Energy and Mineral Resources, including the presence or absence of consequences test process, therefore this matter will be discussed later between EITI Implementing Team with relevant stakeholders. The results of these discussions will be reported in the EITI Indonesia Secretariat's website. Aside from contract disclosure, EITI Indonesia Secretariat through the Implementing Team will discuss the possibility of the same cadastral data.

3.4.1 Regulation Governing Contract Disclosure

Regulation used as a reference to determine whether oil and gas and mineral and coal contract will be disclosed or not is Law No. 14/2008 on Public Information Disclosure, specifically related to article 17 point d stating one of the exempted information to be disclosed to the public is "Public Information that if disclosed and provided to Public Information Requester could reveal

the natural resource assets of Indonesia".

For now, copy of mineral and coal mining permit can be accessed by public by submitting formal application and attaching its utilization to the license issuing institution (e.g. Governor and Regent/Mayor). A copy of oil and gas and mineral and coal mining contract, based on the description of Directorate Oil and Gas and Directorate Mineral and Coal is a document which is confidential because it is an agreement between two parties,

which are SKK Migas and company (for oil and gas sector) or Government of Indonesia represented by President and company (for mineral and coal sector).

3.4.2 Legal Cases on Request of Copy of Extractive Industries Contract

To support the management and oversight of information disclosure in the Ministry of Energy and Mineral Resources, Minister of Energy and Mineral Resources Decree No. 0106 K/73/MEM/2012 has been issued discussing on Appointment of Management Officials of Information and Documentation/*Penunjukan Pejabat Pengelola Informasi dan Dokumentasi* (PPPID).

Based on the elaboration from Central Information Commission/*Komisi Informasi Pusat* (KIP), it is known that there is a request for information disclosure to the Ministry of Energy and Mineral Resources PPID by Foundation of Public Information Development Center/*Yayasan Pusat Pengembangan Informasi Publik* (YP2IP) regarding copy of contract of work PT Freeport Indonesia, PT Kaltim Prima Coal (KPC), PT Newmont Nusa Tenggara (NTT) and PT Chevron Pacific Indonesia, which was later rejected by the Ministry of Energy and Mineral Resources with reasons that the information included in the exempted information to be disclosed publicly in Law No. 14/2008 on Public Information Disclosure.

YP2IP then submit a request for dispute settlement to the KIP no. 197/VI/KIP-PS-M-A/2011. Due to the mediation fails, the dispute settlement followed by non-litigation adjudication that led to the KIP statement that the requested Contract of Work is public information so that contracts should be disclosed to the public. Until now, there has been no appeal from the Ministry of Energy and Mineral Resources⁴.

As for the information related to PSC contract, MA decided to annul the Information Commission's decision so that the information of PSC contract until now is still excluded as public information.

In addition, there are also information disputes between JATAM with Local Government of Kutai Kartanegara, where KIP states that IUP is public information. This is confirmed again by the MA Decision that stating the same⁵.

3.5. Extractive Industries Information System

This chapter contains cadaster information, which is information in the mining permit associated with company i.e. owner of the permit, coordinate of the mining area, date of application, date of permit, duration of the permit contract, and type of commodities produced, as well as how to update such information be available in the public.

There is a plan of the Ministry of Energy and Mineral Resources to create an integrated map program related to working area/wilayah kerja (WK) for the oil and gas and mineral and coal sector that can be accessed easily and online by those needed.

3.5.1 Oil and Gas Mining Sector

Up to this date, public can access cadaster information of oil and gas mining required by the EITI standard from various sources i.e. WK maps contained in annual report of SKK Migas or map of WK from third parties (e.g. Patra Nusa Data), and paid source Geographic Information System INAMETA. Map of WK in annual report of SKK Migas and map of oil and gas WK from Patra Nusa Data are a map of the working area of oil and gas which contain information about the location, type of contract (PSC/JOB), name of operator, effective date of the contract and operation status (exploration or production) of a WK without specifying the coordinates and date of expiry for each WK

Geographic Information System/Sistem Informasi Geografis (SIG) called INAMETA Platinum is a media

4. <https://www.komisiinformasi.go.id/daftarpertasan/view/putusan-sengketa-informasi-antara-yp2ip-dengan-kementerian-esdm>
5. <http://www.mongabay.co.id/2016/03/29/kasasi-ditolak-pemkab-kutai-kartanegara-harus-serahkan-data-tambang-ke-jatam/>
- <http://http://weekly.prokal.co/read/news/231-setelah-jatam-menang-di-ma>

information for investors which include technical database such as data basins, seismic, reports G&G and others including cadaster information including owner of the working area, contract date and expiration of the contract, production and map of working area. This application is available on a web portal and data room. Portal and data room is managed by Patra (data management agency) from Data and Information Center/Pusat Data dan Informasi (PUSDATIN) Ministry of Energy and Mineral Resources. The public must make payment if planning to get full access of this system. Payment procedure can be accessed on the Patra Nusa Data page <http://www.patranusa.com/index.php/products-services/9-data-access-services>.

In addition, Patranusa also provides a simplified version (lite) called Inameta Platinum Lite that provides map of the working area and other information such as the wells location that can be accessed at <http://product.patranusa.com>.

3.5.2 Mineral and Coal Mining Sector

For mineral and coal mining, public can access cadaster information required by EITI standards from variety sources, namely the provision of data information system services of mineral and coal at the Directorate General of Mineral and Coal office, however this is paid services. Provision of data information system services of mineral and coal at the office of Directorate General of Mineral and Coal charged a non-tax revenues (PNBP) as stipulated in annex of Government Regulation No. 9/2012 on type and rate of non-tax revenues that apply at the Ministry of Energy and Mineral Resources. The information services include map printing services of mining permit area information or contract. To be able to print the map, the interested parties must first have the number of Decree/Surat Keputusan (SK) and coordinates number of the mining permit areas.

Direktorat Jenderal Mineral dan Batubara has done digitizing data includes cadaster information in a geodatabase via Mining Area Information System application called Minerba One Map Indonesia (MOMI). MOMI initially aimed at facilitating local Government in

registering the mining permit area in the region into the geodatabase so that Local Government can easily perform monitoring and reporting of Mining Permit (IUP) in their respective areas. However, permissions of MOMI has not been given to the public in accordance with the

Director General of Mineral and Coal Regulation No. 698.K/30/DJB/2014. MOMI access rights are only granted to the Government, Provincial Government, and Regency/City Government in accordance to their authority, as well as other Government agencies such as KPK, Customs, Ministry of Forestry and Directorate General of Tax.

3.6 Beneficial Ownerships

Beneficial Ownership is a concept that is generally still has a lot differences in the definition and implementation

in Indonesia because Indonesia's legal system does not yet distinguish between legal ownership and beneficial ownership. According to Bank Indonesia Regulation No. 11/28/PBI/2009 and Minister of Finance Regulation No. 30/010/2010, the definition of beneficial owner is people who have funds, control customer's transactions, give power of attorney regarding the respective transactions and/or control through legal entity or agreement.

Moreover, the regulation of beneficial owner disclosure have been applied by the two regulators but are not specific to a company engaged in the extractive industries sector. Two of these regulations are:

- a. For companies listed in the stock exchange are required to disclose a major or controlling shareholders(ultimate shareholders) in its annual report based on Bapepam regulation Kep-431/



BL/2012. Public can access the annual report of extractive industry companies listed in the Indonesian stock exchange page (<http://www.idx.co.id/id-id/beranda/perusahaantercatat/laporankeuangan/tahunans.aspx>).

- b. For companies abroad, in order to invoke tax reduction of PPh 26 over the interest income, dividend and royalties (received from Indonesia) are companies which are the beneficial owner in accordance with the criteria in the Directorate General of Tax regulation PER-62/PJ./2009 on prevention of abusive avoidance double taxation agreement/*persetujuan penghindaran pajak berganda* (P3B). However, this data cannot be accessed by the public.

From various regulations above, it can be seen that by definition, it is not specifically regulate individuals who organize and have ultimate control overall company, but rather refers to the ownership formally by law. Indonesian legal entity is only required to keep information about the formal ownership by law and not parties or individuals who have ultimate control over a company.

Given the above conditions, EITI Indonesia develops plan called "Roadmap of the Beneficial Ownership Transparency" as a guide in realizing the lack of transparency over the beneficial owners in Indonesia. Based on this roadmap, three (3) main stages are planned that will start in 2017 up to 2019, as shown in the figure below.

Figure 3.5 Transparency Work Plan of Beneficial Ownership



Source: *Roadmap of Beneficial Ownership Transparency Report in the Extractive Industries in Indonesia*

4

Management in Indonesia



4.1 Indonesia's Extractive Industry in a Global Context

According to Presidential Regulation No. 26 Year 2010 regarding Transparency of National and Local Extractive Industry, any activity that engages natural resources extraction from within the earth (*perut bumi*), including minerals, coal, oil and natural gas is regarded as extractive industry.

In the past 10 years, both oil and gas sector and mineral and coal (mining) sector have been facing challenges as a consequence of price fluctuations in the global market.

Figure 4.1 Average of Indonesian Crude Oil Price (ICP) in 2005 -2014

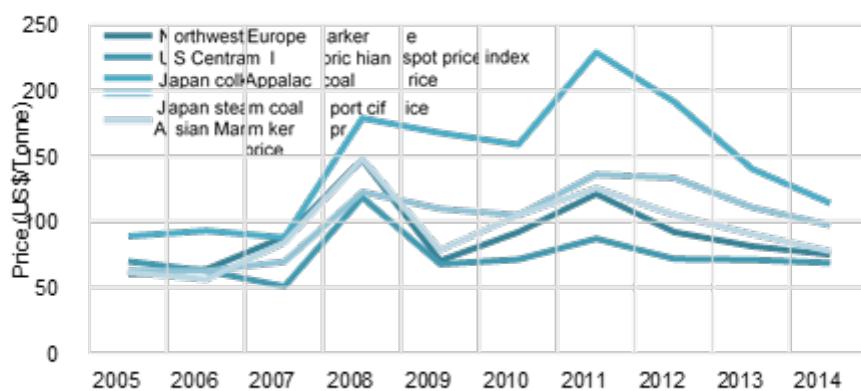


Source: Center for Data and Information Technology of Ministry of Energy and Mineral Resources

Indonesian Crude Oil Price (ICP) had experienced a growth of 15.77% since 2005 and peaked in 2008 for US\$ 96.13 per barrel. In 2009, the crude oil price slump for US\$ 61.58 per barrel or equivalent to 35.94% decline. The increase in the market price reoccurs in the next 3 years, which then slowly drops until the year 2014 at a price point of US\$ 96.51 per barrel. Indonesian Crude Oil Price Fluctuations (ICP) is shown in Figure 4.1 above

Similar price fluctuations happened in mineral and coal (mining) sector as well, particularly on coal mining business. The selling price of coal has grown since 2005, and peaked in 2008. Nonetheless, coal price suffered a setback in 2009, and returned to growth in the next 3 years. Until 2014, coal prices fell back again slowly, both globally and locally. The coal market price fluctuations in Western Europe, America, and Asia is shown in Figure 4.2 as follows

Figure 4.2 Average of Regional Coal Price in 2005 - 2014

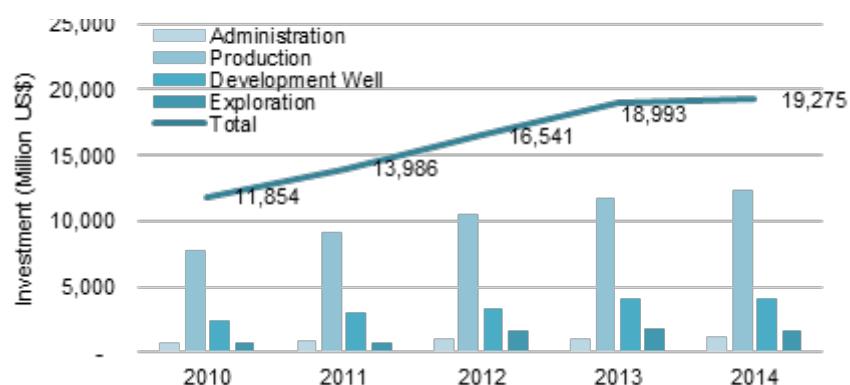


Source: Center for Data and Information Technology of Ministry of Energy and Mineral Resources

The pressure towards sustainability in extractive industry will certainly be a challenge for Indonesian Government in the context of improving the investment appetite. Primarily with the increasingly aging oil wells and substantial coal mining

companies who are not able to withstand continuity of its operations, the country will face difficulty of achieving the level of energy security based on domestic resources capability

Figure 4.3 Investment realization of PSC Contractor in Exploitation in 2010 – 2014

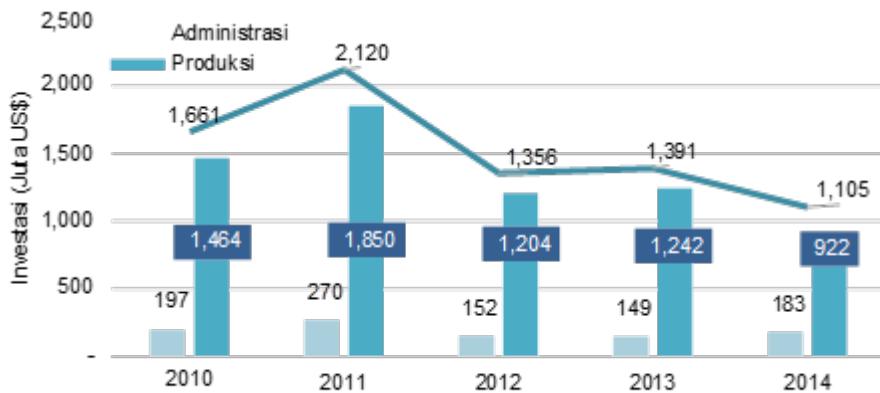


Source: Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014

As shown in Figure 4.3, the investment realization of PSC Contractor in oil and gas exploitation in the last 5 years has gradually experienced growth of 10.21%.

Whereas the investment realization of PSC Contractor in oil and gas exploration, shown in Figure 4.4, has been decreasing since 2011.

Figure 4.4 Investment realization of PSC Contractor in Exploration in 2010 - 2014



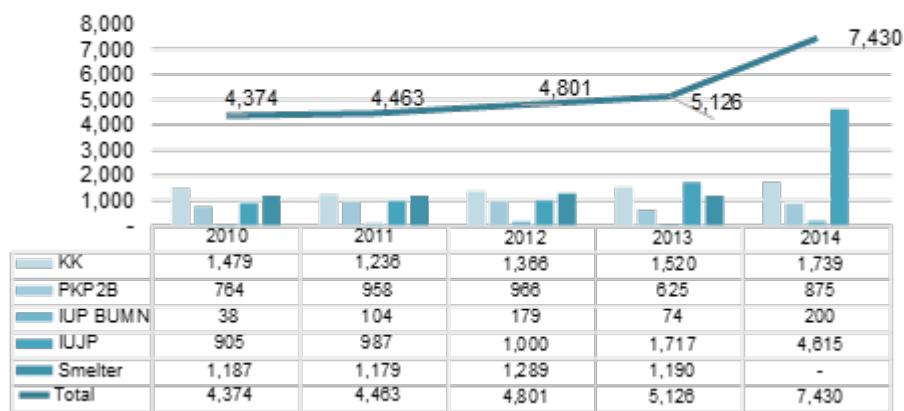
Source: Center for Data and Information Technology of Ministry of Energy and Mineral Resources

Nonetheless, the realization of mineral and coal sector investments shown in Figure 4.5 below indicated an increase amounting to 44.95% growth in the last 5 years. The surge in investment was caused by the

grant of Mining Services Business Permit or *Izin Usaha Jasa Pertambangan (IUJP)*

in 2014 amounted to US\$ 4,615 million, with a total investment of US\$ 7,430 million

Figure 4.5 Investment Realization of Mineral and Coal Sector in 2010 - 2014



Source: Center for Data and Information Technology of Ministry of Energy and Mineral Resources

Despite the considerable pressure towards extractive industry, the data released by Central Bureau of Statistics shows that the industry is still a major contributor for Indonesian economy. State revenues from extractive industry in 2014 reached IDR 464 trillion, an increase of 161% compared to 2010 amounting to

IDR 289 trillion. Oil and gas sector contributed the most of revenues among other sectors in extractive industry. Although oil production has been lower than target, yet the contribution of oil and gas to the state revenues always exceed the target.

4.2 Current Condition of Indonesia's Oil and Gas Industry

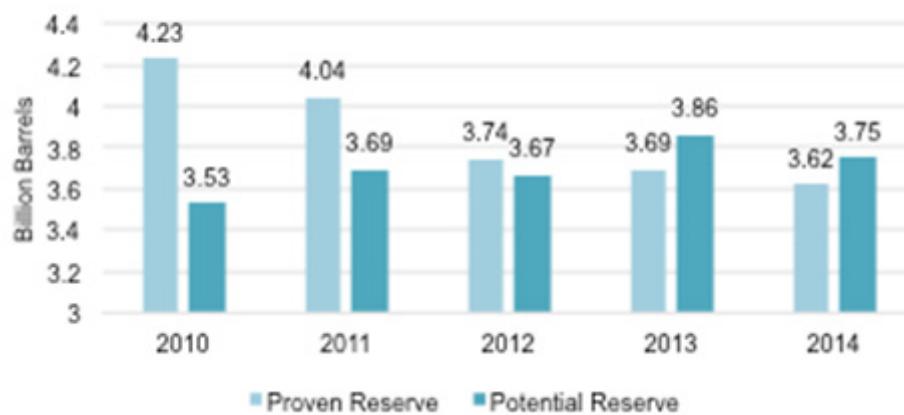
4.2.1 Potential Oil and Gas Resources and Reserves

As shown in Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK

Migas) 2014, Indonesia's oil reserve is in a downward trend, both for proved and potential reserves during period 2011 to 2014.

This market condition therefore resulted in Indonesia becoming a net importer of crude oil up to now. The amount of oil and condensate reserves in Indonesia is illustrated in Figure 4.6 below

Figure 4.6 Indonesia's Oil Reserves Indonesia in 2011 - 2014

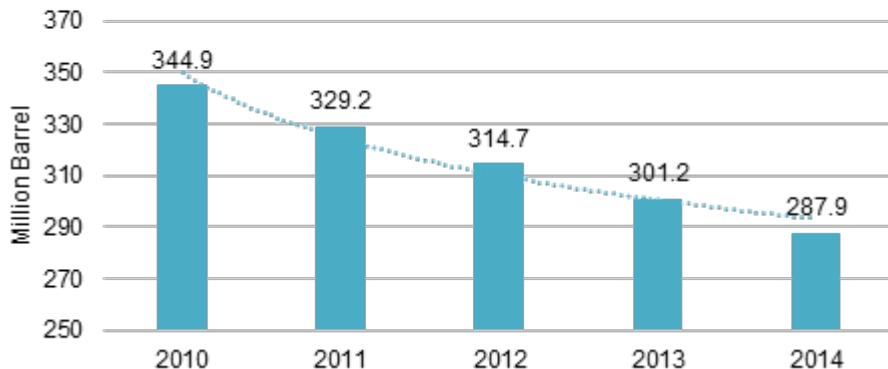


Source: Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014

In addition to the value of oil reserves are diminishing, Indonesia also experienced a decline amount of oil production due to the increasingly aging oil wells – without being accompanied by the number of new wells discovery as replacements.

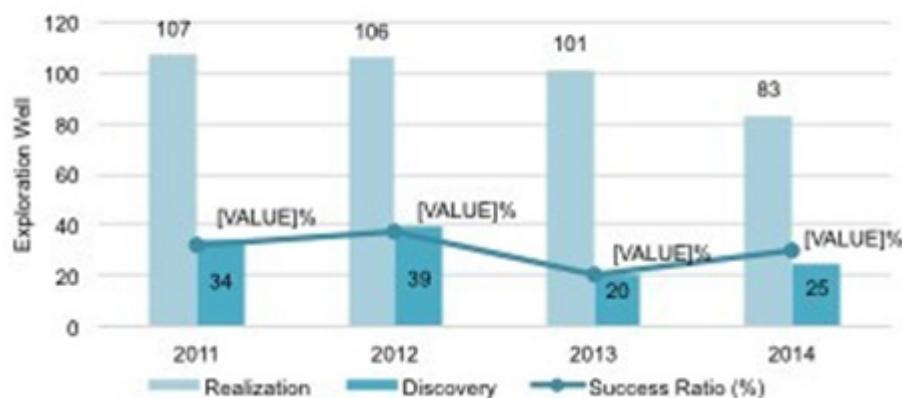
Total Indonesia's crude oil and condensate production is illustrated in Figure 4.7, while total drilling of exploration wells in the last 4 years is illustrated in Figure 4.8

Figure 4.7 Indonesia's Crude Oil and Condensate Production in 2011 – 2014



Source: Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014

Figure 4.8 Drilling of Exploration Wells in 2011 - 2014

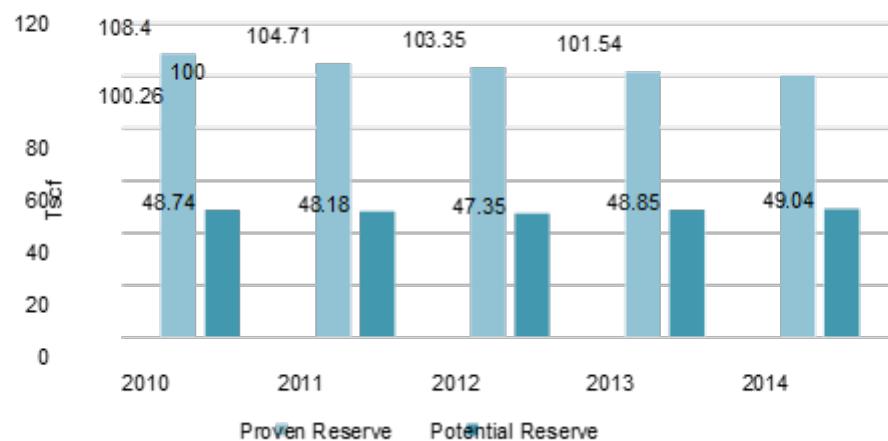


Source: *Statistical Report of Oil and Gas 2015*

With the abundance oil sources were already being exploited and aging in western part of Indonesia, the Government has been trying to change the development focus of this sector by targeting exploration in eastern part, particularly on deep-sea mining. Indonesia's

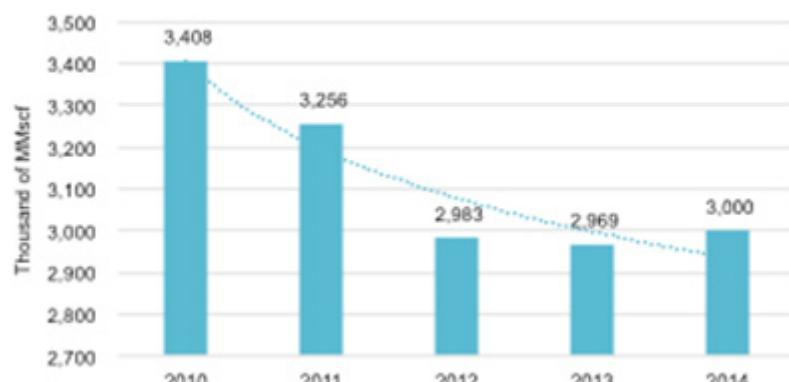
natural gas industry in general have slightly better conditions than the petroleum sector. By the existence of great amount of gas reserves, as shown in Figure 4.9, Indonesia has been trying to increase the gas production, both for use in domestic and international

Figure 4.9 Indonesia's Gas Reserves in 2010 - 2014



Source: *Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014*

Figure 4.10 Indonesia's Gas Production in 2010 - 2014



Source: Central Bureau of Statistics

4.2.2. Key Events in Upstream Oil and Gas Sector

According to Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014, there are 15 upstream oil and gas development projects that have been on-

stream during the year. The projects are expected to increase the installed capacity of oil and gas production facilities approximately 9,100 bopd and 1,200 MMSCFD.

Table 4.1 below presents 15 upstream oil and gas development projects that have been on-stream in 2014

Table 4.1 Upstream Oil and Gas Projects that are On-Stream in 2014

No	Project	PSC Contractor	Installed Production Capacity		On-stream
			Oil (bopd)	Gas (MMscfd)	
1	Peluang	Santos (Madura Offshore)	-	25	2014-Q1
2	Peciko 7B - New Platform	Total E&P Indonesia	4.000	170	2014-Q1
3	Bekapai Phase 2A	Total E&P Indonesia	1.021	-	2014-Q1
4	Sisi Nubi 2B - New Platform	Total E&P Indonesia	-	350	2014-Q1
5	South Belut	ConocoPhillips Indonesia	1.000	120	2014-Q2
6	Proyek Pengembangan Gas Jawa (PPGJ) Gundih	Pertamina EP	600	75	2014-Q2
7	Peciko 7c - Extention Platform	Total E&P Indonesia	-	120	2014-Q2
8	SES Gas Banuwati-K	CNOOC SES	-	100	2014-Q3

No	Project	PSC Contractor	Installed Production Capacity		On-stream
			Oil (bpod)	Gas (MMscfd)	
9	SES Gas Asti-A 10	CNOOC SES	-	40	2014-Q4
10	SES Gas Mila-A	CNOOC SES	2.000	40	2014-Q4
11	Ridho (Odira)	Odira Energy Karang Agung	-	-	2014-Q4
12	Kuat Gas Sales Facility	EMP Malacca Strait	-	9	2014-Q4
13	Naga	Premier Oil Natuna Sea	-	130	2014-Q4
14	Bayan Gas Production Facilities	Manhattan Kalimantan Investment	250	15	2014-Q4
15	Kerendan Gas Plant	Salamander Energy (Bangkanai	300	25	2014-Q4

Source: Annual Report of Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas) 2014

The field development for both oil and gas in subsequent years are expected to reach a total of 71 construction projects of upstream oil and gas production facilities, of which 5 are categorized as mega projects, as follows: Banyu Urip project, Project Crickets, Project Crickets North East, Tangguh Train-3, IDD Project and Project Abadi.

The following is an estimated schedule for the project on-stream:

1. A total of 12 projects in 2015;
2. A total of 25 projects in 2016;
3. A total of 14 projects in 2017;
4. A total of 5 projects in 2018;
5. A total of 9 projects in 2019;
6. A total of 5 projects in 2020;
7. And 1 project in 2024.

4.2.3 Challenges and Issues in Indonesia's Oil and Gas Industry

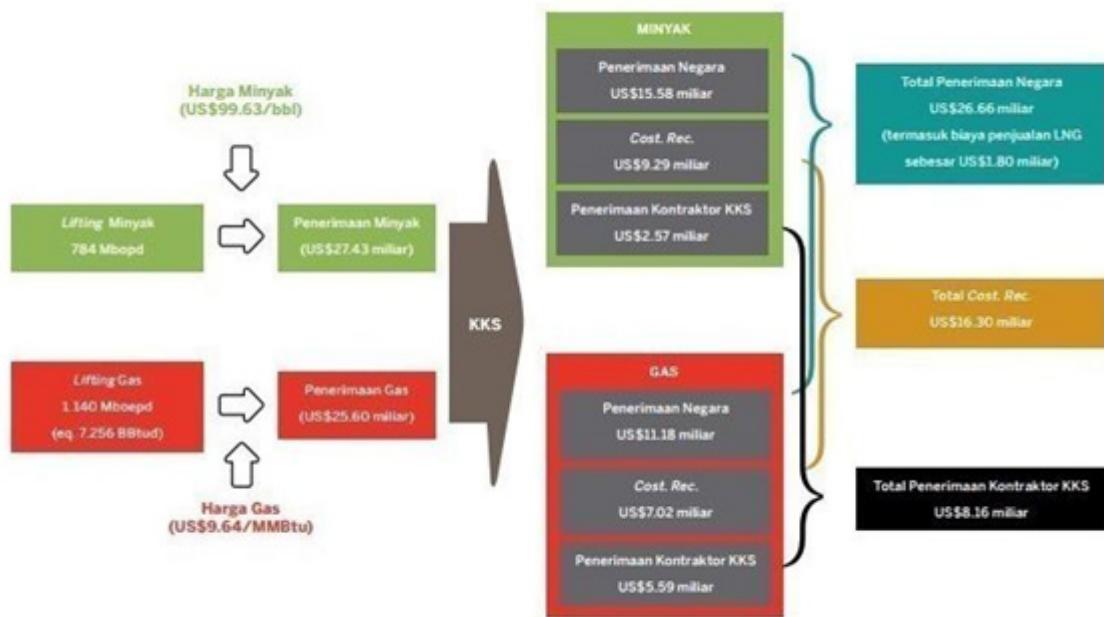
- a. Plan of Production Sharing Contract with Gross Split Method

The actual revenue derived from oil and gas sector in 2014 reached 95% of Revised Work Program and Budget (WP&B) 2014 target – worth US\$ 26.76 billion – oil business sector contributed US\$ 15.58 billion while gas business sector contributed US\$ 11.18 billion.

Figure 4.11 below shows the scheme used for allocating the revenues proportion for the Government, PSC Contractor, and Cost Recovery.

In practice, the scheme is influenced by sustained improvements in operating costs control process, with maintaining the ratio between gross revenue and cost recovery.

Figure 4.11 The revenue realization of oil and gas sector in 2014



Source: Annual Report of Special Task Force for Upstr

From the information above, proportion for Cost Recovery reached 32% – or equivalent to over 25% of total State Revenue – while proportion for State Revenue and PSC Contractor reached 52% and 16% consecutively. In order to secure the State Revenue, Indonesian Government has established a new scheme called Gross Split. In Production Sharing Contracts, Gross Split uses a mechanism with initial profit sharing (base split) that is adjusted based on the variable and progressive components⁴.

The Gross Split scheme is expected to drive operating cost efficiency and provide optimized revenue for the State without reducing the attractiveness of oil and gas sector for investors. Implementation of Gross Split will be preceded by the establishment of Government Regulation related to Production Sharing Contract.

b. Declining Trend of Indonesia's Oil and Gas Investment

The significant decline in oil prices over the period of 2010 to 2014 had a great impact on upstream oil and gas investment in Indonesia.

In 2014, the investment value of exploration activities reached US\$ 1.11 billion, merely 47% of Revised WP&B 2014 target. The achievement was decreased by 20% from previous year, which valued at US\$ 1.39 billion. The cause of low investment realization in exploration activities was triggered by operational constraints, both PSC Contractors' external and internal constraints.

The investment realization in exploitation and exploration activities for subsequent years are predicted to significantly decline as well. Considering the declining production value of aged oil and gas wells, it is necessary to increase investment in oil and gas wells in order to maintain the production levels and Indonesia's portfolio of oil and gas reserves.

4.3 Current Condition of Indonesia's Mineral and Coal Industry

4.3.1 Potential Coal Resources and Reserves

At the end of 2013, Indonesia has approximately 31.4 billion tons of coal reserves (Adaro Energy, The Future of Indonesia in the Asian Coal Market, 2014) with the greatest potential in the area of South Sumatra, South Kalimantan and Central Kalimantan.

Indonesia's coal production over the last 14 years continues to show a considerable rise along with the increase of coal demand. The significant increase occurred in 2011 when crude oil price reached over US\$ 100, resulting a change of

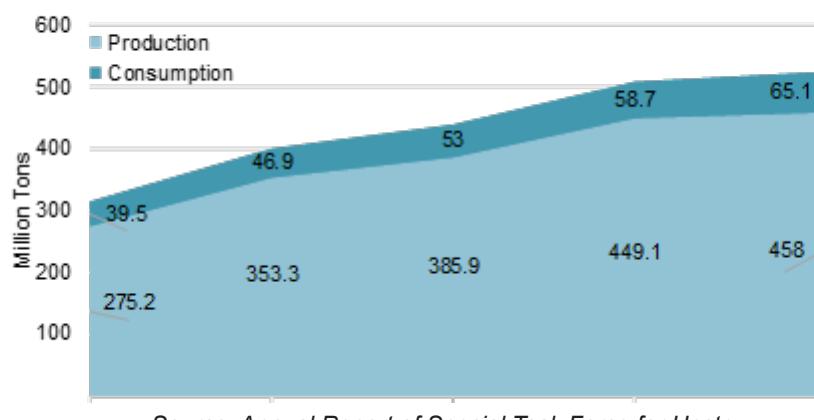
usage trends from coal to gas.

However, the coal price has decreased approximately from US\$ 200 per ton up to US\$ 80 per ton. The declining trend in coal prices also lead to a slower production growth, which in 2014 reached 458 million tons, the lowest growth rate since 2000.

In response to this condition, Directorate General of Mineral and Coal has determined the Strategic Plan For the Year 2015 to 2019 to increase coal production up to 400 million tons and to supply domestic demand up to 240 million tons in 2009.

Total domestic coal production and consumption is

Figure 4.12 Indonesia's Coal Production and Consumption in 2010 to 2014



4.3.2. Potential Mineral Resources and Reserves

Besides coal, Indonesia also has a wealth of metal and non-metal minerals dispersed across the provinces. The gold and tin reserves contributes respectively to the fifth and second of world's largest reserves. Globally, Indonesia is one of the top 5 countries in producing nickel, tin, and bauxite.

Garsberg Gold, located in Eastern part of Indonesia, is the largest gold mine and third largest copper mine in the world.

According to data of Geological Institution of Ministry of Energy and Mineral Resources in 2015 – as shown in Table 4.2 – there were 11 types of national metal mineral commodities which resources and reserves have been recorded.

Table 4.2 Indonesia's Registered Mineral Resources and Reserves in 2015

No	Commodity	Total Resources (ton)		Total Reserves (ton)	
		Ore	Metal	Ore	Metal
1	Emas Primer	8.703.669.136	6.613	2.832.377.068	2.537
2	Bauksit	3.617.770.882	1.740.461.414	1.257.169.367	571.254.869
3	Nikel	5.756.362.683	79.172.702	3.197.178.940	50.872.304
4	Tembaga	29.753.119.232	149.678.344	5.485.960.754	51.213.125
5	Besi	1.397.068.930	418.888.703	297.354.825	97.555.769
6	Pasir Besi	4.459.586.351	-1.683.084.164	808.938.227	397.334.700
7	Mangan	60.893.820	27.977.709	87.236.536	43.134.791
8	Seng	670.658.336	7.487.776	19.864.091	2.274.983
9	Timah	3.924.474.108	2.464.171	1.592.208.743	572.349
10	Xenotim	6.466.257.914	20.734	-	-
11	Perak	14.469.988.181	838.765	3.056.379.162	1.391.957

Source: *Performance Report of the Directorate General of Mineral and Coal in 2015*

Indonesia's mineral production in 2014 has generally decreased, as compared to the previous 5 years. Tin was the only mineral product that showed positive production trend compared to other mineral products. The declining trend was due to the immature state of industry players to meet the obligation to increase mineral's value-added.

This obligation aims to encourage the national construction of processing plants and mineral purification (smelter). In 2014, there have been 66 smelter development plans for various mineral commodities which reached a total investment plan of US\$ 17.4 million. Indonesia's key mineral productions is presented in Table 4.3 below:

Table 4.2 Indonesia's Registered Mineral Resources and Reserves in 2015

No	Commodity	Unit	Realization				
			2010	2011	2012	2013	2014
1	Logam Tembaga	Ribu Ton	878	543	448	450	416
2	Emas	Ton	104	76	75	59	67
3	Timah	Ribu Ton	48	42	95	88	74
4	Bijih Nikel	Juta Ton	7	32	41	60	3.9
5	Bijih Bauksit	Juta Ton	16	39	30	56	2.8
6	Bijih dan Pasir Besi	Juta Ton	4	12	10	19	1.2

Source: Work Plan Directorate General of Mineral and Coal in 2015 to 2019

4.3.3 Key Events in Upstream Mineral and Coal Sector

To increase the amount of State Revenue from mineral and coal sector. The Government continues to encourage the development of mineral purification facilities (smelter) in the country.

However, there were only 5 out of 12 units targeted have been finished during 2015. The main constraints for smelter completion of smelter were the global crisis and declining trend in mineral commodity prices of which impacted the mineral companies to suspend the settlement of smelters.

Table 4.2 Indonesia's Registered Mineral Resources and Reserves in 2015

No	Commodity	Company (with Mining Permits)	Company (with Smelter Development Plan)	City	Province	Input Capacity (tpy)	Smelter Products (tpy)	Total Progress (Jul '15)	Completion Month	
1	Nikel	PT Gebe Sentra Nikel	PT Gebe Industry Nikel	Gresik	Jawa Timur	1.000.000	NiOH (99% Ni)	24.000	100%	Juli
2	Nikel	PT Macika Mada Madana	PT Macika Mineral Industri	Konawe Selatan	Sulawesi Tenggara	360.000	NPI	53.680	62%	Desember
3	Nikel	PT Fajar Bhakti Lintas Nusantara	PT Fajar Bhakti Lintas Nusantara	Gebe	Maluku Utara	696.000	NPI (10-16% Ni)	100.000	100%	Juli
4	Nikel	PT Antam Pomala (Ekspansi)	PT Aneka Tambang	Kolaka	Sulawesi Tenggara	800.000	FeNi	10.000	80%	Desember

No	Commodity	Company (with Mining Permits)	Company (with Smelter Development Plan)	City	Province	Input Capacity (tpy)	Smelter Products (tpy)	Total Progress (Jul '15)	Completion Month	
5	Nikel	Bintang Delapan Mineral Bintang Delapan Energi	PT Sulawesi Mining Investment	Morowali	Sulawesi Tengah	3.000.000	NPI (10-15% Ni)	30 00	100%	April
6	Nikel	PT Bintang Timur Steel (Izin Usaha Industri)	PT Bintang Timur Steel	Serang	Banten	2.292.000	NPI (>10% Ni)	120	100%	Juli

Source : Performance Report of the Directorate General of Mineral and Coal in 2015

4.3.4 Challenges and Issues in Indonesia's Mineral and Coal Industry

a. Illegal Mining (PETI)

Generally, illegal mining is mining activities that are not supported by adequate equipments and are not environmentally friendly, also are not taking into account workers' safety.

It is necessary to differentiate illegal mining which are activities performed without Government's license and the traditional mining performed by community in the Small-Scale Mining Area⁵.

Illegal mining activities have spread over many areas and potentially create severe environmental damage. Furthermore, this activity also diminishes potential state revenues from mineral and coal mining sector since the perpetrators do not apply the principle of Good Mining Practice.

In accordance with Law No. 4 Year 2009, Article 158 regarding Mineral and Coal, illegal mining is categorized as criminal activities and are punishable by imprisonment for 10 years and a maximum fine of IDR 10,000,000,000.

According to the study of Directorate General of Mineral and Coal, the impacts of illegal mining are as follows:

1. Health, Safety and Environment Aspect:
 - Damage to environment and forests
 - Emergence of disease on the former pit mine
 - Risk of flooding as a result of public waters pollution
 - Higher levels of mine accident and not documented very well
 - Reduced/loss of carrying capacity of environment
 - Loss of top soil
 - Increased stripping ratio
2. Economic Aspect:
 - Potential loss of state revenues from mining sector
 - Emergence of state expenditures to rehabilitate the former location of illegal land
 - Potential reserves is no longer economical
 - Unfavorable investment climate
 - Disrupt the balance of mining commodity prices
 - Damage to infrastructure
 - Absence of instigators in economic transformation
3. Social and cultural aspect

⁵ Further explanations regarding Small-Scale Mining Areas or Wilayah Pertambangan Rakyat (WPR) will be provided in Chapter 3

- Unsafe conditions for miners and community
- Encourage migration from outside location
- Increased social disease
- Exploitation of underage labor
- Absence of social development programs

b. Artisanal and Small-Scale Mining (ASM)

In addition to illegal mining, there are also issues regarding Artisanal and Small-Scale Mining (ASM), which conducts traditional mining activities involving extraction of minerals or coals using outdated mining technologies and tools. This activity does not comply with both legal and technical aspects in accordance with Good Mining Practice.

This mining activity is regarded as illegal, and may cause loss for state revenues, long-term ecosystem destructions and occupational health and safety.

Without proper knowledge and technology, a higher potential loss of minerals and coals resources may occur due to inefficiencies of process imposed by artisanal miners. Furthermore, the disruption of soil and groundwater stability can also be emerged on the excavation pit with improper technique.

In the presence of marginalization, several organizations are established to improve living standards and work safety of people involved in this mining community. One of them is the Artisanal Gold Council (AGC) with Golden Hands program that aims to help gold miners in Indonesia, especially in Kalimantan, Java

and Sulawesi⁶. Additionally, some countries such as Ghana and Peru, have implemented regulations which aim to encourage and protect the activities of ASM miners. The reason is because ASM perceived as a way to provide employment and to improve the standards of living.

c. Industry Sustainability

As explained in the beginning of the chapter, one of the major challenges in mining activities is unfavorable supervision over the implementation of operational and technical aspects, both for legal and illegal mining. This causes issues related to environmental damage, which until now has become a national issue. Mining activities that did not adopt Good Mining Practice often led to conflicts between mining industry players and community as the result of decreased function of environment that sustains the life of the surrounding community.

One of the environmental damages caused by extractive industry is mining tailing, a residue resulted from separation of ores and contains a variety of toxic derived from oxidation of rocks and chemicals used during the process.

Besides the existence of tailings, mining method selection is also influential in environmental destructions. The open-pit coal mining can cause a higher damage to the environment, since the coal is located very close to the ground. The downside of open-pit coal mining is the altering of soil nature that is poisoned by salt mineral and high acidity, creating erosion and sedimentation. This method is widely used by companies with lesser capital resources.

⁶ www.artisanalgold.org/our-projects/indonesia/



5

Management of Revenue Generated from Extractive Sector in Indonesia



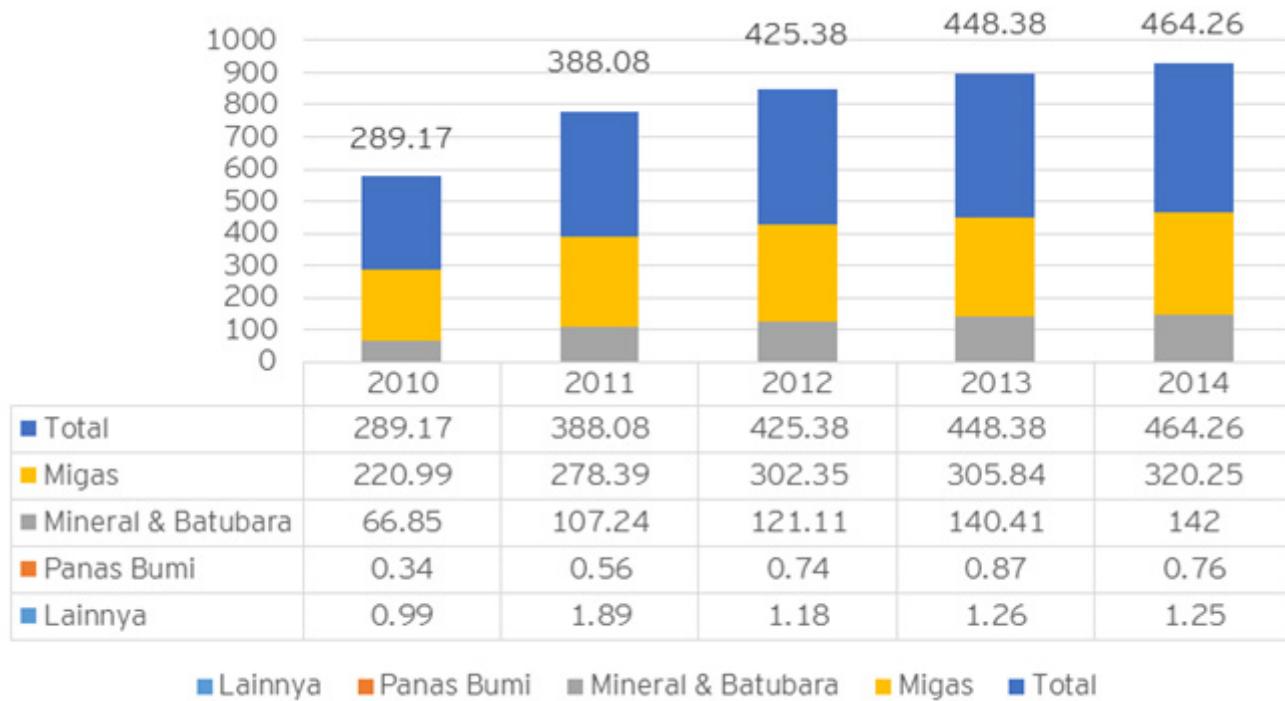
5.1 Fiscal Policy on Management of State Revenue Generated from Extractive Industry

State revenue generated from extractive industry are all state revenue derived from tax revenues and non-tax revenues that is recognized as an addition to net asset value sourced from extractive industry.

Extractive industry made major contribution to the Indonesian economy. The proceeds from the extractive industry in 2014, as shown in Figure 5.1, reached Rp 464 Trillion, an increase of 161% compared to 2010 figure amounting to IDR 289 Trillion. Oil and Gas sector contributes the largest in comparison to revenues from other extractive industries. Although oil production tends to be lower than the target, but the contribution of oil and gas to the state revenues always exceed the target.

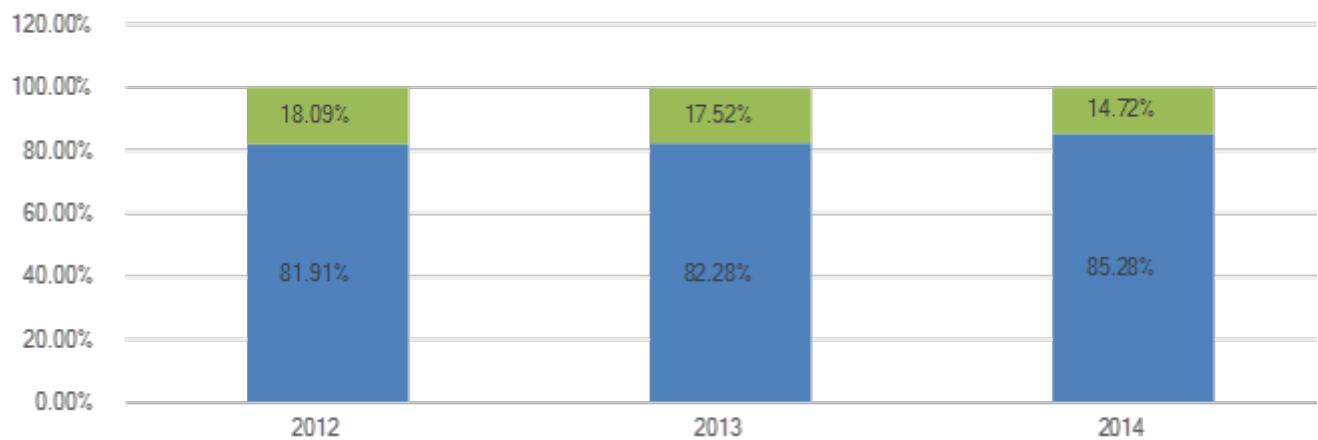
Realization of income tax revenue in 2014 for oil and gas sector amounted to 14.7% or Rp 84 trillion. While non-tax revenue in 2014 reached 60.9% for extractive sector amounting to Rp 236 Trillion. For year 2014, based on BPS data, as much as 13% of the Gross Domestic Product (GDP) in Indonesia came from extractive industry.

Figure 5.1 Contribution of Extractive Industry to the Economy



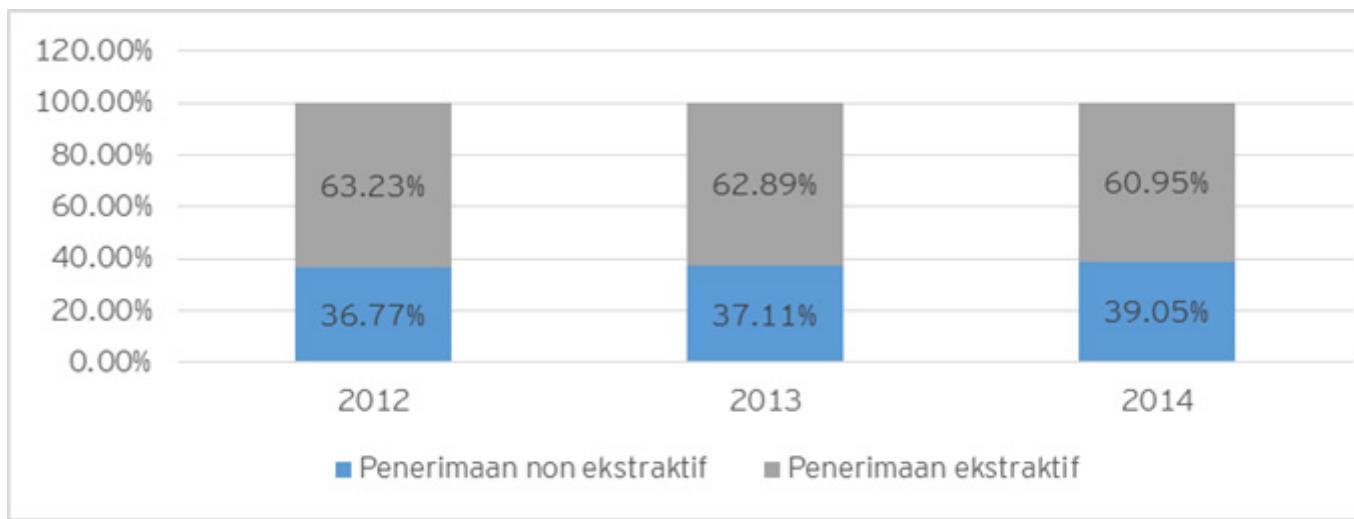
Source: *Strategic Planning of Ministry of Energy and Mineral Resources in 2015*

Figure 5.2 Realization of State Revenue from Income Tax



Source: *Badan Pusat Statistik (www.bps.go.id)*

Figure 5.3 Realization of Non-Tax State Revenue

Source: Badan Pusat Statistik (www.bps.go.id)

While Figure 5.2 shows state revenues from income tax between oil and non-oil activities during the years 2012 to 2014. In addition, figure 5.3 depicts information for non-tax state revenues by providing ideas of the percentage of extractive and non-extractive industries.

The next sub-chapter will provide explanation regarding the area dispersion and companies that contribute to the production of commodities from the extractive sector in Indonesia.

5.1.1. Fiscal Policy in Oil and Gas Sector

Some fiscal policies regulates oil and gas sector in Indonesia. These fiscal policies are governed by several laws and regulations. In the Ministry of Finance Regulation No. 48/PMK/.07/2016 on Management of Regional Transfer and Village Fund, explained that the transfer to the region is part of the State Budget in order to fund the implementation of fiscal decentralization through Fiscal Fund (*Dana Perimbangan*), Regional Incentive Fund (*Dana Insentif Daerah*), Special Otonomy Fund (*Dana Otonomi Khusus*) and Special Region of Yogyakarta (*Dana Keistimewaan Daerah Istimewa Yogyakarta*).

The balance funds (*Dana Perimbangan*) is a type of fund allocated in the state budget (APBN) to regions in order to fund the needs of the region in the implementation of decentralization, which consists of the general transfer fund (*Dana Transfer Umum*) and Special transfer funds (*Dana Transfer Khusus*).

Dana Transfer Umum consists of revenue sharing (DBH) and the general allocation fund (DAU). DBH is a fund allocated in APBN to regions based on the percentage. Proportion from the state revenue to fund the needs to implement decentralization. DBH itself consists of DBH from Tax and DBH from Natural Resources (SDA)

DBH SDA is a portion for area that derived from revenue from forestry, mineral and coal, fisheries, oil and gas mining and geothermal.

Ministry of Energy and Mineral Resources conducts prognosis calculation on the revenue realization of non-tax revenue (PNBP) for natural resources (SDA) that has been distributed in the respective financial in respect of each of the provinces, districts and producing cities (Daerah Penghasil).

Prognosis calculation of non-tax revenue for oil and gas is done through reconciliation of data recorded in Ministry of Energy and Mineral Resources and producing areas with the involvement of the Ministry of Finance. The results from the reconciliation will be enclosed in the Minutes of Reconciliation (Berita Acara Rekonsiliasi) and will be submitted by Minister of Energy and Mineral Resources to Minister of Finance c.q Director of Fiscal Balance not later than fourth week in October.

The stages for calculation starts with the Director General of Oil and Gas at the Ministry of Energy and Mineral Resources conduct prognosis calculation of lifting realization of Oil and Gas in each provinces, districts and producing cities in the respective financial year. Prognosis calculation of realization is done through reconciliation of data owned by Ministry of Energy and Mineral Resources and the producing areas, with the involvement of Ministry of Finance.

Prognosis realization of oil and gas lifting was delivered by the Director General of Oil and Gas at the Ministry of Energy and Mineral Resources to the Director General of Budget and the Director General of Fiscal balance no later than the second week of October.

The head of SKK Migas conveyed the prognosis revenue distribution and Government entitlement to each PSC Contractor in respective budget year in respect to the Director General of Budget no later than the second week of October.

Based on the prognosis realization of lifting of Oil and Gas, production of geothermal and the distribution of revenue and Government entitlement for each PSC Contractor, the Director General of Budget conduct prognosis calculation for realization from PNBP SDA from Oil and Gas for each PSC Contractor and prognosis realization for PNBP SDA from oil and gas from each contractor.

After the prognosis realization from each provinces, district and producing areas have been received,

Director General of Fiscal Balance will calculate allocation of DBH of oil and gas and geothermal in each producing areas based on the data in the letter to determine producing areas and baseline to calculate portion of each oil and gas and geothermal producing areas and estimation data of oil and gas and geothermal non tax revenue for each PSC Contractor.

In a condition where PNBP SDA from oil and gas per PSC Contractor covers two or more areas, then calculation for PNBP SDA from oil and gas is done through the following provisions:

- For oil, PNBP SDA for each producing areas is calculated based on the prognosis ratio for oil lifting in each producing areas according to the type of oil multiplied by PNBP SDA from each PSC Contractor based on the type of oil.
- While for gas, the PNBP SDA for each producing areas is calculated based on prognosis ratio for gas lifting in each producing areas multiplied by PNBP SDA per PSC Contractor.

In conditions where the PNBP SDA from oil and gas data of a PSC Contractor is not available in type of oil and gas, PNBP SDA for each producing areas is calculated based on the prognosis ratio for oil lifting in each producing areas multiplied by PNBP SDA per each respective PSC Contractor.

Based on the allocation of PNBP SDA from oil and gas per producing areas, the Director General of Fiscal Balance calculates the allocation of revenue sharing funds (DBH) SDA from oil and gas for each provinces, districts and cities in accordance with the legislation.

Apart from the general provisions above that associated with DBH SDA, there is also an additional allocation of Special Autonomy Fund for Papua and West Papua province and Special Autonomy Fund for Aceh province with each additional allocation from DBH SDA from oil as much as 55% (fifty five percent) and natural gas by 40% (forty percent) of the revenue derived from SDA oil and gas from each respective province after deducting tax and other levies.

The period of DBH SDA distribution conducted on a quarterly basis, i.e. no later than the first quarter in March, the second quarter at the latest in June, the

third quarter at the latest in September and the fourth quarter at the latest in December.

The annual report for additional usage of DBH SDA for oil and gas was made to follow the provisions of Ministry of Finance Regulation No.48/PMK.07/2016 on Management of transfer to region and village fund. In addition, the submission of the report for additional usage of DBH SDA of oil and gas started to apply for the distribution of Fiscal Year 2017.

5.1.2. Fiscal Policy in Mineral and Coal Sector

The flow for fiscal policies calculation in mineral and coal sector is similar to that of calculation for oil and gas sector. The Directorate General of Fiscal Balance calculates DBH SDA for mineral and coal allocation for the provinces, districts, and cities based on the letter that determine producing areas and basis for calculating the portion for producing areas for SDA from mineral and coal

Based on the results of calculating DBH SDA allocation for Mineral and Coal, the allocation of those resources is determined for each provinces, districts and cities

In a condition where Ministry of Energy and Mineral Resources are late in submitting the producing areas data, data for calculation basis in calculating DBH SDA for producing areas and supplementary data, the calculation and decision for DBH SDA allocation can be done based on the data submitted for the previous budget year.

DBH SDA allocation may be adjusted by considering the realization of PNBP SDA in each region at least in the last 3 (three) years. DBH SDA allocation is set under the Law on State Budget.

The time frame of DBH for mineral and coal disbursement is the first quarter and second quarter, each amounting to 25% (twenty five percent) from the allocated budget, third quarter with 30% (thirty percent) from the allocated budget and fourth quarter based on the difference between the allocated budget with the amount of funds that have been disbursed in the first,

second and third quarter.

Furthermore, DBH SDA disbursement is conducted on a quarterly basis i.e. no later than the first quarter in March, the second quarter at the latest in June, the third quarter at the latest in September and the fourth quarter at the latest in December.

5.2. Planning, Budgeting and Auditing Process

The Ministry of Energy and Mineral Resources No. 13 Year 2015 on the Strategic Planning for Ministry of Energy and Mineral Resources provides an overview of the planning, budgeting and auditing process that are being applied in the extractive sector. The focus of discussion is available on the that regulation attachment particularly in Chapter III that discuss direction of the policies, strategies, regulatory framework and institutional framework.

Among them are the optimization of the production of fossil energy, increase allocation of domestic energy, increase access and energy infrastructure, energy diversification, energy conservation and emission reduction, increase in value added for mineral and supervision of mineral and coal activity, rationalization of subsidies and energy prices to be more directional, creating a conducive investment climate. In addition, there are other policies which are: optimizing state revenue, an increase in R&D, improvement in geology services and improvement in HR management and competency.

Associated with the strategic planning above, this policy also includes improvement in natural resources exploration in order to increase the potential and reserves hence the production of fossil energy can be optimized to full the country's needs. In addition, the balance between the rates of increase in fossil energy reserves with maximum production rate should be realized.

Although the focus of future energy development is more directed toward development of New and Renewable Energy, the fossil energy can still be optimized as a source for domestic energy and one of the source for state revenue.

5.2.1. National Budgeting System Related to Extractive Industries

National budgeting system on oil and gas sector is intended to complete the strategic oil and gas sector located in 12 working areas which are Cepu (Full Scale 165,000 bpd), Bukit Tua and Ande-Ande Lumut Oil Field, Gas Field Lepodang, Block Sengkang Donggi Senoro-Matindok, MDA-MBH (Husky) Field, Block Cepu (Jambaran Tiung Biru Gas Field), Medco Malaka Aceh, Block Muara Bakau, Jangkrik (ENI), IDD: Bangka-Gendalo Hub-Gehem Hub and Block Abadi Masela Tangguh Train-3.

On top of that, for the coal industry is more focused on the efforts to control coal production, preparing recommendation for coal utilization area by Geological Body in preparing mining license (IUP/PKP2B), improvement in recovery for coal mining, nurturing coordination, regulation and supervision of coal business in order to resolve the issue on overlapping land, licensing and health, safety and environment.

In contrast to the oil and gas sector, where the Government tends to encourage the contractor to increase oil production. Instead the Government's policy for coal production is to control the production to be optimal by applying a limit or reference for production.

The supervision for PKP2B production in 73 companies per year, evaluation of balance sheet for reserves and coal resources in 73 companies per year and improvements in health, safety and environment condition.

The Government also plans to draw up national budgets associated with oil and gas, CBM and shale gas exploration drilling plan with the increasing number of wells, where in the year 2015 is targeted as many as 83 wells and 91 wells in 2019.

The Government is also trying to have the preparation and signing of working areas (WK) for oil and gas sector can increase with 21 WK and 8 oil and gas WK signing. Apart from that, efforts are underway to prepare study on 28 oil and gas working areas and 10 working areas for CBM supported by Research and

Development (Balitbang) under Ministry of Energy and Mineral Resources. The next focus will be on conducting geological survey by geology body in order to support the preparation for oil and gas working areas.

There is also a need to enhance the collaboration of Directorate General of Oil and Gas, SKK Migas, Geological body and oil and gas institutions (Lemigas) in preparing the oil and gas working area and increase in exploration, increase in tender for working areas, improvement in working area quality and decision on oil and gas contract (prior to injury time)

In addition, the budgeting system should also accommodate the use of Enhanced Oil Recovery (EOR), commercial development of prototype rig, setting up policies, regulatory framework, incentives for oil and gas upstream activity, particularly for Non-Conventional PSC and remote area hence improving their economy level.

5.2.2. Budget Usage Monitoring System on Extractive Industry

Coordination is done in oil and gas sector for the nurturing, regulating and supervision of oil and gas business, licensing agreements and acceleration for the licensing period. Coordination with local Government, land settlement and improvement in implementation for regulation related to oil and gas is also completed.

On top of that, for the coal industry is more focused on the efforts to control coal production, preparing recommendation for coal utilization area by Geological Body in preparing mining license (IUP/PKP2B), improvement in recovery for coal mining, nurturing coordination, regulation and supervision of coal business in order to resolve the issue on overlapping land, licensing and health, safety and environment.

In contrast to the oil and gas sector, where the Government tends to encourage the contractor to increase oil production. Instead the Government's policy for coal production is to control the production to be optimal by applying a limit or reference for production.

The supervision for PKP2B production in 73 companies per year, evaluation of balance sheet

for reserves and coal resources in 73 companies per year and improvements in health, safety and environment condition.



6

State-Owned Enterprise (SOE)



Law No. 19/2003 Article 1 Section 1 defined State-Owned Enterprise (SOE) as a company which is wholly or partially owned by the State and supported by the State. The establishment of SOE is aligned with the Constitution of the Republic of Indonesia 1945 Article 33 Section 2 that emphasize on the role of State as the ruler of production areas which are important to the State and for the welfare of the general public.

According to Law No. 19/2003 on State-Owned Enterprise, the State-Owned Enterprise (SOE) are established with the following objectives:

- a) To contribute to the national economic growth in general and particularly to state revenue;
- b) to seek profit;
- c) to deliver public benefits in the form of the procurement of quality and adequate goods and/or services to fulfil public needs;
- d) to be the pioneer of business activities that cannot be implemented by the private sector and cooperatives;
- e) to actively participate in providing guidance and support for small-scale companies, cooperatives and communities.

The Law of SOE regulated 2 types of SOE:

a) Public Company

Public Company (known as Perum) is SOE in which wholly owned by the State and without split share, established to provide high quality products and services for public and profitable based on company management principles⁸.

b) Liability Company

Liability Company (known as Persero) is SOE in which wholly owned or at least 51% of its shares is owned by the Republic of Indonesia, with the main purpose to gain profit.

Persero which listed in the market share in line with the regulation and has sufficient shareholders is called Public Company (known as Persero Terbuka).

6.1 Relationship between SOEs and the Government

An overview of the relationships between SOEs and the national Government is presented in Figure 6.1, illustrating ministerial authority to appoint the directors of a state-owned company, monitor and formulate technical policies;

- The Minister of State-Owned Enterprise serves as a shareholder in a general meeting of shareholders (RUPS) held by Persero and is authorized to handle the state-owned company's operational/managerial affairs, including appointing directors based on decree of the Minister of State-Owned Enterprise.
- The Minister of Finance serves as state asset manager, authorized over public capital as one of state owned company funding sources

Finance Ministerial Decree No. 184/2010 about Organization and Administration of the Ministry of Finance⁹ stated that one of the tasks and functions of Directorate General (DG) of State Assets Management Ministry of Finance is proposing the establishment of

8. Law No. 19/2003 Article 2, 3, and 4

9. Permen Keuangan Nomor 184 Tahun 2010 Pasal 1082 dan 1083 tentang Organisasi dan Tata Kerja Kementerian Keuangan

state equity participation. State Equity Participation is the separation of State budget from APBN or establishment of reserves of the company or other sources to be used as capital for SOE or other Persero managed by corporation. State Capital Participation (known as PMN) to SOE and other Persero from APBN, capitalization of reserves and/or other funding sources.

Law No.1/2014 on State Treasury Article 7 Section 2d stated that Finance Minister as State General Treasurer is authorized to determine the system of cash receipts and disbursements of the country. Finance Minister as General Treasurer has the authority to set/create a system associated with incoming money and outgoing money to and from the state treasury. State revenues associated with Oil and Gas and Mining SOEs are Non-Tax Revenue Oil and Gas, Non-Tax Revenue Mining, revenues from SOE profits and taxes.

The state revenue system applied is State Receipt Module System. Based on the Finance Ministerial Decree No. 99/2006 on State Receipt Module, a State Receipt Module (known as MPN) is defined as a module reception which included a series of procedures from receipt, deposit, data collection, recording, to reporting related to revenue. MPN is part of the Treasury System and the State Budget. MPN program supported by the DG of Treasury, DF of Tax, DG of Custom, DG of Budgeting and Fiscal Balance, and General Secretary.

Treasury System and the State Budget Revenues Systems is effective starting in 2007, and from February 27th 2014 inaugural transaction is made through State Receipt Module (MPN G-2). One of the basic differences between the two systems is the use of the concept MPN billing. The MPN G-1 system used manual billing and the MPN system G-2 used the concept of electronic billing system (e-billing system). MPN system G-2 is planned to be fully implemented in 2016. The system used for the non-tax revenue is Simpony, while the system used for tax is SSE Online Tax. The essence of these changes is resulted in the usage of State Revenue Transaction Number (known as NTPN) for each transactions.

In MPN G-2, DG of Treasury as the State Treasury will be the mediator of entities such as: bank/post perception, biller (DG of Tax for Taxes, DG of Budgeting for Non-Tax Revenues) and taxpayer.

Meanwhile, biller (DG of Tax for Taxes, DG of

Budgeting for Non-Tax Revenues) coordinated with DG of Treasury on actual revenues for the respective authorities stated further in the report. For the taxpayer, DG of Treasury would provide confirmation through helpdesk via email or telephone.

- The Ministry of Energy and Mineral Resources (MoEMR) is authorized to perform the formulation, adoption and implementation of policies in the field of oil and gas (DG of Oil and Gas), energy (DG of New and Renewable Energy and Energy Conservation), and mineral resources (DG of Mineral and Coal). MoEMR also coordinated with SKK Migas, which SKK Migas provided consideration to the policy of MoEMR in preparing and dealing with Working Area and PSC. SKK Migas is also responsible for signing the PSC.

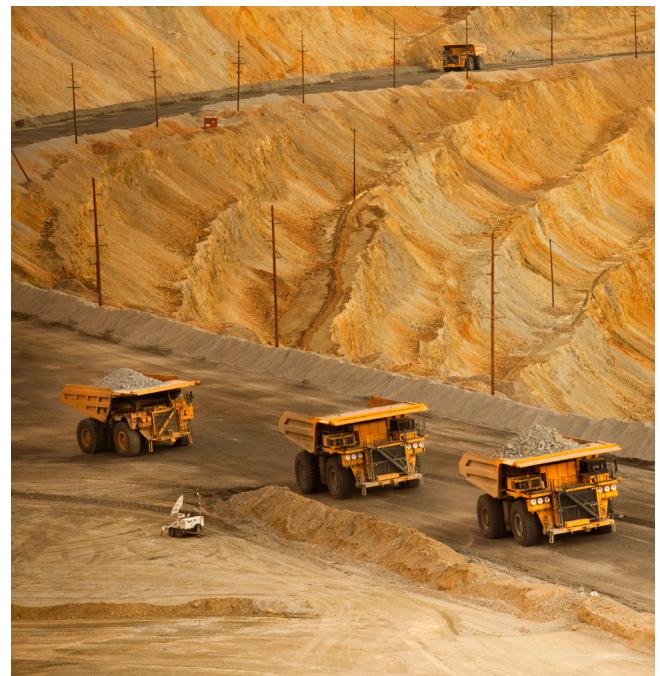
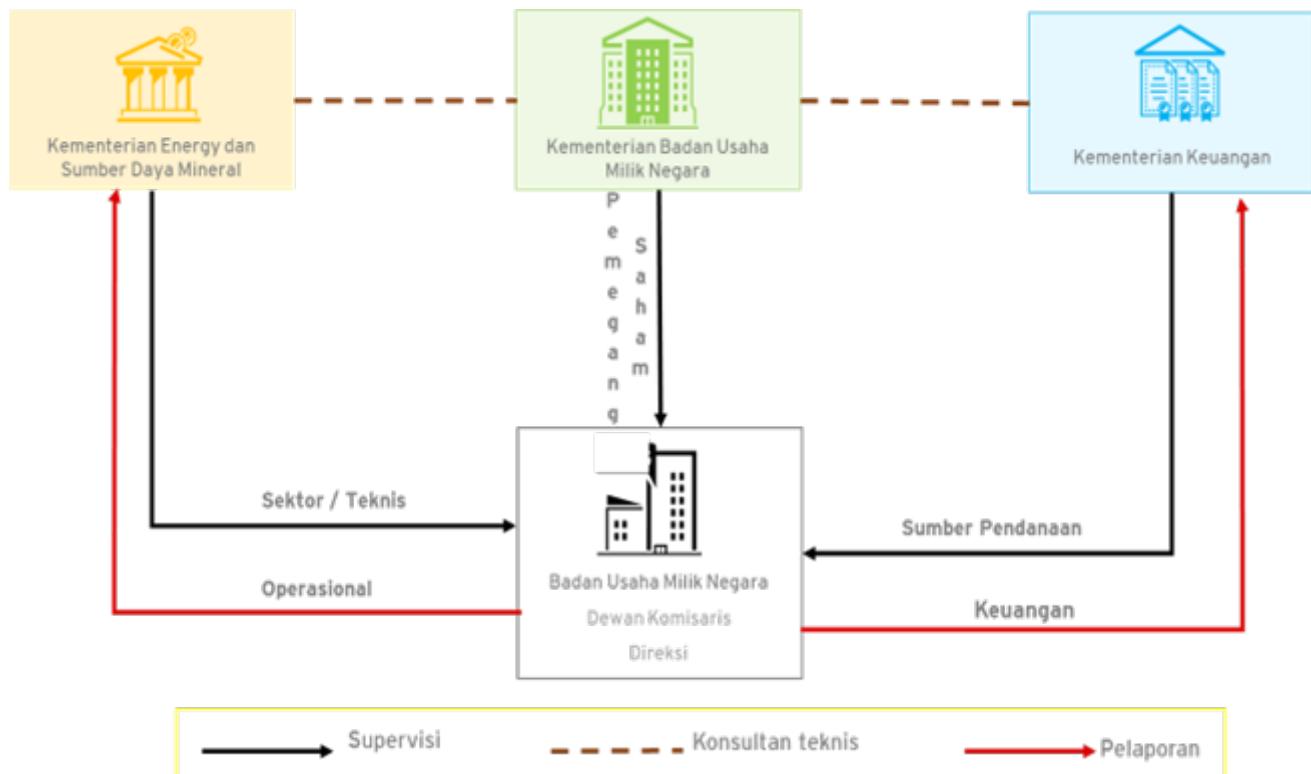


Figure 6.1 Relationship between SOEs and the Government



Authority of the General Meeting of Shareholders (known as RUPS)

According to Law No.19/2003 on SOEs, Minister of SOE has the authority in RUPS of Persero or Limited Persero where the State has whole or partial ownership/shares. The Minister of SOE as the shareholder makes decisions in RUPS regarding:

- Changes in the amount of capital;
- Changes in budgeting;
- Planning of profit usage;
- Merger, assimilation, takeover, separation, and dissolution of Persero;
- Investment and long-term financing;
- Persero cooperation;
- Establishment of subsidiary companies or investment;
- Transfer of assets

In addition to the RUPS, the Government has issued regulation related to level of energy security, as well as the importance of infrastructure development.

Therefore, the role and participations of SOE in supporting the policy is really important, particularly SOE in Extractive Industry.

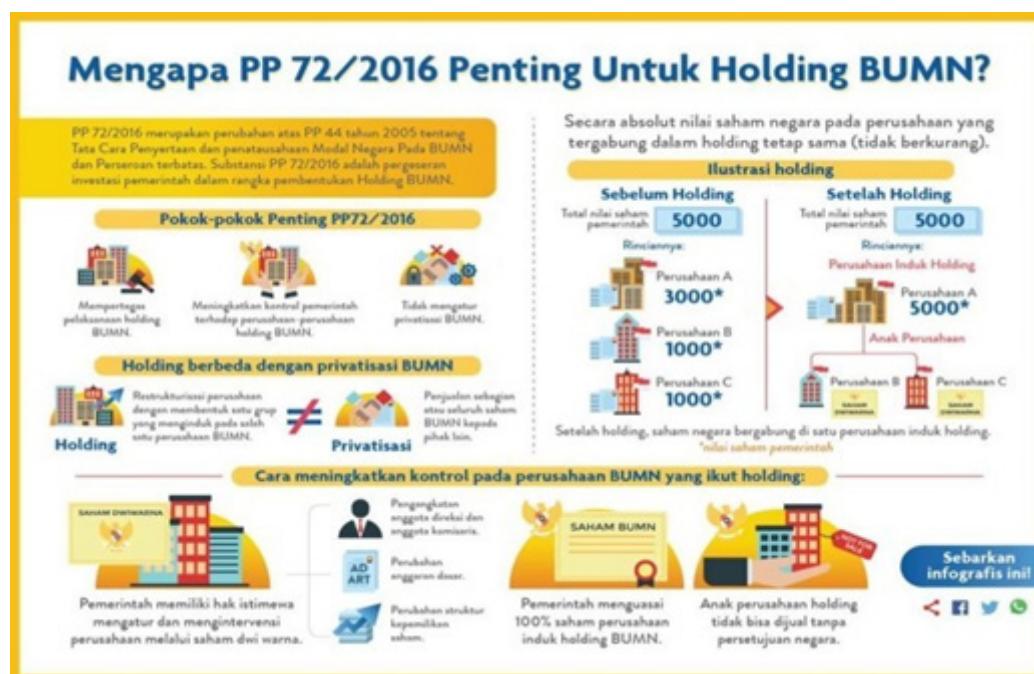
The key programs by SOEs in extractive industry in order to support the Government policy will be described further below:

SOE Holding

The Government issued Government Regulation No. 72/2016 for the Amendments of Government Regulation No. 44/2005 on Procedures and Administration of State Capital Investments (known as PMN) in SOEs and Limited Persero. The content of the issued regulation is about a shift in Government investment in order to establish SOE Holding.

The explanation of Government Regulation No. 72/2016 can be seen at the General Provision section of the regulation. The definition and illustration of holding as well as how to improve the SOE control is presented at Figure 6.2

Figure 6.2 The Role of Government Regulation 72/2016 for SOE Holding



Sumber: www.bumn.go.id

PT Pertamina (Persero) will serve as the holding company or parent company in the oil and gas sector with PT Perusahaan Gas Negara (Persero) Tbk as its subsidiary. A subsidiary of Pertamina in gas business, PT Pertamina Gas will become a subsidiary of Perusahaan Gas Negara (PGN). Meanwhile, PT Inalum become a holding company or parent company of SOE in coal sectors which unites four companies include PT Inalum (Persero), PT Bukit Asam Tbk (Perseo), PT Timah Tbk (Persero) and PT Aneka Tambang (Persero).

There are three targets achievement of SOE holding in the oil and gas sector: (1) integration that avoids the conflict of gas allocation, (2) consolidated infrastructure that will yield capital cost synergies, (3) especially for large projects of Pertamina, such as new refineries and refinery development (RDMP) and the integration, will create a scheme of price uniformity throughout Indonesia.

Meanwhile, the target achievement of SOE holding in mining are (1) to control mineral reserves and resources by seeking financing for the acquisition of mining companies that are in production stage, (2) also to improve downstream investment products through cooperation with global mining processing company. Currently, the process of oil and gas holding company formation is still in the process of

finalization.

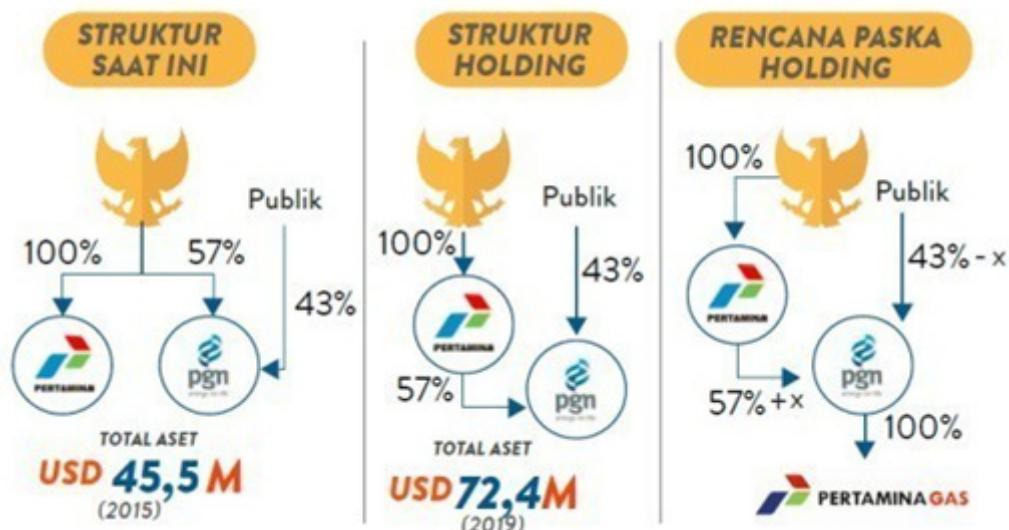
Government Regulation about holding that contains the scheme of SOE shares to its parent company still requires approval from several relevant ministries. For each holding to be established, the Government should issue a Government Regulation regarding the formation of a holding and discuss with the Ministry of Finance and the Coordinating Ministry for Economic Affairs. Afterward, the formation of the holding need to be reported and discussed further with the House of the Representative of the Republic of Indonesia (known as DPR-RI).

Pertamina and PGN also still need to consolidate the valuation for reference in the resolution of financial problems once the holding company formed. Each company has its own valuation institutions due to differences in the calculation.

Furthermore, the Indonesian Government is also planning the establishment of a holding and sub-holding of the SOE. One of the concepts that is being developed by the Ministry of SOE is planning the establishment of SOE energy holding.

One of the SOEs merged PT Perusahaan Gas Negara, Tbk with PT Pertamina (Persero). The purpose of these changes is to increase the efficiency of resource management through closer coordination.

Figure 6.3 Proposed SOE Energy Holding Structure



Source: Exposure of SOE Minister: Formation of SOE Holding, August 2016

6.2 PT Pertamina (Persero)

PT Pertamina (Persero) is a merger of two companies: Pertamin and Permina, that was conducted in 1968. In the energy and petrochemicals sectors, the activities of PT Pertamina (Persero) are divided into upstream and downstream activities, and supported by the activities of its subsidiary companies and joint ventures.

In 2003, as a result of the release of PT Pertamina (Persero) from its tasks as the regulator of upstream oil and gas industries, based on GR No.31/2003, PT Pertamina (Persero) became a liability company that conduct activity ranging from upstream activity to downstream activity. PT Pertamina (Persero) transform its business from "oil and gas company" to "energy company". In 2011, Pertamina was no longer listed in stock exchange.

Pertamina's business consists of upstream sector, gas sector, new and renewable energy, processing sector and marketing/trading sector.

Company's Vision, Mission, and Strategy

- Company's Vision

To Be World Class National Energy Company

- Company's Mission

To carry out integrated business core in oil, gas, renewable and new energy based on strong commercial principles

- Company's Strategy

In order to manifest vision "To be world class national energy company", Pertamina derives the strategy "Aggressive Upstream and Profitable Downstream" into 5 Strategic Priority Pillars work :programs:

Development of upstream sector, efficiency in all business lines, increasing capacity of refinery and petrochemical, development of infrastructure and marketing, and improvement of financial structure.

Company Development Project

In 2015, Pertamina conduct numbers of acquisition through addition of participating interest or share ownership in a number of oil and gas block to increase production and reserve:

- Acquire Mahakam Block, which will start on 1 January 2018
- Acquire Kampar Block, which will start on 1 January 2016
- Extension of ONWJ Block (PI 73.5%), which will start on 19 January 2017
- Acquisition of 100% NSO Block and NSB Block, effectively started on 1 January 2015

PT Pertamina (Persero) also has 6 upstream priority projects: Banyu Urip Development, Donggi Senoro LNG Plant, Matindok Gas Development, WMO POD Integrasi-1, Senoro Gas Development and Ulubelu unit 3 & 4.

PT Pertamina (Persero) has prepared Refinery Development Master Plan (RDMP) to revitalize Pertamina refineries and implement Enhanced Oil Recovery (EOR) on old oil field to optimize production in upstream sector.

The first Pertamina's refinery was built in 1936 (Plaju) and 1990 (Balongan) using old technology which was only able to process sweet crude oil (oil produced in Indonesia). Meanwhile, new technology refineries can process sour crude oil. The old refinery caused oil processing is not optimized and uneconomical to operate, that affected national oil production.

PT Pertamina (Persero) can either operate solely or in partnership through Operation Cooperation (*Kerja Sama Operasi/KSO*), a Joint Operation Body (JOB), Technical Assistance Contracts (TACs), and the Indonesia Participating/ Pertamina Participating Interest (IP/PPI).

Oil and gas business activities through sole operations are conducted in Pertamina EP's five assets: Asset 1 covering Nanggroe Aceh Darussalam (NAD), North Sumatra and Riau; Asset 2 (South Sumatra); Asset 3 (West Java); Asset 4 (Central and East Java); and Asset 5 (Kalimantan and Papua).

Until 2013, there are 92 contracts of oil and gas with partners that consists of 6 JOB-EOR, 8 JOB-PSC, 26 TAC, 34 IP and 2 PPI.

Working Areas owned by Pertamina in Indonesia in year 2014 and 2015

Pertamina owns working area from its subsidiaries, comprise of:

- PT Pertamina EP as TAC, in 26 working areas
- Operation Cooperation (OC) 29 working areas
- Unitization Agreement, 7 working areas Working area from its subsidiary, PHE, comprise of:
- IP, 6 working areas
- Oil and Gas Cooperation Contract after Oil & Gas Law No. 22/2001 on Oil and Gas, 19 working areas
- Gas and Coal Bed Methane Cooperation Contract after Oil & Gas Law No. 22/2001 on Oil and Gas, 14 working areas
- JOB-PSC, 7 working areas
- PPI, 2 working areas
- Ownership of oil and gas contract overseas, 1 working area

Share Ownership

PT Pertamina (Persero) is 100% owned by the Government of Indonesia

Dividend

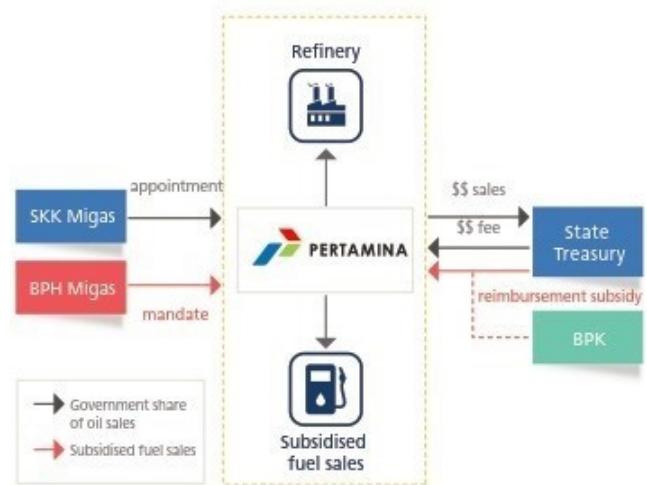
PT Pertamina (Persero) and its subsidiary companies pay out IDR 10,239 Billion in 2014 – from the 2013 income- and IDR 6,250 Billion in 2015 – from the 2014 income.

Distribution Flow for Subsidized Fuel

The Government through the Downstream Oil and Gas Regulatory Body (BPH Migas) has mandated Pertamina to distribute subsidized fuel. The mandate has also determined the quota of subsidized fuel that must be distributed based on the state budget or the amendment. Every year, the Indonesian Audit Board (BPK) audits the reimbursement of fuel subsidy. Building upon the audit report, the Government pays the reimbursement of the fuel subsidy to Pertamina.

The distribution flow is as follows:

Figure 6.4 Distribution Flow for Subsidized Fuel



Government-to-Government Lending Forwarded to Pertamina

A Loan for the Construction of an Aircraft Refueling Depot in Ngurah Rai

On 7 May 2007, the Government forwarded a loan in the amount of ¥1,172,872,837 (full value) obtained from the Overseas Economic Cooperation Fund (OECF) in Japan to the company to build an aircraft refueling depot in Ngurah Rai based on a letter of loan agreement dated 29 November 1994. The loan must be paid in 36 installments every semester from May 2007 until November 2024, with an interest rate of 3.1% per year.

A Loan for the Construction of Lumut Balai Geothermal Power Plant

On 29 March 2011, a loan agreement number IP-557 was entered into between the Government of Indonesia represented by the Director General of Debt Management, the Ministry of Finance, and JICA, with the company acting as the executing agency and PGE as the implementing agency. The agreement committed a loan in a total amount of ¥26,966,000,000 (full value), disbursed within eight years after the agreement was declared effective

The payment of the loan is done every six months, every 20 March and 20 September, from 20 March 2021 until March 2051.

As per 31 December 2015, the outstanding loan balance was ¥2,418,323,907 (full value) or equivalent to US\$20,077.

A Loan for Construction on Ulubelu and Lahendong PT Geothermal Clean Energy Investment Project

In the project execution of Ulubelu and Lahendong Geothermal Clean Energy Investment Project, loan from International Bank for Reconstruction and

Development (IBRD), which is loan from World Bank, has been acquired.

On 5 December 2011, Loan Agreement ("LA") 8082-ID and TF10417-ID were signed by the Government of Indonesia and IBRD.

Pertamina acts as Executing Agency and PGE as Implementing Agency. Total loan was US\$300,000, consist of LA 8082-ID of US\$175,000 and LA TF10417-ID of US\$125,000.

The payment of the loan is done every 10 April and 10 October. Payment for LA TF10417-ID will be done from 10 October 2021 until 10 April 2051, while payment for LA8082-ID will be done from 10 October 2020 until 10 October 2035. As per 31 December 2015, the outstanding loan balance for LA TF10417-ID was US\$24,906 and for LA 8082-ID was US\$8,580

Anak Perusahaan, Perusahaan Asosiasi, dan Joint Arrangements

According to the 2014 and 2015 financial report, PT Pertamina (Persero) had 25 subsidiaries, 6 association companies, and 7 joint arrangements, as below:

Table 6.1 List of Subsidiary and Association Companies of PT Pertamina (Persero)

No	Subsidiaries	Percentage of Ownership		Business Area
		2014	2015	
1	PT Pertamina Hulu Energi	100.00 %	100.00 %	Exploration and Production of oil and gas
2	PT Pertamina EP	100.00 %	100.00 %	Exploration and Production of oil and gas
3	PT Pertamina EP Cepu	100.00 %	100.00 %	Exploration and Production of oil and gas
4	Pertamina E&P Libya Limited. British Virgin Island	100.00 %	100.00 %	Exploration and Production of oil and gas
5	PT Pertamina East Natuna	100.00 %	100.00 %	Exploration and Production of oil and gas

No	Subsidiaries	Percentage of Ownership		Business Area
		2014	2015	
6	PT Pertamina EP Cepu ADK	100.00 %	100.00 %	Exploration and Production of oil and gas
7	PT Pertamina Internasional Eksplorasi dan Produksi	100.00 %	100.00 %	Exploration and Production of oil and gas
8	ConocoPhillips Algeria Limited, Cayman Island	100.00 %	100.00 %	Exploration and Production of oil and gas
9	PT Pertamina Hulu Indonesia	100.00 %	100.00 %	Exploration and Production of oil and gas
10	PT Pertamina Geothermal Energy	100.00 %	100.00 %	Exploration and Production of Geothermal
11	PT Pertamina Gas	100.00 %	100.00 %	Oil and gas trading, gas transportation, and oil and gas processing, distribution and storage oil and gas
12	PT Pertamina Drilling Services Indonesia	100.00 %	100.00 %	Oil and gas drilling
13	PT Pertamina Patra Niaga	100.00 %	100.00 %	Trade and industrial activities service
14	Pertamina Internasional Timor S,A,	-	95.00 %	Trade and industrial activities service
15	PT Pertamina Retail	100.00 %	100.00 %	Gas Station
16	PT Pertamina Lubricants	100.00 %	100.00 %	Processing and marketing of lubricants
17	PT Pertamina Trans Kontinental	100.00 %	100.00 %	Shipping
18	PT Pelita Air Service	100.00 %	100.00 %	Air freight services
19	PT Pertamina Training & Consulting	100.00 %	100.00 %	Investment management
20	PT Pertamina Training & Consulting	100.00 %	100.00 %	Human resource development services
21	PT Patra Jasa	100.00 %	100.00 %	Office, residential and hotel rental
22	PT Pertamina Bina Medika	100.00 %	100.00 %	Health and hospital services
23	PT Tugu Pratama Indonesia	65.00 %	65.00 %	Insurance
24	PT Elnusa Tbk,	41.10 %	41.10 %	
25	Pertamina Energy Trading Limited, Hong Kong	100.00%	-	

Source: Pertamina Financial Statement 2014 and 201

Table 6.1 List of Subsidiary and Association Companies of PT Pertamina (Persero)

Direct Ownership

No	Associated Companies	Percentage of Ownership		Business Area
		2014	2015	
1	Pacific Petroleum & Trading Co, Ltd	50%	50%	Marketing services
2	Korea Indonesia Petroleum Co, Ltd, Labuan Malaysia	45%	45%	Marketing services
3	PT Trans Pacific Petrochemical Indotama	26.61%	48.59%	Processing and sales of processed oil and gas services

Indirect Ownership

No	Associated Companies	Percentage of Ownership		Business Area
		2014	2015	
4	PT Donggi Senoro LNG	29%	29%	LNG processing
5	PT Tugu Reasuransi Indonesia	25%	24.47%	Reinsurance
6	PT Asuransi Samsung Tugu	19.50%	19.50%	Insurance

Table 6.3 List of PT Pertamina (Persero) Joint Arrangements

Joint Ventures

No	Joint Arrangements	Percentage of Ownership		Business Area
		2014	2015	
1	PT Nusantara Regas	60%	60%	LNG regasification

Joint Arrangements

No	Joint Arrangements	Percentage of Ownership		Business Area
		2014	2015	
2	PT Patra SK	35%	35%	LBO processing
3	PT Patra SK	66%	66%	LNG processing
4	PT Perta Daya Gas	65%	65%	LNG regasification
5	PT Indo Thai Trading	51%	51%	Petrochemical trading
6	PT Elnusa CGGVeritas Seismic	20.97%	20.97%	Seismic survey service

Joint Operations

No	Joint Arrangements	Percentage of Ownership		Business Area
		2014	2015	
7	Natuna 2 B.V., Belanda/ Netherlands	50%	50%	Exploration and Production

Source: Pertamina Financial Statement 2014 and 2015

Changes in Working Area Ownership in Indonesia for the year 2014 and 2015

working areas in Indonesia, as presented in Table 6.4 below:

Based on 2014 and 2015 Financial Report, there are 6 and 10 event of ownership changes in

Table 6.4 List of Changes in PT Pertamina (Persero)'s Participating Interest of Working Areas

Year 2014

No	Block Name	Seller	Participating Interest	Value (in ThousandsUS\$)	Remarks
1	Siak Block, Central Sumatera	SKK Migas appointed the company as operator of Siak Block, as PSC Siak and Chevron ended in 27 November 2013,	100%	20,000	Based on a circular of the Minister of Energy and Mineral Resources No,8818/13/MEM,M/2013 dated 26 November 2013
2	Southeast Sumatera Block	Fortuna Resources (Sunda) Ltd, Tallsman Resources (Bahamas) Ltd and Tallsman UK (Southeast Sumatera)	7.48%	52,619	-
3	Babar Selaru Block	INPEX Corporation	15%	5,640	-
4	Kampar Block	SKK Migas appointed the company as operator of Kampar Block, which starts effectively upon signing of PSC Kampar Area. Transition period on Kampar Block operation was appointed to PT Medco E&P Indonesia until 31 December 2015 or until signing of PSC.	100%	No information on the value	Based on a circular of the Minister of Energy and Mineral Resources No,8383/13/MEM,M/2014 dated 23 December 2014
5	East Sepinggan Block	Eni East Sepinggan Limited, effectively starts on 8 December 2014,	15%	10,520	
6	Block K, Block P, Block H, Block SK-309, Block SK-311 and Block SK-314A	Murphy Sabah Oil Co, Ltd, (Block K, Block P and Block H) and Murphy Sarawak Oil Co, Ltd, (block SK-309, Block SK-311 and Block SK-314A)	30% for Block K, Block H, Block P, Block SK 309, Block SK 311, and Block SK 314A,	1,879,000	

Year 2015

No	Block Name	Seller	Participating Interest	Value (in ThousandsUS\$)	Remarks
1	Mahakam Block	MoEMR appointed Pertamina as operator of Mahakam Block	100%	No information on the value	Effective on 1 January 2018, with contract period of 20 years since effective date
2	Offshore North West Java (ONWJ) Block	PHE ONWJ and SKK Migas signed extention of PSC ONWJ Block, start effectively on 19 January 2017	73.50%	No information on the value	Contract is valid until 18 January 2037
3	NSO Block	Mobil Exploration Indonesia Inc,	100%	10.657	Effective on 1 January 2016, with contract period of 20 years, since effective date,
4	Nunukan Block (PHE Nunukan Company)	PT Medco E&P Nunukan	29.50%	No information on the value	
5	B Block	ExxonMobil Oil Indonesia (EMOI)	100%	20,857	
6	Abar Block	Based on circular Berdasarkan Surat Direktorat Jenderal Migas tanggal 18 Maret 2015, Pemerintah menunjuk Pertamina sebagai pengelola Blok AbaR	100%		No information on the value
7	Anggursi Block	Berdasarkan Surat Direktorat Jenderal Migas tanggal 18 Maret 2015, Pemerintah menunjuk Pertamina sebagai pengelola Blok Anggursi,	100%		No information on the value
8	MNK Sakakeman g Block	Berdasarkan Surat Direktorat Jenderal Migas tanggal 18 Maret 2015, Pemerintah menunjuk Pertamina sebagai pemegang 50% Participating Interest Blok MNK Sakakemang Sumatera Selatan	50%		No information on the value
9	Block K, Block P, Block H, Block SK-309, Block SK-311 and Block SK-314A	Murphy Sabah Oil Co, Ltd, (Blok K, Blok P dan Blok H) dan Murphy Sarawak Oil Co, Ltd, (blok SK-309, Blok SK-311 dan Blok SK-314A)	10%	517,944	
10	East Sepinggan Block	Eni East Sepinggan Ltd,	15%	10.523	

Sumber: Laporan Keuangan Pertamina 2014 dan 2015

Pertamina Corporate Social Responsibility

The detailed information of Pertamina's Corporate Social Responsibility programs can be accessed through its official company website¹⁰.

Coordination with Government of Indonesia

One-Price Fuel Policy (Satu Harga BBM) The Government has formulated one-price fuel

policy through the Ministerial Regulation of Energy and Mineral Resources of The Republic of Indonesia number 36 Year 2016

which officially has come into force in January 2017. The unification of fuel prices in Indonesia is applied to premium, diesel, and kerosene. The formulation of this policy is triggered by high gap on fuel price between Java and area outside Java, especially in Papua. In Papua, the fuel price premium ranges from 25 thousand to 55 thousand per liter, even once reached 150-200 thousand per liter. This phenomenon is caused by the absence of a transportation that is dedicated as fuel distribution facilities and the lack of authorized agents distributors in some regions. Therefore, the enactment of this policy aims to boost regional economic growth.

In November 2016, Pertamina got an assignment of Implementation of Supply and Distribution of Particular Fuel Types (P3JBT) and Implementation of Supply and Distribution of Specific Fuel Types (P3JBKP). By this assignment, Pertamina must sell one-price fuel in the entire territory of Indonesia. The Pertamina's quota of P3JBT in 2017 is 16.31 million Kilo Liter (KL), consisting of kerosene (kerosene) amounted to 610,000 KL and diesel (Gas Oil) amounted to 15.7 million KL. In addition, the quota allocation assigned for specific fuel types (Premium) amounted to 12.5 million KL.

The one-price fuel policy implementation requires the support of the local Government as the party who hold the authority to provide permit to build APMS. Pertamina is targeting to build 108 mini gas stations (SPBU) across Indonesia by 2020. The target in 2017 is 22 mini gas station with a capacity of 5 liters per day is built. To maintain fuel prices stability, Pertamina will be

responsible for monitoring the fuel price sold at SPBU level and fuel price sold at APMS level. Cooperation with local Government and regional security forces regional is also important to support these control measures.

Construction of New Refinery

As one way to reduce fuel imports, increase oil production volume, and maintain national energy security, The President signed Presidential Decree No. 146 Year 2015 on The Implementation of Construction and Development of Domestic Oil Refinery.

The regulation is made so that the construction of new refineries can be accelerated. In this regulation, the Government will also provide incentives in the construction of the refinery in the form of tax exemptions and duty exemption on imported goods.

Government initiatives in the construction of new refineries have been included in one of the Pertamina strategic pillars related to refinery and petrochemical capacity advancement. Pertamina has two new refineries projects, New Grass Root Refinery (NGRR), which includes the construction of an oil refinery New GRR West 1 in Tuban, East Java, and the construction of a new refinery in Bontang East NGRR.

Oil Refinery Construction Project New GRR West 1 in Tuban, East Java

Pertamina and Rosneft, the oil company from Russia, has signed a Joint Venture Agreement (JVA), which agreed to establish a joint venture to run the refinery construction project in Tuban. Pertamina become the majority shareholder in the JV with an ownership interest of 55%, while the rest belongs to Rosneft. Design of primary processing capacity in Tuban GRR is 300 thousand barrels per day and the complexity of the refinery is over nine NCI (Nelson Complexity Index). Currently the parties are conducting a feasibility study of the project funding or bankable feasibility study (BFS). The next stage is the final investment decision (FID), basic engineering design (BED) and front end engineering design (FEED) or preliminary engineering designs. The refinery is expected to operate in early 2022.

New Refinery Construction Project NGRR East in Bontang, East Kalimantan

The Government gave the assignment to Pertamina to construct and operate oil refinery in Bontang, East Kalimantan, which is regulated by Decree of the Minister of Energy and Mineral Resources number 7935 K/10/MEM/2016. In these regulations,

the Government also set the refinery capacity to be 300,000 barrels per day, with a minimum production of 60,000 barrels of gasoline per day and the production of solar minimum of 124,000 barrels per day with a minimum of Euro IV standards. This project uses private-public partnership scheme (Kerja Sama Pemerintah dan Badan Usaha/KPBU), of which Pertamina act as the person in charge of cooperation projects (Penanggung Jawab Proyek Kerja Sama/PJBK). Pertamina will cooperate with private enterprises in the completion of the project and the selection of partners to build refinery is targeted to be completed in the end of 2017. Pertamina also prepare a bankable feasibility study (BFS), which also targeted to be completed in 2017. After completing BFS, Pertamina expects the site preparation can be started in the beginning in 2018 so that the physical work NGRR Bontang can be started in late 2019 and completed in mid-2023. Pertamina does not need to acquire land to build a refinery for the project location is adjacent to the location of an LNG plant operated by PT Badak NGL, a subsidiary of Pertamina. The facilities and supporting infrastructure of LNG plant could also be used to support NGRR Bontang refinery operations, such as 21 units of boilers, power plants, storage tanks, and other public facilities. Pertamina is optimistic to complete the project more quickly because it does not start the project from scratch

Improvement in Human Resources Function

Pertamina to support strategic projects and long-term plan on maintaining national energy security, Pertamina should have the human resources with adequate competence. Currently, Pertamina is experiencing a shortage of employees on top level managers since around 4000 people will retire. This deficiency occurs in all directorates, ranging from upstream and downstream managerial level, to finance managerial level. Pertamina did not recruit in 1993-2001 due to the financial crisis so that there is a shortage of workers aged 35-44. According to Deputy Director of Pertamina, Bambang Ahmad,

mature workers with the capability as a leader is currently

very lacking. Some solutions that can be implemented by Pertamina are headhunting managerial level talent from foreign companies currently and above operating in Indonesia, developing a more extensive training system for all level employees in order to avoid skill shortage, and developing a more inclusive employee promotion system with clear performance indicators.

6.3 PT Aneka Tambang (Persero) Tbk

PT Aneka Tambang (Persero) Tbk (ANTAM) was established as a State-Owned Enterprises in 1968 through the merger of several national mining companies and projects that produce a single commodity. In 1997, conduct open public offering of 35% of the total shares in the Indonesian Stock Exchange, In 1999, ANTAM listed its shares in Australia with foreign exempt entity status and in 2002 this status was upgraded to ASX Listing which has more stringent provisions.

ANTAM is a diversified, vertically integrated an export-oriented mining company mining company. Through operations area that is spread across Indonesia, ANTAM operates in many diverse activities, including exploration, mining, processing and marketing of nickel ore, ferronickel, gold, silver, bauxite and coal. Given the extent of mining concessions and the large amount of reserves and resources owned, ANTAM formed several joint ventures with international partners to be able to utilize the existing reserves into the mine that produces a profit.

Vision and Mission and Corporate Strategy

ANTAM's Vision and Mission in 2030, based on the Decree of Directors of PT Aneka Tambang (Persero) Tbk No. 318.K/834/DAT/2014 on The 2030 Strategic Direction issued in December 2014 are as follow

Vision

To be a leading natural resources based global corporation through business diversification and integration

Mission

- To provide high quality products with a view of achieving maximum added value through best industry practices and competitive operational performance
- To optimize resources with emphasis on

sustainability, occupational safety and environmental conservation

- To maximize the shareholder and stakeholder value
- To improve the employee's competency and welfare as well as the independency of the communities in the vicinity of the operational areas

Strategy

Expand through downstream metals processing projects.

Major Shareholders

PT Aneka Tambang (Persero) shares are owned by the Government of Indonesia (65%) and the public (35%). The shares owned by the Government is Rp 620 billion in 2014 and Rp 1,562 trillion in 2015. The Government also has a stake of Dwiwarna shares in ANTAM, which gives the Government veto right in appointing and dismissing board member in issuing new shares and the merger or liquidation.

Dividend

In the General Meeting of Shareholders for Fiscal Year 2014 on March 31, 2015, shareholders approved the distribution of cash dividends absence for the year 2014 following the Company's losses in Fiscal Year 2014.

While in the General Meeting of Shareholders for Fiscal Year 2013 on March 26, 2014, the shareholders approved the distribution of cash dividends of the Year Profit Attributable to Owners of Parent Entity for the year 2013 totaling Rp 409 944 115 732 to be used as follows: the amount of Rp 92,237,426,040 distributed as cash dividend to shareholders, or 22.5% of Current Year Profit Attributable to Owners of Parent Entity for the year 2013, and a total of Rp 317 706 689 692 used for business development of the Company or 77.5 % of Current Year Profit Attributable to Owners of Parent Entity for the year 2013.

Subsidiaries

In the Financial Statements 2014 and 2015, there were 9 and 12 subsidiaries with direct and indirect ownership presented in Table 6.5 as follows

Table 6.5 Subsidiaries of PT Aneka Tambang (Persero)

Direct ownership

No	Subsidiaries	Percentage of Ownership 2015	Nature of Business
1	Asia Pacific Nickel Pty, Ltd,	100%	Investment company
2	PT Indonesia Coal Resources	100%	Coal mining exploration and operator
3	PT ANTAM Resourcindo	99,98%	Mining exploration and operator

No	Anak Perusahaan	Kepemilikan 2015	Bidang Usaha
4	PT Mega Citra Utama	99,50%	Construction, trading, industry, agriculture and mining
5	PT Abuki Jaya Stainless Indonesia	99,50%	Manufacturing of stainless steel
6	PT Borneo Edo International	99,50%	Construction, trading, industry, agriculture and mining
7	PT Dwimitra Enggang Khatulistiwa	99,50%	Mining exploration and operator
8	PT Cibaliung Sumberdaya	99,15%	Exploration, construction, and mine development, mining production, processing and refining, haulage and sales in the gold mining industry
9	PT International Mineral Capital	99,00%	Mineral mining

Indirect ownership

No	Subsidiaries	Percentage of Ownership 2015	Nature of Business
10	PT GAG Nikel	100%	Mining exploration and operator
11	PT Citra Tobindo Sukses Perkasa	100%	Mining exploration and operator
12	PT Feni Haltim	100%	Trading, construction and services
13	PT Borneo Edo International Agro	100%	Agriculture, industry, agricultural land transportation, trading and services
14	PT Gunung Kendaik	100%	Construction, trading, industry, agriculture, ground transportation, services, mining and printing
15	PT Nusa Karya Arindo	100%	Mineral mining and coal
16	PT Sumberdaya Arindo	100%	Mineral and coal mining service
17	PT Borneo Alumina Indonesia	100%	Industry, services and trade
18	PT ANTAM Energi Indonesia	100%	Service, trade and industry
19	PT JatimArindo Persada	100%	Coal mining exploration and operator
20	PT Kawasan Industri ANTAM Timur	100%	Management industrial area services
21	PT ANTAM Niterra Haltim	100%	Coal mining exploration and operator

Sumber: Laporan Keuangan Aneka Tambang 2015

Key Development Projects

ANTAM has four key downstream metals processing and development projects:

- Pomalaa Ferronickel Plant Expansion Project (P3FP)

With a project value of US \$ 600 million, P3FP aims to improve the efficiency and overall capacity ferronickel plant in Pomalaa. Through P3FP, ANTAM project ferronickel production rate can be increased to 27000-30000 tonnes per year from the previous 18000-20000 tonnes per year. The project also includes construction of coal-fired power plant with a capacity of 2 x 30MW coal, construction of Rotary Kiln-4 as well as the upgrading of factory supporting facilities such as jetty and belt conveyors. P3FP consists of 8 work packages namely 1) Package I: Jetty & Facilities; 2) Package II: Belt Conveyors; 3) Package III: Refining; 4) Package IV: Ladle Furnace; 5) Package V: Ore Preparation & Calcination Line-4; 6) Package VI: Electric Smelting Furnace-4; 7) Package VII: Oxygen Plant-5; and 8) Package VIII: Coal-fired Power Plant with a capacity of 2 x 30MW. In 2011, ANTAM issued bonds worth Rp 3 trillion to help finance the project. The Company obtained investment credit facility worth US \$ 160 million of Indonesia Eximbank, consisting of US \$ 100 million (acquired in 2014) and USD \$ 60 million (acquired in 2015). The credit facility has been disbursed to fund P3FP. Overall, P3FP EPC (Engineering, Procurement and Construction) progress has reached 98.67% at the end of December 2015.

- Haltim Ferronickel Plant Development Project Haltim (P3FH)

Located in East Halmahera, P3FH a project downstream nickel ore into ferronickel to increase the value of reserves of nickel ANTAM. Ferronickel is a raw material in the manufacturing process of stainless steel. P3FH Phase I has a capacity of 13500-15000 tonnes per year with an investment of Rp 3.5 trillion. Haltim Ferronickel Plant

Development Project, which is located near the reserves and resources of primary nickel in East Halmahera, is targeted by the Company to be completed in 2018 (Phase 1).

As of the end of 2015, the Company has completed the construction of supporting facilities such as camp site, main office, port and jetty, and the water intake facility. The overall EPC progress was 6%.

At the end of 2015, ANTAM finalizing a Memorandum of Understanding with PT Tambang Batu Bara Bukit Asam (Persero) Tbk (PTBA) to supply electricity using coal-fired power plant with 80 MW of electricity needs.

The overall P3FH development is estimated to be completed in 2018

- Mempawah Smelter Grade Alumina Refinery Development (SGAR)

The project includes the construction of SGAR plant in Mempawah, West Kalimantan with a capacity of 1 million tons of alumina per year. On July 3, 2015, ANTAM signed a Memorandum of Understanding with INALUM development cooperation Smelter Grade Alumina Refinery plant (SGAR). In April 2016, the synergy between ANTAM with INALUM in SGAR project Mempawah was expanded by signing of a Joint Venture Agreement (JVA) on Mempawah Smelter Grade Alumina Refinery development project (SGAR) in Mempawah, West Kalimantan, and establishing PT INALUM ANTAM ALUMINA. ANTAM took the role of supplier of bauxite which will then be processed into smelter grade alumina, the main raw material of Inalum aluminum smelter in Asahan, North Sumatra. The total requirement of bauxite ore in SGAR operation amounted to 6 million wmt per year. This smelter investment value is estimated to be US \$ 1.5 - 1.8 billion. SGAR will be built in phases with a planned capacity of 2 million tons of smelter grade alumina per year. In the first phase, the planned capacity is 1 million ton of smelter grade alumina per year. Construction of the plant is planned to be completed in 2019.

- Anode Slime & Precious Metals Refinery Project

ANTAM is in the preliminary stages of developing its anode slime and precious metals refinery project, which is planned to process 6,000 tons of anode slime per year

Partnership to develop a new refined mineral production from existing reserves

ANTAM plans to establish partnerships in order to further improve its portfolio diversification of processed minerals. ANTAM and Newcrest, one of the largest gold mining company in the world based in Australia, announced that the two companies entered into a strategic alliance to explore gold and copper deposits in several regions in Indonesia. The strategic alliance between ANTAM and Newcrest realized through the signing of Strategic Alliance Agreement (SAA) on 6 November 2016 in Sydney, Australia. Territory covered by the agreement, namely West Java, East Java, South Sumatra, Nusa Tenggara, North Sulawesi, Halmahera and Maluku Islands. Through the SAA, ANTAM and Newcrest will cooperate to identify and analyze exploration opportunities in West Java, East Java, South Sumatra, Nusa Tenggara, North Sulawesi, Halmahera and Maluku Islands.

In addition to Newcrest, Antam and the Geological Agency of the Ministry of Energy and Mineral Resources signed a Memorandum of Understanding on Research and Development in the Field of Geology on January 12, 2017. The signing of the Memorandum of Understanding (MoU) aims to affirm the joint commitment to implement cooperation through investigation and development of exploration technologies in the fields of geology, particularly related to mineral resources such as gold.

The MoU become the reference in developing technical cooperation programs whose implementation is proposed in two stages:

Phase I (2017-2018): aims to acquire potential gold-rich area that could be recommended for WIUP of gold (Gold Permitted Area of Mining) focuses on the conventional zone (magmatic belt). This phase will be

implemented by Resource Center of Mineral, Coal and Geothermal (PSDMBP), and supported by the Central Geological Survey (PSG), the Geological Agency of the Ministry of Energy and Mineral Resources.

Phase II (2019-2021): aims to find new indications or gold precipitate model in metamorphic environment to gain new broader territory prospect. Implementing Resource Center of Mineral, Coal and Geothermal PSDMBP and Geological Survey (PSG), the Geological Agency of the Ministry of Energy and Mineral Resources.

Further reductions for cash costs and improve cost competitiveness

In October 2016, ANTAM has completed the construction of coal based power plant in Pomalaa, Kolaka, and Southeast Sulawesi. The power plant is part of Pomalaa Ferronickel Plant Expansion Project (P3FP), which is included in Antam business expansion plan, which is coal-fired power plant operation. New coal-fired power plants Pomalaa intended to meet the electricity needs of supporting facilities of ferronickel plant so that the cost of ANTAM's ferronickel production is projected to fall by 15% -20%.

ANTAM is entitled to receive a reduction in income tax as a form of Government incentives related to Pomalaa plant expansion project since 2015 up to 2021. The Pomalaa coal-fired power plant needs about 300,000 tons of low-grade coal annually with a calorific value of 4,200 kilocalorie/kg.

In addition, as a way to improve efficiency, the company also renegotiated contracts with various contractors, utilizing the ore feed mill with higher levels to increase production, and shifting the focus of exploration budget of nickel and bauxite to gold exploration, considering the company already has deposits of nickel and bauxite.

Corporate Social Responsibility

ANTAM implement the Partnership Program and Community Development (CSR) which aims to assist the Government in implementing a more equitable development and improving the welfare of society.

ANTAM CSR realization in 2014 as follows:

Figure 6.6 Realization of PT Aneka Tambang CSR 2014 (in million rupiah)

Activities	2014
Community Development	4.873
Community Services	34.595
Infrastructure Development	23.307
Total CSR Realization	62.775

Source: Reconciliation Report 2014

Coordination with Government

Antam partnership with INALUM: smelter development

As part of the effort to boost downstream sector of mineral and coal which aims to increase the added value of these products, the Government requires all mining companies to build smelters and no longer exporting the raw minerals. The obligation to build smelter stipulated in the Law on Mineral and Coal in 2009, the Government Regulation (PP) No. 1 Year 2014 regarding the Second Amendment to Government Regulation No. 23 Year 2010 regarding Implementation of Coal and Mining Activities and Minister of Energy and Mineral Resources Regulation No. 1 of 2014 on Improving the Mineral Value Added through Processing and Refining Process. According to Director General of Mineral and Coal MEMR, Bambang Gatot Ariyono, the Ministry of Energy and Mineral Resources has issued 253 Mining Business License (IUP) related to smelter development plan, but the realization of the plan was only 20%-30% as of April 2016.

In order to increase the amount of investment smelter in Indonesia, the ministers agreed to provide incentives such as tax allowance for companies that build the smelter, the Government also seeks to simplify the licensing process smelter through One-door Integrated Services of Investment (Pelayanan Terpadu Satu Pintu) in the Investment Coordinating Board (Badan Koordinasi Penanaman Modal/BKPM).

As one measure of downstream policy implementation, Antam synergies with PT INALUM by establishing PT INALUM ANTAM ALUMINA in April 2016, which was marked by the signing of a Joint Venture Agreement (JVA) development projects Smelter Grade Alumina Refinery (SGAR) in Mempawah, West Kalimantan. In thi JVA, ANTAM roles as supplier of bauxite which will then be processed into smelter grade alumina, the main raw material aluminum smelter Inalum in Asahan, North Sumatra, Total needs of bauxite ore in the operation SGAR amounted to 6 million wet metric tonnes (WMT) per year. The reserves and resources of bauxite amounted to 700.9 million wmt, which is adequate for the production of more than 100 years. The joint venture is projected to increase the value of Indonesia's bauxite reserves and reduce imports of alumina,

Smelter investment value is estimated at US \$ 1.5 to 1.8 billions. SGAR will be built in phases with a planned capacity of 2 million tons of SGA per year, In stage I, its capacity is 1 million tons of SGA per year. Construction of the plant is planned to be completed by 2019

ANTAM partnership with PLN

In October 2016, ANTAM has completed the construction of coal-fired power plant in Pomalaa, Kolaka, Southeast Sulawesi, the power plant is part of the Pomalaa Ferronickel Expansion Project (P3FP), which is included in the business expansion plan of ANTAM. The construction of coal -fired power plant in Pomalaa is addressed to meet electricity demand in ferronickel plant's support facilities so that the cost of ANTAM's ferronickel production is projected to fall by 15% -20%.

Pomalaa coal power plant requires around 300,000 tonnes of low-grade coal annually with a calorific value of 4,200 kilocalorie/kg

In the 2015-2019 Strategic Plan of the Ministry of Energy and Mineral Resources, the Government has a target to increase the electrification ratio to 97% in 2019. ANTAM contributes to the achievement of Government targets related to electrification ratio by performing operational synergies with PLN Rayon Kolaka, Southeast Sulawesi. Following the completion of the construction of coal-fired power plant in Pomalaa, ANTAM and PLN signed a Cooperation Agreement on the Purchase of Excess Electricity from Pomalaa power plant in October 2016. Under the agreement, PT PLN (Persero) agreed to buy excess electricity from ANTAM's coal-fired power plant in Pomalaa, amounting to maximum 5 megawatt (MW) at a price of Rp865 per kWh. According to Jamaluddin Amri, Head of Public Relations of Kolaka Regional Secretariat, the 5 MW power supply of ANTAM contributes to PLN's increase of surplus of power approximately by 9 MW power, from the previous surplus of 4 MW.

6.4 PT Bukit Asam (Persero) Tbk

Since Dutch colonial in 1919, Coal mining in Tanjung Enim has been started. The methods used during that time was open pit mining in Air Laya mining which was its main operation.

In 1923, underground mining occurred and replaced open pit mining till 1940, while production activities for commercial needs started from 1938

Along with the end of Dutch colonial rule in Indonesia, the Indonesian employees then fought for the change of mine status into a national mining. In 1950, the Indonesian Government authorized the establishment of the State Enterprise Tambang Bukit Asam Arang (PN TABA). In 1981, PN TABA changed its status to a Limited Liability company under the name of PT Tambang Batu Bara Bukit Asam (Persero) which was

called Perseroan.

In 1990, the Government determined to merge the Company and Perum Tambang Batubara in order to improve the development of the coal industry in Indonesia. In 1993, the Government commissioned the Company to develop coal briquette business in accordance with the development program of national energy security. On 23 December 2002, the Company was listed as public company on the Indonesian Stock Exchange with share code "PTBA".

Corporate Vision, Mission dan Values

Corporate Vision

- A world-class energy company that cares about the environment.

Corporate Mission

- Manage energy resources by developing corporate competencies and human excellence to provide maximum value for the stakeholders and environment

Corporate Strategies

- PTBA does system increasing with CNF (cost and freight) for product selling to PLN. At the moment, PLN sees PTBA as the most interesting entity compared to another company in the same industry due to close distance between PTBA and PT PLN in Banten.
- PTBS also develop and exploit product made from palm oil plantation which can be used as bio fuel. Furthermore, these bio fuel might be used for biomass power plant that can be sold to PT PLN.
- PTBA built a number of coal-fired power plants, both for internal needs as well as to supply electricity for PLN. By the end of 2015, PTBA operated three PLTUs with a total capacity of 268 MW.

- In 2015, PTBA has conducted ground breaking of 2 x 620 MW PLTU Banko Tengah (Sumsel 8) which is considered as the largest mine mouth PLTU in Indonesia and this PLTU could have been in commercial operations in 2019.

Shares ownership

PT Bukit Asam (Persero) is owned 65.02% by government and 34.98% by public.

Dividend

The Company sets the policy on the use of net income from operations for one financial year and pays cash

dividends from the net income with due regard to the net income amount, the amount of retained earnings and business development plan

In 2014, the total dividend which is paid to owners of the parent was IDR 1.004.381 million. While in 2015, the Company's Dividend Pay- Out Ratio was set at 35% of the 2014 net income, which amounted to IDR 705,658 million or IDR 324.6 per share.

List of Subsidiaries

Based on *Annual Report PT Bukit Asam (Persero) 2015*, there are 12 subsidiaries as presented in Table 6.7 as follows:

Table 6.7 List of Subsidiaries

No	Subsidiaries	Percentage Owned 2015	Bidang Usaha
1	PT Batubara Bukit Kendi	75%	Coal mining
2	PT Bukit Asam Prima	99,99%	Coal mining
3	PT International Prima Coal	51%	Coal mining
4	PT Bukit Asam Transpacific Railway	10%	Railway Transportation and Coal
5	PT Bukit Pembangkit Innovative	59,75%	Coal-Fired Power Plant
6	PT Bukit Asam Banko	65%	Coal mining
7	PT Bukit Asam Metana Ombilin	99,99%	Coal Bed Methane
8	PT Bukit Asam Metana Enim	99,99%	Coal Bed Methane
9	PT Bukit Energi Metana	99,99%	Coal Bed Methane
10	PT Huadian Bukit Asam Power	45%	Coal-Fired Power Plant
11	PT Bukit Multi Investama	99,87%	Mining Investment and Infrastructure
12	PT Bukit Energi Investama	99,28%	Power Plant Investment

Source: *Bukit Asam Annual Report 2015*

Corporate Development Project

PT BA is ready to build 4400 MW Power Plant in accordance with government policy to build 35,000 MW power generation program under Presidential

Decree No 4/2016 to accelerate the electrical infrastructure construction PT Bukit Asam (Persero) Tbk is set to participate in constructing power plant with total 4400 Megawatt.

The 35,000 MW Government program has begun in 2014 and will be completed in 2019. This platform is a program to build power plant with a total capacity of 35,000 MW and aims to fulfill Indonesian society electrical needs from Sabang until Merauke. These point will affect economic growth outside Java Island which had electrical deficit. The 4400 MW power plants construction process has reached 1500 MW that consist of PLTU Banjarsari 2x110 MW dan PLTU banko tengah 2x620 MW mine mouth.

PLTU mine mouth Banjarsari is a PLTU with capacity 2 x 1100 MW located in di Kabupaten Lahat, South Sumatra. The construction and operational of these PLTU is handled by PT Bukit Asam (PTBA) Tbk subsidiaries, PT Bukit Pembangkit Innovative (BPI). This entity is a joint venture between PTBA as a majority shareholders with PT Pembangkitan Jawa Bali (PT PLN subsidiaries) and PT Navigate Innovative Indonesia (NII). The construction of PLTU Banjarsari has completed and this PLTU is ready to supply interconnection Sumatera network.

PT Bukit Asam Tbk (PTBA) targeted PLTU Mine Mouth Banko Tengah Sumatera Selatan, with capacity 2x620 MW with value US\$ 1,59 million to be operated in 2019. PTBA controls 45% shares of this PLTU through its subsidiaries, PT Huadian Bukit Asam Power. Furthermore, PTBA is a coal sole supplier with value 5.4 million ton per year for 25 years.

The 4400 MW power plant capacity needs US\$ 1 million to US\$ 1,3 million to build every 1 MW power plant. Moreover, these fund can be obtained from both loan and equity.

Corporate Social Responsibility (CSR)

Entity's CSR program consist of PKBL that contains *Program Pengembangan Masyarakat* and *Program Pembangunan Daerah* PTBA CSR realization program which is integrated in Program Kemitraan dan Bina Lingkungan (PKBL) PT Bukit Asam (Persero) Tbk in 2014 is represented in table 6.8 as follows:

Table 6.8 Realization of PT Bukit Asam CSR 2014 (in million rupiah)

Activity	2014
Community empowerment	22.560
Community services	33.129
Total PKBL realization	55.689

Source: Reconciliation Report 2014

Coordination with Government

PTBA will Increase its Production in 2017

In accordance with energy provision and infrastructure Government program along with economic autonomy creation which is stipulated in Government Regulation No 79/2014 about National Energy Policy, PT Bukit Asam committed to increase coal production in 2017 from 25 million ton to 27 million ton with a regard to support the successful of this Government policy. However, target in 2018 has not been attached by PTBA since these target is a yearly target.

The 2017 capital expenditure is IDR 4.5 trillion and this capital will be used for several mining tools investment and mining companies acquisition. This acquisition activities will be held in first quarter in 2017. The purpose of this acquisition is to support PTBA productivity inorganically.

PTBA needs support from PT Kereta Api Indonesia (PT KAI) in this expansion activity. PT KAI has established double tract railways from coal mining location in PTBA di Muara Enim, Sumatera Selatan to Tarahan Port in Lampung for productivity increasing purpose. This railways tracks are predicted to finish in 2017.

There is a problem in capacity carriage related to this collaboration between those two entities. In 2016, the coal carriage capacity was 20 million ton per year and it was below expectation. This problem is predicted to be solved in the following year due to double tract railways from mining location to port.

PTBA has a cooperation with PT Kereta Api Indonesia in terms of coal carriage from Tanjung Enim to Tarahan Port. This port is a pier which is build, operated and used to support mining carriage purposes.

downstream tin, such as solder, tin chemicals and other forms of tin as well as business areas based on competency, such as construction sector, property, hospital services and agro-industrial enterprises. The Company has not joined in international institution which focusing in policy advocacy.

6.5 PT Timah (Persero) Tbk

PT TIMAH (Persero) Tbk is state owned company which is engaged in integrated tin mining business. PT Timah has 200 years history in Indonesia. On colonial era, PT Timah carried out tin mineral mining on land and at sea around Bangka, Singkep and Belitung islands. On this era, tin mining in Bangka, Belitung and Singkep were managed by business entity owned by the Government of Dutch East Indie namely Banka Tin Winning Bedrijf (BTW), Gemeenschappelijke Mijnbouw Maatschappij Billiton (GMB), dan NV, Singkep Tin Exploitatie Maatschappij (NV, SITEM) respectively.

In 1953-1958, the Government of Indonesia nationalized these three companies into state company. In 1961, the Government established the Agency for Public Governance (BPU) mining state companies. In 1968, those three companies together with BPU consolidated into the State Enterprise (PN) Tambang Timah.

In 1976, the status of PN Tambang Timah and Smelter Project Tin Mentok turned into a Limited Company which is owned by the Government. According to deed number 1 year, PN Tambang Timah changed to PT Tambang Timah (Persero). In 1995, the Government did privatization by listed the shares of PT Tambang Timah in the Jakarta Stock Exchange, the Surabaya Stock Exchange (now Indonesia Stock Exchange) and the London Stock Exchange (London Stock Exchange) and changed its corporate name's into PT TIMAH (Persero) Tbk. After privatization, the composition of the Company's shareholders is 65% Government and 35% public.

On August 8, 2008, the Company made a stock split with a composition of 1:10 so that the nominal value of shares changed from IDR 500 to IDR 50 per share.

The Company is doing some business through its subsidiaries, such as tin mining and associated mineral, mineral mining of non-tin, the production of

Vision and Mission and Company Strategy

Vision

- Be a leading mining company in the world that is environmental friendly

Mission

- Building strong human resources, supreme and dignified
- Implement good governance and right mining
- Optimizing the value of the company and contributing to the shareholders also social responsibility

Company strategies

- PT Timah long term objectives during the period 2014- 2018 are set based on the rate of profit growth and the health level of the Company
- The company targets a growth rate over the next 5 (five) years is set at minimal profit growth of 15% per year. While the Company's target level of health for the next five years is set at the level of health Healthy AA category

Shares ownership

PT Timah (Persero) Tbk is owned 65% by the Government and 35% by the public.

Dividend

In 2014, cash dividend was paid for IDR 283.29 billion to the shareholders, or equal with 55% from net profit in 2013. While in the following year, even though the company's net profit increased, the dividend payment ratio decreased into 30% with total amount IDR 191.39 or IDR 25.67 per shares. This dividend was paid in 2015.

Subsidiaries

Based on Annual Report 2015, PT Timah (Persero) has 13 subsidiaries as represented in Table 6.9 below:

Tabel 6.9 List of PT Timah (Persero) Subsidiaries

No	Subsidiaries	Percentage owned 2015	Business Fields
1	PT Timah Industri	99,9%	Downstream product
2	PT Timah Investasi Mineral	99,9%	Coal mining and trade
3	PT Dok dan Perkapalan Air Kantung	90%	Shipping
4	PT Tanjung Atam Jaya	50%	Coal mining
5	Indometal London Ltd	100%	Tin Marketing
6	Timah International Investment, Pte.Ltd	100%	Investment
7	Great Force Trading Limited	100%	Trading
8	Rumah Sakit Bakti Timah	99,8%	Health services
9	PT Timah Adhi Wijaya	67,55%	Property and Area development
10	PT Timah Agro Manunggal	99,9%	Agriculture, Livestock, Reclamation
11	PT Truba Bara Banyu Enim	99,8%	Coal mining
12	PT Koba Tin	25%	Tin mining
13	PT Asuransi Jiwa Tugu Mandiri	27,78%	Assurance services

Corporate Social Responsibility

One of the caring manifestation of PT Timah (Persero) Tbk to environment mainly in infrastructure, education, training, religious and sport and other social program is summarized in Partnership Program and Community Development (PKBL) and Corporate Social Responsibility (CSR) program.

The realization of PKBL PT Timah (Persero) Tbk for 2014 as presented in Tabel 6.10:

Tabel 6.10 Realization of PT Timah CSR 2014 (in million rupiah)

Activity	2014
Community empowerment	22.560
Community services	33.129
PKBL total realization	55.689

Source: Reconciliation Report 2014

Coordination with Government

Government ways in eradication of Illegal Mining

Tin illegal mining in Bangka Belitung already occurred for many years. Thus, to eliminate these tin illegal mining, Indonesia Government need to tighten tin rules through Regulation of Minister of Trade (Permendag) No 33/2015, this Permendag is a replacement for previous Permendag No 44/2014 about tin export provision.

Based on Permendag No 44/2014, Government allows tin export in 4 different categories, these are tin got, tin solder, pure tin and other shapes and tin alloys. However based on Permendag No 33/2015, pure tin export is not allowed anymore, so there are 3 tin export categories approved by Government. Based on this Permendag, pure tin bar or tin ingot has to be sold in exchanges both in London Metal Exchange atau Indonesia Commodities and Derivative Xchange (ICDX). This case also apply on Permendag 44/2014.

Commodity which is sold over exchanges gives benefits to Government through royalty. For all this time, the royalty is not received by Government for product which is not sold over exchanges or considered as illegal stuff.

Based on International Technology Research Institute (ITRI) data, Indonesia tin total production from 2008 to 2013 was around 593.304 ton. From the total production during this time, approximately 352.000 ton was consider as tin illegal mining.

As a big tin smelter company in Indonesia, PT Timah had IDR 20 trillion loss between 2009 and 2014. PT Timah lost 125.000 ton of mining deposit was mined by illegal miner.

Besides that, PT Timah experienced indirect lost through illegal miners in Bangka Belitung. These illegal miners made environmental damage surrounds mining area and as a consequences of their act, mining reserve vanished and gone

7

Social and Environmental Responsibility



7.1 Oil and Gas Sector: Abandonment and Site Restoration Fund (ASR Fund)

Regulation

The series of exploration and exploitation of oil and natural gas process has directly and indirectly raised the social and environmental issues. Therefore, it is necessary to have protection, management and restoration of environment as a form of accountability of PSC contractors.

PSC contractors have the obligation to carry out the environmental restoration activities at decommissioning stage, in which the entire commercial production has ended.

At this stage, the PSC contractors will dismantle all production installation or other supporting facilities, known as the Abandonment and Site Restoration (ASR). Abandonment is the activities to reallocate or dismantle the production installation, including pipes, terminal and loading and unloading facilities. While site restoration is the environmental restoration program as part of the oil and gas upstream activities.

The ASR implementation shall refer to Work Procedure (*Pedoman Tata Kerja/ PTK*) No. 040/PTK/XI/2010 on Abandonment and Site Restoration as stipulated by Special Task Force for Upstream Oil and Gas Business Activities (*Satuan Kerja Khusus Pelaksana Kegiatan Usaha Hulu Minyak dan Gas/SKK Migas*)

In purpose to conduct the planning, provision of fund, execution, fund utilization and ASR reporting. The following are the main points on PTK of ASR:

1. Development of Report on provision of ASR

PSC contractor is obliged to develop the report on ASR provision for each of fields within the working area and to submit the report to Risk Management and Tax Division. The scope of the report, among others, are: ASR work plan, the calculation of estimated ASR amount and provision of ASR fund for each quarter.

The calculation of yearly provision fund for ASR shall follow the below formula:

Provision for yearly ASR Fund

$$= \text{Estimated ASR amount} \pm \text{Adjustments} - \text{Current ASR Fund deposit} / \text{Remaining period for ASR fund provision}$$

Remarks:

Estimated ASR amount: Estimated ASR amount according to the latest evaluation

Adjustments: Adjustment amount caused by changes in assets and estimated ASR amount

Current ASR fund deposit: the amount of ASR fund deposit (including net interest) on the last day of particular period

2. ASR fund deposit

ASR fund will be placed in a joint account within particular bank that has been appointed through an agreement between SKK Migas and PSC contractor. Each semester, SKK Migas will send the invoice of ASR Fund to PSC contractor according to evaluation of estimated ASR amount and current ASR fund deposit. The placement of ASR fund shall be performed 30 days after the invoice date.

3. Execution of ASR program

To execute the ASR program, PSC contractor has to submit the proposal for ASR execution to Deputy for Operations Management of SKK Migas at the latest 2 years before the execution plan

However, for ASR plan related to production installation or other supporting facilities able to be proposed at the latest 6 (six) months before the execution plan.

When the proposed program obtain approval from SKK Migas, it is compulsory for PSC contractors to execute the ASR program as proposed, among others:

- Technical planning
- Licensing and compliance to regulation
- Well closing
- Dismantling of installation
- Transportation
- Storage
- Area recovery

4. Disbursement of ASR fund

PSC contractors may proposed the application for disbursement of ASR fund according to the execution of ASR program by submitting the Letter of Joint Instructions (*Surat Instruksi Bersama/SIB*) together with the invoice document, Letter of Work Completion (*Berita Acara Penyelesaian Pekerjaan*) which are signed by related stakeholders, and approval of ASR execution. The application will be evaluated and proposed to Deputy of Financial Management of SKK Migas, in which the approved application will be submitted to bank that manage the ASR fund.

5. Accountability of ASR execution

The monitoring of ASR program and fund disbursement shall be reported to Risk Management Division of SKK Migas for evaluation. The evaluation result will declare that the ASR program has been officially implemented in accordance with the applicable law.

The remaining ASR fund will be carried over for next period provision of other fields within the particular working area. However, if the particular working area has been terminated, thus the remaining ASR fund will be acquired as the state fund.

Implementation

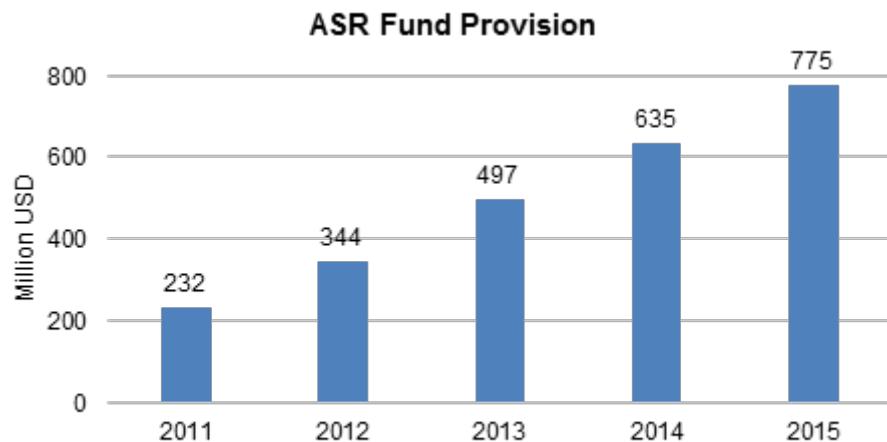
In 2015, the ASR fund deposit at state owned banks, which are: BNI, BRI and Mandiri has achieved USD 775 million, or has increased 22% from previous year.

The ASR fund provision has been consistently increased in the past 5 (five) years, as shown on Figure

7.1 below, with an increase of 27,28%.

This is showing us that the state-owned banks has gain trust of SKK Migas and PSC contractors to be the banks for ASR fund deposit

Figure 7.1 Provision of ASR fund in state owned banks 2011-2015



Source: Reconciliation Report 2014

In 2015, the ASR fund provision in BNI, BRI and Mandiri has achieved USD 775 Million, or has increased 22% from previous year.

The ASR fund provision has been consistently increased in the past 5 (five) years has showed the growth of CAGR up to 27,28%

This is triggered by the examination result from The Audit Board of The Republic of Indonesia (*Badan Pemeriksa Keuangan Republik Indonesia* BPK RI) on SKK Migas which concluded that there are PSC contractors that has not fulfilled the obligation for ASR fund provision as stated in the PSC contract.

BPK RI report on Central Government Financial Report for the year 2015 and Monitoring Report on Audit Result Follow Up of Central Government Financial Report for the year 2007-2014 provided recommendation to Minister of Finance of Republic of Indonesia and Head of SKK Migas to follow up the implementation of regulation, provide a stronger monitoring and provide a strict sanctions to PSC contractors who has not fulfilled the obligation as required.

Monitoring

Government of Indonesia formulated a plan to strengthen the implementation of regulation related to PSC contractors' post-operation obligation.

7.2 Mineral and Coal Mining Sector: Reclamation and Post Mining Fund

Regulation

Mineral and coal mining companies which are in exploration and production stage obliged to develop and report their reclamation plan and to provide a Reclamation and Post Mining Fund. Both, plan and the fund are as the form of collateral for environmental and ecosystem recovery, restoration and quality improvement throughout the mining area.

For that, The Minister of Energy and Natural Resources has released the Minister Regulation no. 7 in 2014 which governed the implementation of reclamation and post mining for mineral and coal mining operation.

The following are the main key points of the regulation for each of the mining operation stages:

1. Exploration stage

- Reclamation plan for exploration stage

The reclamation plan for exploration stage is required to be developed by mining license (*Izin Usaha Pertambangan*/IUP) holders and exploration license (*Izin Usaha Pertambangan Khusus Eksplorasi*/IUPK Eksplorasi) holders which shall be based on agreed Environmental Document and align with yearly exploration stage schedule. In developing the reclamation plan, IUP and IUPK holders shall consider the exploration method, particular condition of mining area and related regulations.

The following are the scope of reclamation plan for exploration stage:

- a. Land utilization prior and post exploration stage
- b. Land clearance plan on exploration stage which will affect the land
- c. Reclamation plan for exploration stage
- d. The success criteria for reclamation plan for exploration stage which consist of success standard for land utilization, revegetation, and final completion

- e. The reclamation fund planning for exploration stage

The reclamation plan for exploration stage is submitted to Minister of Energy and Natural Resources via Director General, Governor or Regent/Mayor in accordance with the authority level at least 45 calendar days prior to the start of exploration stage.

The amount of reclamation fund for exploration stage determined according to the size of the clearance area/land for exploration stage and has to be sufficient to pay all required cost of reclamation activities.

- Reclamation fund for exploration stage

Reclamation fund for exploration stage shall be paid by IUP and IUPK holders in accordance with the amount set and stated on exploration work plan and budget.

The reclamation fund shall be in the form of time deposit at state owned banks located in Indonesia with the collateral period aligned with the reclamation schedule of exploration stage. Fund deposit shall be submitted by the latest of 30 calendar days after work plan and budget being approved, and shall not negate the obligation to perform reclamation.

- Reporting and Disbursement of Reclamation Fund for Exploration Stage

The reporting of reclamation fund for exploration stage shall be performed by IUP and IUPK holders annually, accompanied by the proposal for fund disbursement. Minister as represented by Director General, Governor or Regent/Mayor according to the authority level shall evaluate the report according to criteria for reclamation plan and field review, also measuring the fund disbursement according to Reclamation Review Guidance. If the review result has achieved 100%, then the approval for fund disbursement shall be issued. The approval will take a maximum of 30 calendar days after the report has been submitted

Production stage

- Reclamation plan for Production Stage

After completing the Feasibility Study, IUP and IUPK holders required to develop the reclamation plan for production stage and post mining plan for the period of 5 years with details for each year, and shall be referred to agreed Environmental Document. If the life of the mine is below 5 years, then the reclamation plan able to be adjusted to life of the mine with details for each year. The following are the scope of reclamation plan for production stage:

- a. Land utilization period and post production stage
- b. Land clearance plan on production stage which will affected the land
- c. The success criteria for reclamation plan for production stage which consist of success standard for land utilization, revegetation, civil works and final completion
- d. The reclamation fund planning for production stage

Reclamation plan for production stage able to be in the form of revegetation, residential area, tourism, source of water or cultivation area. The reclamation plan for production stage is submitted to Minister of Energy and Natural Resources via Director General, Governor or Regent/Mayor in accordance with the authority level and accompanied by the submission of proposal for IUP and IUPK for production stage.

IUP and IUPK production stage holders shall submit the reclamation plan for production stage at the latest 45 calendar days before the end of reclamation activities of previous period.

The cost of reclamation for production stage is determined by the size of the clearance area for the production stage for that period and shall be able to cover all cost for the reclamation program.

- Reclamation plan for production stage

Reclamation fund for the first 5 years period of production stage shall be paid by the IUP and IUPK production holders in accordance with the amount that has been set and stated in the work plan and budget for annual production. There are several forms of reclamation fund that may be proposed by IUP and IUPK production holders, among others:

- a. Joint account in the state owned banks in Indonesia
- b. Time deposit in state owned banks in Indonesia with the collateral period aligned with the schedule for reclamation for production stage.
- c. Bank Guarantees issued by state owned banks or national commercial banks in Indonesia with the collateral period aligned with the schedule for reclamation for production stage.
- d. Accounting provision

The form of reclamation fund will be determined by the Director General on behalf of the Minister, Governor or Regent/Mayor. However, the changes of form of reclamation fund may be proposed by both Government and IUP/IUPK production holders by considering:

- a. The performance of IUP and IUPK production holders
- b. The financial condition of IUP and IUPK production holders

Fund deposit shall be submitted by the latest of 30 calendar days after work plan being approved, and shall not negate the obligation to perform reclamation.

- Reporting and Disbursement of Reclamation Fund for Production Stage

The reporting for reclamation for production stage shall be performed by IUP and IUPK holders annually, accompanied by the submission of proposal to disburse reclamation fund.

Minister as represented by Director General, Governor or Regent/Mayor according to the authority level shall evaluate the report according to criteria for reclamation plan and field review, also measuring the fund disbursement according to Reclamation Review Guidance. The review results are consist of 3 categories: 60%, 80% and 100% in accordance with approved review guidance. The approval will take a maximum of 30 calendar days after the report has been submitted.

3. Post Mining Stage

Plan for Post Mining stage

Post mining plan shall be developed by IUP and IUPK exploration holders as the requirement to obtain IUP and IUPK for production stage. Post mining plan shall referred to Feasibility Study and Environmental Document that has been approved.

The following are the scope of Post Mining plan:

- a. Area profile

- b. Mining activities description

- c. Latest condition of post mining area, includes: the remaining reserve, land utilization, morphology, surface water condition and ground water condition, aquatic biology and terrestrial, and also social, culture and economic condition

- f. Criteria for a successful post mining program, covering successful standard for former quarry site, refining facilities and/or refinement, supporting facilities and monitoring

- g. Budget for post mining

In the development of post mining plan, IUP and IUPK exploration holders are also required to consult with key stakeholders, among others: Ministry of Energy and Natural Resources, mining offices in Regional Governments, related institutions and civil society which directly impacted by the mining activities.

The consultation result shall be documented into Record of Consultation and signed by each of the parties involved in the consultation.

The cost budget for post mining shall be able to cover all the required expenses for post mining plan and has considered the future value of the cost.

- Post mining fund

Post mining shall be submitted by IUP and IUPK production holders in accordance with the amount set and stated in the annual work plan and budget for production stage

Post mining fund shall be in the form of time deposit in a state owned bank in Indonesia with the collateral period that is aligned with the post mining schedule

Fund deposit shall be submitted by the latest of 30 calendar days corresponding with the post mining fund submission schedule stated in the post mining plan, and shall not negate the obligation to perform reclamation.

All post mining fund shall be fully paid within 2 years before the post mining activities started.

• Reporting and reimbursement of post mining fund

Reporting of post mining activities required to be quarterly performed by IUP and IUPK production holders, accompanied by the proposal for post mining fund disbursement.

Minister as represented by Director General, Governor or Regent/Mayor according to the authority level shall evaluate the report according to criteria for post mining plan and field review, also measuring the fund disbursement according to Post mining Review Guidance.

If the review result has achieved 80%, then the IUP and IUPK production holders able to submit the proposal for time extension on post mining

activities. After the post mining activities completed and achieve 100% in the re-evaluation, then the approval for disbursement shall be issued.

The process for fund disbursement will take maximum 30 calendar days after the report is submitted.

Implementation

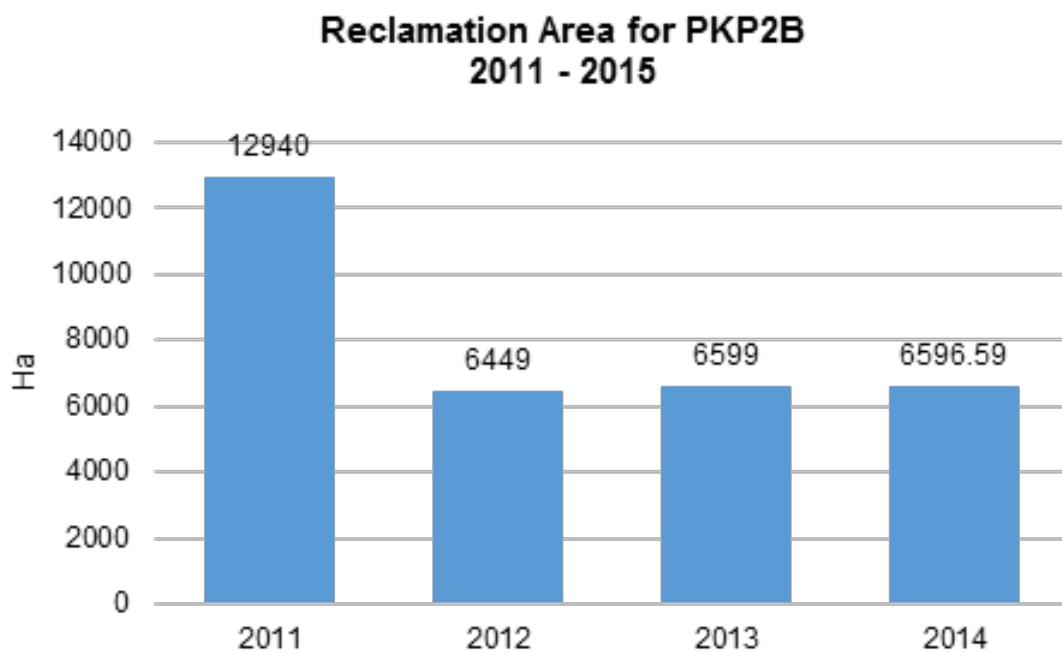
One of the Strategic Goal of Directorate General of Mineral and Coal is “The realization of mineral and coal mining activities in accordance with the Good Mining Practice”. The achievement of such goal able to be the parameter of environmental and social responsibilities

on mineral and coal mining activities. The indicator set to support the achievement of such goal is the size of reclamation area in the former mining site (in Ha).

A consistent reclamation activities at former mining site has been increased in the past 4 years, as being shown in Figure 7.2 below.

A soaring level of realization has shown that the Government has been able to implement the regulation and conducting monitoring on reclamation and post mining activities as governed in Regulation of Minister of Energy and Natural Resources No. 7 which issued in 2014

Figure 7.2 Reclamation area for PKP2B tahun 2011-2015



Source: Performance Report of Directorate General of Mineral and Coal and
EY Analazaysisa

Monitoring

An increasing size of reclamation area in 2015 has been supported with various efforts from Directorate General of Mineral and Coal by approaching, developing and supervising mining companies, as follow

- a. Online reclamation report and environmental monitoring

Direktorat General of Mineral and Coal has provided a website as communication tool between Government of Indonesia and companies that holds Contract of Work (*Kontrak Karya/KK*) and Coal Contract of Work (*Perjanjian Karya Pengusahaan Pertambangan Batubara/PKP2B*). Through the website, mining companies able to do monthly reclamation report and independent environmental monitoring in more efficient manner. Currently, has been recorded 62 mining companies that have submitted the report online.

- b. Evaluation and monitoring of reclamation activities for KK and PKP2B holders

Reclamation activities performed and reported to Directorate General of Mineral and Coal will be followed up through evaluation process on field report documentation and direct field evaluation. The evaluation result is utilized as basis for reclamation performance improvement in order to obtain approval and reclamation fund disbursement which has been allocated by mining companies in the beginning of mining activities. It has been recorded that 51 mining sites have been reviewed and evaluated throughout 2015.

- c. Technical guidance on reclamation and post mining

Development program that has been provided by Directorate General of Mining and Coal is, among other, the reclamation and post mining technical guidance, which aims to provide explanation and understanding on reclamation and post mining activities that has been governed by Government of Indonesia.

The technical guidance program has been conducted twice in 2015, in Surabaya (East Java) and Tanjung

Pinang (Riau Islands). By performing such program, Government of Indonesia are expecting that the reclamation activities that based on applied regulation will be increased.

7.3 Corporate Social and Environmental Responsibilities Program

Regulation

Corporate responsibilities are not limited to aspect of operational success and customer satisfaction, but also includes social and environmental aspects which commonly known as Corporate Social Responsibility (CSR).

Corporate social and environmental responsibilities are regulated on Law no 40 of 2007 on Limited Liabilities Companies where on article 74 stated:

1. Limited liabilities company which activities are in and/or related to natural resources are obliged to perform social and environmental responsibilities
2. Social and environmental responsibilities is the obligation of companies which budgeted and accounted as corporate expense and are carried out with due regard to decency and fairness
3. Companies that do not perform the obligation shall be penalized in accordance with the provisions of the legislation

In addition, specifically for State Owned Enterprise (SOE) have also been regulated in the Minister of SOE Regulation no. Per-05/MBU/2007 on Partnership and Community Development Program (*Program Kemitraan Bina Lingkungan/PKBL*)

PKBL is consist of program to empower Small Medium Enterprise (SME) by providing revolving funds and assistance, known as Partnership Program (*Program Kemitraan*); empowerment of community condition, known as Community Development Program, with the support of Fund from SOE's profit.

For companies in oil and gas sector, Law no. 22 of 2001 on Natural Oil and Natural Gas in article 13 clause 3 (p) states: PSC as described in clause (1) obliged to provide, at minimum, basic provision for: (p) community development and guarantee the rights of cultural society.

In addition, Law no. 25 of 2007 on Capital Investment in article 74 states that each enterprise in the business of and/or related to natural resources are obliged to perform social and environmental responsibilities. If the obligation is not implemented, the enterprise shall be penalized in accordance with the provisions of the legislation.

In 2017, Commission VIII of the House of Representatives (*Dewan Perwakilan Rakyat/DPR*) proposed a Bill on Corporate Social Responsibilities to be included in the national legislation program in 2017. There are five main elements in this Bill, such as:

- a. Synchronization of business involvement to alleviate poverty,
- b. Management of involvement for corporate social responsibility,
- c. Mechanism and coordination of corporate social responsibility fund to alleviate poverty,
- d. The amount and payment procedure of corporate social responsibility,
- e. Sanctions and monitoring.

Implementation

According to the sample of companies in extractive industries for 2014, able to be identified the amount of corporate social responsibility being allocated as follow:

Oil and gas sector (in thousand USD):

1. Community service: 1.493.950,-
2. Infrastructure development: 1.150.041,-
3. Community empowerment: 1.032.283,-
4. Education development: 3.268,-
5. Utilization of company facilities and infrastructure: 33,-

Mineral and coal sector (in million IDR and thousand USD):

1. Community service: IDR 166.738,- and USD 71.877,-
2. Community empowerment: IDR 84.242,- and USD 13.324,-
3. Infrastructure development: IDR 48.812,- and USD 11.783,-
4. Education development: IDR 21.421,- and USD 272,
5. Utilization of company facilities and infrastructure: IDR 707,

From the 2014 data above, we able to identify that community service, which naturally has short term impact, such as donation for natural disaster victims and charity/philanthropy program, has been looking as the main program to implement CSR program. While program with longer term impact or more fundamentals, such as: community empowerment and education development has not been seen as main program.

The more detail explanation of the above categorization are, as follow:

1. Community service: Donation for natural disaster and charity/philanthropy,
2. Community empowerment: Forming groups to increase the sales quality, quantities and sales network
3. Infrastructure development: development and/or restoration of facilities, such as: religion facilities, public facilities, health facilities, etc.

4. Education development: Program to increase the level of education for surrounding society, such as: scholarship program for high achievement student and grants for educational facilities
5. Utilization of company facilities and infrastructure: Training program for youth and society in specific skills owned by the companies, such as: welding, lathing, mechanical workshop; creative skills to utilize industrial waste and providing sales channel (by collaborating with related institutions).

Monitoring

One of the challenges in monitoring the implementation of CSR is the various definitions of CSR in the regulation issued by Government. Also, it is very difficult for Government, especially in regional Government, to perform the monitoring as there is no clear regulations and/or law that are govern the procedure and the expected technical instruction.

Considering the condition of Indonesia lack of awareness to perform CSR and also with the increasing numbers of irresponsible practices by companies in extractive industries, it is proposed to consider the changes of nature of CSR from non-legalized activities into legalized activities with a clear description of penalty or sanction for those who neglect the regulation.

However, such changes also need to consider the impact to investment condition in Indonesian extractive industries and also accompanied by a consistent monitoring and implementation of regulation.

Appendix 1

2014 Contextual Report Outline

No	2014 EITI Contextual Report	EITI Standard 2016 Requirement	Scoping Note 2014
1	Foreword and Background		
1.1	Foreword		
1.2	Background		
1.2.1	Scope of EITI in Indonesia		
1.2.2	The EITI Standard 2016		
1.2.3	Legal Framework EITI in Indonesia		Point C.2
2	Indonesia's Extractive Industry Governance		
2.1	Laws and Regulations Related to Oil and Gas and Minerals and Coals Mining Industry	2.1 Legal framework and fiscal regime	
2.1.1	Laws and Regulations Related to Oil and Gas Mining Industry	2.1 Legal framework and fiscal regime	Point C.2
2.1.2	Laws and Regulations Related to Mineral and Coal Mining Industry	2.1 Legal framework and fiscal regime	Point C.2
2.2	Duties, Roles and Responsibilities of Government Agencies Associated with the Extractive Industries	2.1 Legal framework and fiscal regime	
2.2.1	Ministry of Energy and Mineral Resources	2.1 Legal framework and fiscal regime	
2.2.1.1	Directorate General of Oil and Gas	2.1 Legal framework and fiscal regime	
2.2.1.2	Directorate General of Mineral and Coal	2.1 Legal framework and fiscal regime	Point C.1
2.2.1.3	Special Task Force for Upstream Oil and Gas Business Activities (SKK Migas)	2.1 Legal framework and fiscal regime	
2.2.2	Ministry of Finance	2.1 Legal framework and fiscal regime	
2.2.2.1	Directorate General of Budget	2.1 Legal framework and fiscal regime	Point C.1
2.2.2.2	Directorate General of Fiscal Balance	2.1 Legal framework and fiscal regime	Point C.1
2.2.2.3	Directorate General of Tax	2.1 Legal framework and fiscal regime	

No	2014 EITI Contextual Report	EITI Standard 2016 Requirement	Scoping Note 2014
2.2.2.4	Directorate General of Treasury	2.1 Legal framework and fiscal regime	
2.2.2.5	Directorate General of State Assets Management	2.1 Legal framework and fiscal regime	Point C. 1
2.2.3	Ministry of Environment and Forestry	2.1 Legal framework and fiscal regime	
2.2.4	Regional Government	2.1 Legal framework and fiscal regime	Point C.4
2.3	Ongoing Changes and Improvements of Governance Associated with the Extractive Industries	2.1 Legal framework and fiscal regime	
2.3.1	Changes and Improvements of Governance in Oil and Gas Sector	2.1 Legal framework and fiscal regime	
2.3.2	Changes and Improvements of Governance in Mineral and Coal Sector	2.1 Legal framework and fiscal regime	
3	Licensing, Zoning of Oil and Gas and Mineral and Coal Working Area and Contracting		
3.1	Determination and Offering Process of Oil and Gas Working Area	2.2 License allocations	
3.1.1	Determination of Working Area	2.2 License allocations	Point C.9
3.1.2	Bidding of Working Area Procedure	2.2 License allocations	
3.1.3	Offer of Working Area in Year 2014	2.2 License allocations	Point C.10
3.2	Process of Determining and Granting Mineral and Coal Mining Working Zone License	2.2 License allocations	
3.2.1	Determination of Mining Areas Allocation	2.2 License allocations	Point C.9
3.2.1.1	Mining Zones Determination	2.2 License allocations	
3.2.1.2	Determination of Mining Zones for year 2014	2.2 License allocations	Point C.10
3.2.1.3	Mining Permit Areas/Wilayah Izin Usaha Pertambangan (WIUP)	2.2 License allocations	

No	2014 EITI Contextual Report	EITI Standard 2016 Requirement	Scoping Note 2014
3.2.1.4	Determination of Mining Permit Areas/ <i>Wilayah Izin Usaha Pertambangan (WIUP)</i> for Year 2014-2016	2.2 License allocations	Point C.10
3.2.2	Procedure of Mining Permit Areas Bidding	2.2 License allocations	
3.2.3	Arranging IUP Issuance	2.2 License allocations	
3.2.4	Transfer of Contracts and IUP	2.2 License allocations	
3.3	Extractive Industries Contract System and Licensing	2.2 License allocations	
3.3.1	Applicable Contract in Oil and Gas Mining Sector	2.2 License allocations	
3.3.2	Expired Profit Sharing Contract	2.2 License allocations	
3.3.3	Transfer of Participating Interest (PI)	2.2 License allocations	
3.3.4	Applicable Permits in Mineral and Coal Mining Sector	2.2 License allocations	
3.4	Contract Disclosure	2.4 Contracts	
3.4.1	Regulation Governing Contract Disclosure	2.4 Contracts	
3.4.2	Legal Cases on Request of Copy of Extractive Industries Contract	2.4 Contracts	
3.5	Extractive Industries Information System	2.3 Register of licenses	
3.5.1	Oil and Gas Mining Sector	2.3 Register of licenses	
3.5.2	Mineral and Coal Mining Sector	2.3 Register of licenses	
3.6	Beneficial Ownerships	2.5 Beneficial ownerships	Point C.10
4	Extractive Industries Management in Indonesia		
4.1	Indonesia's Extractive Industry in a Global Context		Point C.4
4.2	Current Condition of Indonesia's Oil and Gas Industry		
4.2.1	Potential Oil and Gas Resources and Reserves	3.1 Exploration	Point C.5
4.2.2	Key Events in Upstream Oil and Gas Sector	3.1 Exploration	Point C.3
4.2.3	Challenges and Issues in Indonesia's Oil and Gas Industry	3.1 Exploration	
4.3	Current Condition of Indonesia's Mineral and Coal Industry		
4.3.1	Potential Coal Resources and Reserves	3.1 Exploration	Point C.5

No	2014 EITI Contextual Report	EITI Standard 2016 Requirement	Scoping Note 2014
4.3.2	Potential Mineral Resources and Reserves	3.1 Exploration	Point C.5
4.3.3	Key Events in Upstream Mineral and Coal Sector	3.1 Exploration	Point C.3
4.3.4	Challenges and Issues in Indonesia's Mineral and Coal Industry	3.1 Exploration	
5	Management of Revenue Generated from Extractive Sector in Indonesia		
5.1	Fiscal Policy on Management of State Revenue Generated from Industry Extractive	5.1 Distribution of extractive industry revenues	
5.1.1	Fiscal Policy in Oil and Gas Sector	5.1 Distribution of extractive industry revenues	
5.1.2	Fiscal Policy in Mineral and Coal Sector	5.1 Distribution of extractive industry revenues	
5.2	Planning, Budgeting and Auditing Process	5.3 Revenue management and expenditures	
5.2.1	National Budgeting System Related to Extractive Industries	5.3 Revenue management and expenditures	
5.2.2	Budget Usage Monitoring System on Extractive Industry	5.3 Revenue management and expenditures	
6	State-Owned Enterprises (SOE)		
6.1	Relationship between SOE and Government	2.6 State participation	Point C.6
6.2	PT Pertamina (Persero)	2.6 State participation	Point C.6
6.3	PT Aneka Tambang (Persero) Tbk	2.6 State participation	Point C.6
6.4	PT Bukit Asam (Persero) Tbk	2.6 State participation	Point C.6
6.5	PT Timah (Persero) Tbk	2.6 State participation	Point C.6
7	Social and Environmental Responsibility		
7.1	Oil and Gas Sector: Abandonment and Site Restoration Fund (ASR Fund)	6.1 Social expenditures by extractive companies	
7.2	Mineral and Coal Mining Sector: Reclamation and Post Mining Fund	6.1 Social expenditures by extractive companies	
7.3	Corporate Social and Environmental Responsibilities Program	6.1 Social expenditures by extractive companies	

Appendix 2

list of Bidding Participants for Oil and Gas Working 2014

1. Regular Bidding Phase 1(2 June 2014 – 16 July 2014)

No	Working Area	Bidder	Bid Winner
1	North Madura II	Petronas Carigali International E&P B.V.	PC North Madura II Ltd
2	Yamdena	No Bidder	No Winner
3	South Aru II	No Bidder	No Winner
4	Aru Trough I	Statoil Asa	Statoil Indonesia Aru Trough I BV
5	Aru Trough II	No Bidder	No Winner

2. Direct Offer Phase I (2 June 2014 – 16 July 2014)

No	Working Area	Bidder	Bid Winner
1	North Central Java Offshore	Petrojava International Inc	No Winner
2	Kualakurun	Consortium PT Petcon Resources -Petronas Carigali	Consortium ConocoPhillips Kalimantan Exploration Ltd – PC Kualakurun Ltd
3	Garung	PT Mentari Abdi Pertiwi	Mentari Garung Energy Ltd
4	Offshore Pulau Moa Selatan	Shell Exploration Company BV	Shell Pulau Moa Pte Ltd
5	Dolok	Tidak Ada	No Winner
6	Southeast Papua	Consortium PT Gema Terra -Transform Exploration Pty Ltd	Consortium Sepapua Energy Pte Ltd – Kau 2 Pte Ltd
7	Abar	PT Pertamina	PT Pertamina Hulu Energy Abar
8	Anggursi	PT Pertamina	PT Pertamina Hulu Energi Anggursi

Evaluation of Oil and Gas Working Area Bidding for 2014 according to Minister of Energy and Natural Resources regulation No. 35/2008

A. Administration

1. Application Form
2. Work Plan and Commitment during Exploration
3. Technical Report and Montage
4. Company Profile Bidders
5. Financial Statements for the last 3 (three) years
6. Statement from the Parent Company regarding the New Entity in order to sign the PSC
7. Statement from the Parent Company expressing support in implementing the commitment of PSC
8. Statement of Capabilities to Pay Bonuses from the Bidder
9. Bid Bond
10. Agreement Between the Companies Forming Consortium
11. Statement of Approval regarding the Listed Terms in the PSC Script
12. Receipt Purchase of Tender Documents
13. License of Data Package
14. Notary Deed/Deed of Establishment/Incorporation Business Entity or Permanent Establishment
15. Statement of Compliance from the Bidder for the Auction Result

B. Technical

1. Commitment seismic surveys (type, quantity navigation maps and seismic surveys) and/or commitment of the number of wild cat drilling and location planning based on

geological and geophysical evaluation as well as technical justification (engineering practices) including budgeting reasonable (appropriate amount of the budget guidelines)

2. Reasonable and implementable technical offers will be taken into consideration

C. Financial

1. Total Signature Bonus
2. Financial Capabilities to Implement the Work Plan and Definite Commitment for three (3) years of Exploration period and Other Financial Liabilities based KBH shown in:
 - a. annual financial statement for the last 3 (three) years of the Business Entity or Permanent Establishment Bidder audited by a public accountant;
 - b. financial statements of the parent company audited by public accountants for business entities or permanent establishments that apply as a subsidiary; or
 - c. letter from a prime bank domiciled in Jakarta, stating that the prospective Bidders have the capability of funding to finance the work plan definite commitment (firm commitment) to three (3) years of exploration and other financial obligations by KBH
3. Definite Commitment Budget

D. Performance

1. Experience in the Oil and Gas Industry
2. Compliance with laws and regulations applicable in Indonesia for companies that once operated in Indonesia

Appendix 2

Information on MEMR One Map Indonesia website

Homepage main information:

HOME GALLERY MAP SCENE GROUPS

Sign In

Portal MEMR One Map Indonesia

Gallery of Energy and Mineral Resources Data

Geochemical Data

Geoportal ESDM

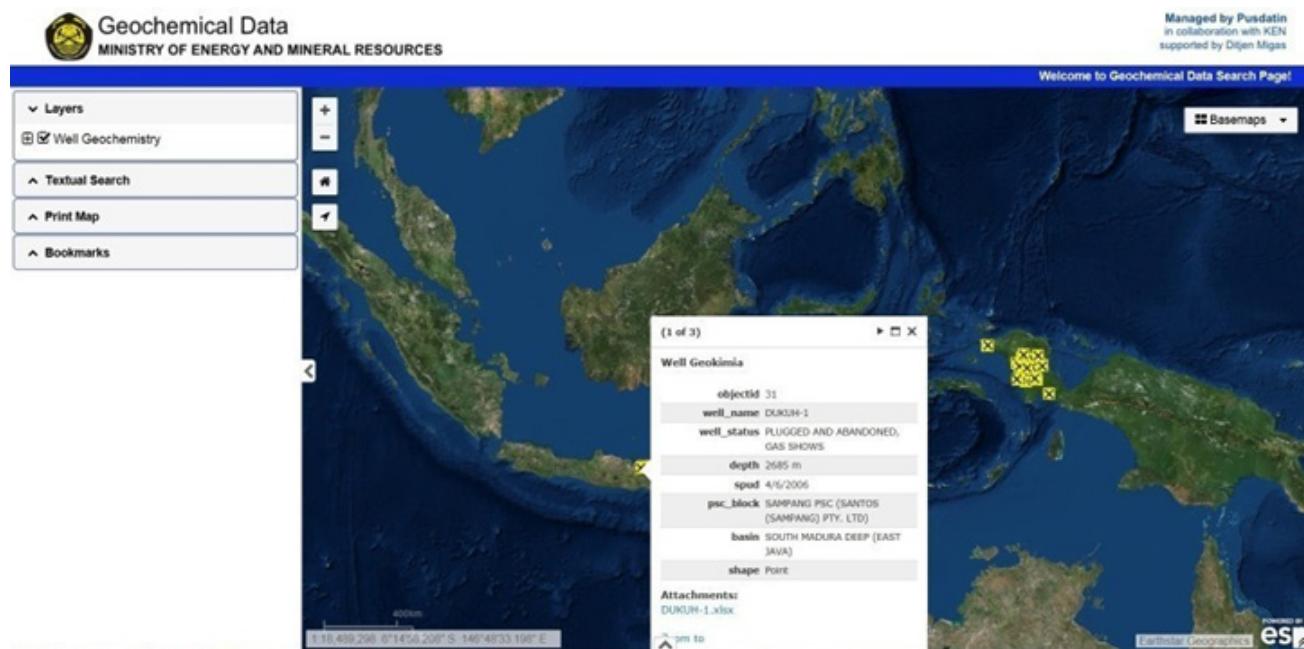
Minerba One Map Indonesia

Oil and Gas Joint Study Information

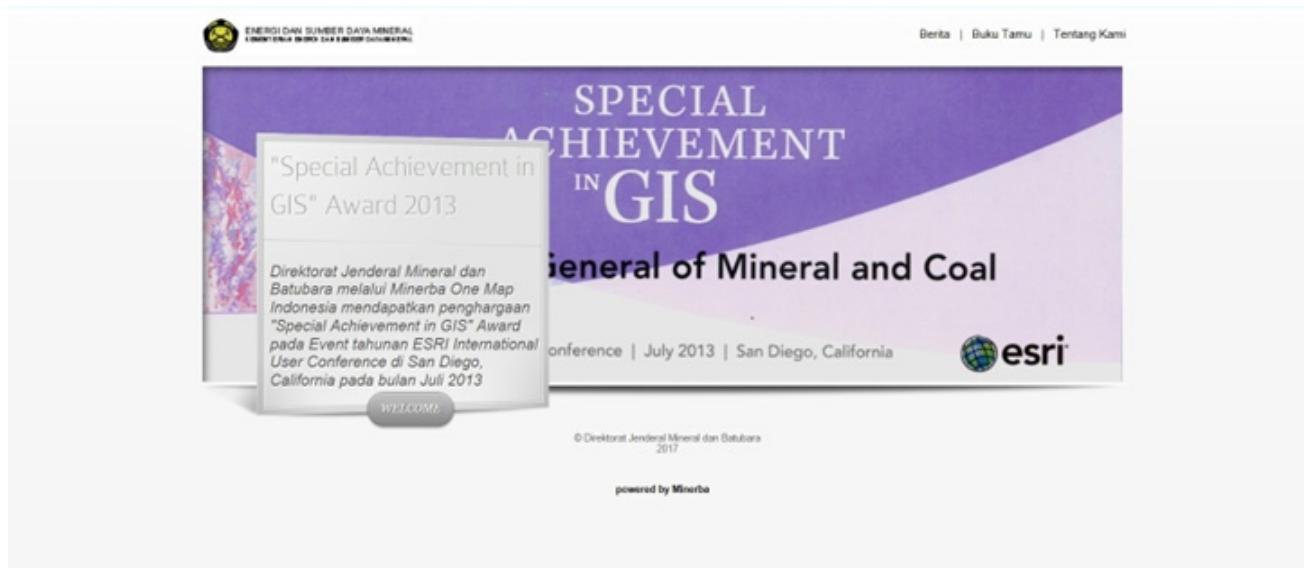
Ministry of Energy and Mineral Resources (MEMR)
Managed by Center of Data and Information Technology (Pusdatin)

Contact Us

Sample of information provided on Geochemical Data



Front-page of Minerba One Map Indonesia



Sample of information on Oil and Gas Joint Study Information

Oil and Gas Joint Study Information
MINISTRY OF ENERGY AND MINERAL RESOURCES

Managed by Pusdatin
in collaboration with KEN
supported by Dijen Migas

Welcome to Oil and Gas Joint Study Information Page!

Layers Joint Study

Textual Search

Search Result(s)

Search by Area Name: maseia

Clear Search

No Search Result

Print Map

Bookmarks

Basemaps

Lead Inventory

(1 of 5)

objectId: 36
Nama_Lead: US-A1
Nama_Area: Rupat
shape: Polygon

Attachments: lead_US_A1_Rupat_Area.xlsx

Zoom to

400km

110.460.298, 112.048.331 N, 141.172.889 E

Powered by 

