COAL PRICING AND OTHER CHANGES – PRODUCERS FACE A PERFECT STORM

INTRODUCTION

The Government has recently made changes to how Indonesia's coal producers must price their coal for the purposes of both domestic sales and export.

Superficially, the coal pricing changes might seem to be largely administrative and non-substantive in nature. However, once the implications of these changes are properly understood, it is apparent that that they are, in fact, significant not only in terms of their immediate financial impact on Indonesian coal producers but also in terms of how they may affect foreign coal buyers' willingness to continue their existing long term coal supply contracts with Indonesian producers.

The coal pricing changes come at a particularly unfortunate juncture for Indonesia's coal producers given the rapid weakening of international coal prices in 2025. At the same time, various other regulatory and related changes (actual and proposed) are making an already difficult financial situation for coal producers that much worse. It would be understandable if local coal producers feel that they are now "facing a perfect storm".

In this article, the writer will review the recent coal pricing changes and the implications of the same before discussing various other developments that, together, are only likely to further reduce the capacity of Indonesia's coal producers to readily absorb the financial impact of weakening international coal prices.

BACKGROUND

One of the major changes heralded by Indonesia's Law No. 4 of 2009 re Minerals & Coal Mining was the proposed introduction of required minimum selling prices for Indonesia's mining products including coal (**Benchmark Pricing**).

Benchmark Pricing is, of course, intended to address the problem of transfer pricing. Although numerous variations are possible, the transfer pricing problem originally manifested itself in the form of Indonesian mineral producers setting up "captive" offshore marketing companies which were, directly or indirectly, owned and/or controlled by the mineral producers. The mineral producer would sell its mineral production to the offshore marketing company at less than the market price and the offshore marketing company would then re-sell the mineral production to the real buyer at the market price. Just how serious the problem of transfer pricing was when Benchmark Pricing was first introduced and just how serious a problem it continues to be in the local mining industry remains an open question and there is little hard data available to definitively resolve this question one way or the other. Needless to say, the risk of transfer pricing applies not only to coal but also to metal minerals and, indeed, to all mineral products.

Transfer pricing has an adverse impact on the Government's revenue base in 2 distinct ways, reflecting the two different, principal sources of tax revenue the Government derives from the local

mining industry. First, an artificially low selling price reduces the so-called "non-tax state revenue", production royalty or tariff payable at the point of first sale or export at a fixed rate calculated by reference to the selling price of the relevant mineral product (**PNBP**) (**Tier 1 Government Revenue**). Second, an artificially low selling price reduces the net profits of the mineral producer and, hence, the tax collected on the income of the mineral producer (**Tier 2 Government Revenue**). Self-evidently, any effective solution to the problem of transfer pricing needs to address **both** the Tier 1 Government Revenue impact **and** the Tier 2 Government Revenue impact of transfer pricing.

Benchmark Pricing was initially implemented pursuant to (i) Article 85(4) of Government Regulation No. 23 of 2010 re Mineral & Coal Mining Activities and (ii) Minister of Energy & Mineral Resources (**MoEMR**) Regulation No. 17 of 2010 re Procedures for Mineral & Coal Price Benchmark Price Determination (**BPD Regulations**). Over time, the original BPD Regulations were revoked, replaced, amended and supplemented by new BPD Regulations, including by (i) MoEMR Regulation No. 7 of 2017 re Procedures for Determination of Benchmark Prices for Sales of Metal Minerals & Coal (**MoEMR Regulation 7/2017**) as subsequently amended several times and, most recently, by MoEMR Regulation No. 11 of 2020 re Third Amendment to MoEMR Regulation 7/2017, (ii) Government Regulation No. 96 of 2021 re Implementation of Mining and Coal Mining Activites (**GR 96/2021**) as subsequently amended by Government Regulation No. 25 of 2024 re Amendment to GR 96/2021 and (iii) MoEMR Regulation No. 9 of 2024 re Organization and Work Procedures of the Ministry of Energy & Mineral Resources.

The BPD Regulations, as a general proposition, apply equally to both coal/coal producers and to metal minerals/metal mineral producers. For the purpose of this article, however, the analysis and discussion are confined to coal and to coal producers, being holders of (i) Coal Contracts of Work (**CCoWs/PKP2Bs**), (ii) Special Production Operation Business Licenses for Coal issued to former CCoW/PKP2B holders (**Coal Continuation POIUPKs**) and (iii) Production Operation Business Licenses for Coal (**Coal POIUPs**) (together, **Coal Producers**).

Central to the BPD Regulations, as they relate to coal, are the two basic concepts of a "Coal Reference Price" (**HBA**) and a "Coal Benchmark Price" (**HPB**). The HBA is (i) the notional market price of coal, with different calorific values/quality specifications, at any point of time and (ii) used to determine the HPB which also varies as between different calorific values/quality specifications of Indonesian coal. The HPB for a particular quality/specification of Indonesian coal is then declared to be the minimum allowed selling price, subject to various permitted adjustments, for that particular quality/specification of Indonesian coal.

The PNBP amount payable to the Government, in respect of each coal sale, is calculated on the basis of the higher of the relevant Coal Producer's actual selling price and the relevant HPB, thereby protecting Tier 1 Government Revenue. In theory, requiring Coal Producers to sell their coal at not less than the relevant HPB should also help to protect Tier 2 Government Revenue although that has proved to be quite problematic in practice.

MoEMR has recently issued three new decrees which deal with various technical aspects of HBA determination and HPB utilization, being (i) MoEMR Decree No. 72 of 2025 re Guidelines for the Determination of Benchmark Prices for Sales of Metallic Minerals & Coal Commodities (**MoEMR Decree 72/2025**), (ii) MoEMR Decree No. 80 of 2025 re Metal Mineral Reference Price & Coal Reference Price for the First Period of March 2025 (**MoEMR Decree 80/2025**) and (iii) MoEMR Decree No. 92 of 2025 re Metal Mineral Reference Price & Coal Reference Price for the Second Period of March 2025 (**MoEMR Decree 92/2025**) (together, **New HBA/HPB Rules**).

ANALYSIS AND DISCUSSION

1. New HBA/HPB Rules

1.1 **Overview of MoEMR Decree 72/2025:** The key aspects of MoEMR Decree 72/2025 are as follows:

(a) HBA and HPB are, henceforth, to be determined in accordance with the formulae in Appendices II and III of MoEMR Decree 72/2025 (First Dictum of MoEMR Decree 72/2025).

(b) Any residual ambiguity or uncertainty in the BPD Regulations regarding (i) the use of HPB, in all coal sales transactions, being mandatory and (ii) subject to (c) below, HPB being the minimum selling price, in all coal sales transactions, is eliminated by means of the unequivocal restatement of these two requirements (Second Dictum and Third Dictum of MoEMR Decree 72/2025).

(c) In the case of coal sales to (i) the State electricity company (**PLN**) and independent power producers (**IPPs**) for the purpose of public interest electricity supply and (ii) other preferred domestic industry users of coal which do **not** include metal mineral processing and/or refining companies (**i.e.**, cement and fertilizer producers), the applicable HPB will be separately determined by MoEMR, thereby preserving the below market price buying advantage, enjoyed by these "preferred" domestic users (**i.e.**, the US$70 and US$90 "ceiling" price, in the case of certain coal quality specifications, for the first category of preferred domestic users and the second category of preferred domestic users respectively (**Quality Adjusted US$70-US$90 Concessional Coal Price**), that was first introduced as part of the so-called "Domestic Market Obligation" (**DM Obligation**) of relevant Coal Producers in 2018 (Fourth Dictum of MoEMR Decree 72/2025).

(d) HBA will, henceforth, be determined/redetermined twice each month (rather than once only each month as was previously the case), on the 1st day and the 15th day of each month (Fifth Dictum of MoEMR Decree 72/2025).

1.2 **Overview of MoEMR Decree 80/2025 and MoEMR Decree 92/2025:** MoEMR Decree 80/2025 and MoEMR Decree 92/2025 (a) simply specify what the HBA is for (i) the **first period** of March 2025 (**i.e.**, from 1 to 14 March 2025) (Annexure II of MoEMR Decree 80/2025) and (ii) the **second period** of March 2025 (**i.e.**, from 15 to 31 March 2025) (Annexure II of MoEMR Decree 92/2025) and (b) represent the initial month's implementation of the Fifth Dictum of MoEMR Decree 72/2025 (See Part 1.1(d) above). It is to be expected that MoEMR will, going forward, issue two HBA decrees every month subsequent to March 2025 and while so long as the New HBA/HPB Rules remain in force.

1.3 **Consequence of/Penalty for Non-Compliance with New HBA/HPB Rules:** Although not specified in any of the New HBA/HPB Rules, MoEMR has stated unequivocally (as reported in the 3 March 2025 edition of Bloomberg Technoz) that Coal Producers which do not comply with the new HBA/HPB Rules will **not** be allowed to export their coal production. Export bans, for non-compliant Coal Producers, most probably have their legal basis in Article 12 of MoEMR Regulation 7/2017 which establishes a set of administrative sanctions that may be imposed on Coal Producers not complying with their HPB obligations

pursuant to the BPD Regulations. These administrative sanctions include (i) written warnings, (ii) **suspension of part or all of the relevant Coal Producer's activities** and/or (iii) business license revocation. Given the Government has previously shown a willingness to impose coal export bans on non-compliant coal producers, the threatened "no export penalty" is likely to be taken seriously by Coal Producers.

1.4 **Reason for New HBA/HPB Rules:** Coal industry observers may legitimately differ as to what is the **real** reason for changing when and how HBA/HPB is to be determined going forward.

Taken at face value, various statements by MoEMR would suggest that the reason for changing when and how HBA/HPB is to be determined going forward is largely because of the Government's resolve to finally assert/claim the coal price setting influence/power that, arguably, comes with Indonesia being a major supplier (30% – 35% according to the Government) of lower quality thermal coal. Among other things, MoEMR has been quoted by various business media outlets (including Bisnis.com, Kontan.co.id and Liputan 6) as having said, on different occasions in late February 2025, the following:

> "*For too long, the price of our coal has been determined by foreign markets, often undervalued compared to coal from other countries*".
>
> "*As one of the world's largest coal producers, Indonesia must have greater influence over global coal prices*"
>
> "*Well, we have to have an idea of independence, we have to have nationalism. Don't let the price of our coal be determined by other people's low prices. I don't want that*."
>
> "*Is it time for our coal prices to be made cheaper? Is it time for our coal prices to be determined by neighbouring countries? Our country must be sovereign to determine its own commodity prices.*"

The aggressively nationalistic sentiment reflected in the above quotes and what this sentiment, arguably, implies about the possible future direction of Indonesian coal industry law, policy and regulation is not likely to be lost on astute readers. If nothing else, it may well give Indonesia's international coal trading partners "pause for thought" as to what the future could hold for them if they allow their countries to become too dependent upon Indonesian coal imports.

It may, however, be a mistake to take MoEMR's words too literally. Perhaps, MoEMR is really just reacting to/referencing understandable Government concern about the recent falls in world coal prices and how this will, inevitably, have a seriously negative impact on Government revenue given that coal is still, far and away, Indonesia's most important mineral export and, as a consequence, PNBP and income tax collections from coal sales and Coal Producer net profits are a significant part of Government revenue. At a time when the Government is clearly struggling to fund its hugely ambitious social welfare programs and is resorting to major budget cuts for all/most Government ministries/departments in an endeavour to so, a major drop-off in both Tier 1 Government Revenue and Tier 2 Government Revenue, from the coal mining industry, is obviously going to be a very serious problem for the Government.

To the extent, though, that recent declines in world coal prices are simply a function of the basic rules of supply and demand; that is, too much thermal coal supply "chasing" too little thermal coal demand, it is hard to understand how the Government can realistically expect to protect its **actual** revenue collections from the local coal industry by simply increasing the minimum **required** selling price of Indonesian thermal coal. Increasing the HBA/HPB may just result in a decline in Indonesian coal production as demand for Indonesian thermal coal, at the higher HPB price, weakens. It does not automatically follow that world thermal coal prices will necessarily increase as a consequence. In this regard, it would seem probable that other countries (**eg**, Australia) will be more than willing to supply any resulting temporary shortfall in the supply of thermal coal on world markets. It may be then that the Government is seriously over-estimating just how much influence Indonesia's 30%-35% share of global thermal coal supply really gives it in setting world thermal coal prices in a time of global thermal coal over-supply.

1.5 **Commercial Significance of New HBA/HPB Rules:** The commercial significance of the New HBA/HPB Rules is, arguably, five-fold.

First, the role/significance of the Indonesia Coal Index in the determination of HBA has been substantially eliminated/reduced. Given the Indonesia Coal Index has sometimes, in the past, been materially lower than are other coal price indices in common use such as the Newcastle Coal Index, eliminating/reducing the role/significance of the Indonesia Coal Index, in the determination of HBA, is likely to sometimes result in a higher HBA than would have previously been the case.

Second, determining/redetermining HBA twice each month means there is less room for coal pricing discrepancies, on an intra-month basis, than was previously the case.

Third, as the HPB is determined having regard to the HBA, a higher HBA means that the HPB will also sometimes be higher than would have previously been the case.

Fourth, a higher HPB means that the PNBP amount payable by Coal Producers, to the Government, in respect of each coal sales transaction will, likewise, be sometimes higher than would have previously been the case.

Fifth, given (i) the New HBA/HPB Rules are already in force and (ii) HPB compliance is mandatory for Coal Producers, the newly determined HPB (for the relevant half-month period) immediately becomes the minimum selling price for all Indonesian coal sales, including in respect of coal sales pursuant to existing long term coal supply contracts between Coal Producers and foreign buyers of Indonesian coal.

With reports appearing in the popular press about Peoples' Republic of China and other international buyers of Indonesian thermal coal actively considering the possibility of "terminating" their long-term coal supply contracts with Coal Producers, this may be the most immediate and significant commercial consequence of the New HBA/HPB Rules.

1.6 **Legal Issues with Terminating Long Term Coal Supply Contracts:** If "termination" of long-term coal supply contracts does occur in practice, it will be interesting to see how the inevitable resulting legal disputes are finally decided by arbitration panels and the courts. The outcome of these disputes will very much depend upon the particular wording of individual long-term coal supply contracts.

It is important to look at the contractual legal issues created by the issuance of the New HBA/HPB Rules from the respective positions of **both** local Coal Producers **and** foreign buyers of Indonesian coal.

Compliance with the New HBA/HPB Rules is mandatory for Coal Producers and otherwise represents a change in the applicable law/regulatory regime for Coal Producers that prevents them from selling their coal at less than the newly determined HPB. Accordingly, Coal Producers might be able to argue that the issuance of the New HBA/HPB Rules amounts to force majeure, thereby relieving them of any legal liability to foreign buyers under long-term coal supply contracts. However, it is important to understand that a change in law was not, traditionally, recognized as being a force majeure event. In more recent times, though, there seems to be a growing willingness to accept that a change in law, which prohibits a party from doing what it has contractually agreed to, should or may properly be regarded as being a force majeure event, depending upon the particular circumstances. Nevertheless, it does **not** follow that, even if this is a case of force majeure, foreign buyers are legally obliged to pay the now sometimes higher HPB price required by the New HBA/HPB Rules. In this regard, it is also important to understand that the occurrence of an event of force majeure only relieves the relevant contract party, affected by the force majeure event, from legal liability for its non-performance while so long as and to the extent that non-performance is caused by the force majeure event. The occurrence of an event of force majeure does **not** oblige the other party to the contract to incur a significantly increased liability that is not explicitly provided for in or necessarily implied by the terms of the relevant contract.

The legal position of foreign buyers, having long-term coal supply contracts with Coal Producers, is particularly interesting. This is because Coal Producers have, for a long time, been required to sell their coal production at not less than HPB; something that is, presumably, reflected in most of Indonesia's long-term coal supply contracts with foreign buyers. Assuming that this is, indeed, the case, what foreign buyers of Indonesian coal are really objecting to then is **not** that they have to pay the HPB but, **rather**, to the change in how the HBA/HPB is now to be determined and the fact that this is likely to result in them having to, at least sometimes, pay a price for their Indonesian-sourced coal that is higher than the price they would have expected to pay if there had not been any change in how the HBA/HPB is determined. In other words, their long-term coal supply contracts, with Coal Producers, have simply turned out to be less commercially attractive for foreign buyers than they expected would be the case when they entered into those long-term coal supply contracts with Coal Producers. A change in the commercial attractiveness of a contract is **not** normally regarded as being good grounds for termination of the contract. This may mean the more likely scenario is that, in some instances, foreign buyers of Indonesian-sourced coal will simply refuse to perform those long-term coal supply contracts (thereby effectively repudiating these contracts) and then wait to see what, if anything, Coal Producers do about it. "Repudiation" of a contract is very different from "termination" of a contract in terms of the resulting legal consequences for the repudiating/terminating party.

2. Other Regulatory Challenges Facing Coal Producers

2.1 **New Export Proceeds Restrictions:** March 2025 has been a very challenging month, from a new regulatory developments' perspective, for Indonesia's Coal Producers. In addition to the introduction of the New HBA/HPB Rules, 1 March 2025 was also the effective date for Indonesia's more onerous/restrictive export proceeds requirements as introduced by

Government Regulation No. 8 of 2025 re Amendments to Government Regulation No. 36 of 2023 re Foreign Exchange Export Proceeds from the Business, Management and/or Processing of Natural Resources (**GR 36/2023**) (**GR 8/2025**) (**Export Proceeds Rules**).

Coal export proceeds are relevant export proceeds or **DHE SDA** for the purpose of GR 36/2023 as amended by GR 8/2025. Accordingly, (a) **100%** (**rather than a minimum of 30%** as was previously the case) of Coal Producers' DHE SDA, in excess of US$250,000 (or the equivalent amount in any other foreign currency), must now be either (i) deposited in a special account opened with either the Indonesian Export Financing Agency (**IEFA**) or "*a bank which conducts business activities in foreign exchange*" in Indonesia or (ii) invested in certain banking and financial instruments issued by IEFA or Bank Indonesia and (b) the minimum deposit period/investment period for Coal Producers' DHE SDA, in excess of US$250,000, is now **12 months** (**rather than 3 months** as was previously the case), subject to various so-called "permitted use" exceptions that remain substantially unchanged.

Readers interested in knowing more about the recent changes to the Export Proceeds Rules and the implications of the same for Coal Producers are referred to the writer's earlier article "*More Restrictive Export Proceeds Rules – A Very Slippery Slope*", Coal Metal Asia Magazine, February – March 2025, Petromindo.

2.2 **No DM Obligation Relief:** The Quality Adjusted US$70-US$90 Concessional Coal Price is, of course, highly prejudicial to the business/commercial interests of Coal Producers while so long as the market price of coal remains well in excess of the Quality Adjusted US$70-US$90 Concessional Coal Price, something that has been the case at virtually all times since the DM Obligation was introduced.

As early as January 2022, the Government recognised that the DM Obligation and, more particularly, the Quality Adjusted US$70-US$90 Concessional Coal Price needed to be reconsidered in order to avoid repeated rundowns in the coal stockpiles of PLN and IPPs due to at least some Coal Producers actively seeking to avoid/evade compliance with their DM Obligation and, instead, export substantially all their coal production. In an endeavour to both reduce the opposition of Coal Producers to the DM Obligation and, at the same time, avoid providing further funding to PLN, the Government proposed to (i) impose a new levy on coal sales (**Coal Sales Levy**) and (ii) use the collected Coal Sales Levies to ensure relevant Coal Producers received, in aggregate and taking into account separate payments from two different sources, something approaching a market price for the coal supplied by them to preferred domestic coal users (**Coal Levy Scheme**). The Coal Levy Scheme was intended to, finally, provide a comprehensive solution to the long existing problem of how to fulfil domestic coal needs when the main domestic user, being PLN, was unable to pay market price for its coal supplies owing to a weak financial position.

The Government originally proposed to use a Public Service Institution (*Badan Layanan Umum* or **BLU**) to manage and operate the Coal Levy Scheme which was, in fact, widely referred to as the "Coal BLU Scheme". The proposed Coal BLU Scheme was subsequently determined to face a fundamental legal/regulatory problem in connection with its proposed use of a BLU. This belated determination resulted in the Government announcing in late January 2023 that, rather than a BLU, the more appropriate type of entity to manage and operate the Coal Levy Scheme was, in fact, a Managing Agency Partner (*Mitra Instansi Pengelola* or **MIP**).

The drafting of the regulation, required to make the Coal Levy Scheme a reality, was meant to be well advanced in late 2023 and "almost ready" to be issued in the first half of 2024. However, as of the end of the first quarter of 2025, the Coal Levy Scheme regulation has still not been issued and the Government has been conspicuously silent as to whether or not it still intends to proceed with the Coal Levy Scheme in any form in the foreseeable future. Increasingly, there is industry talk of the proposed Coal Levy Scheme having, possibly, been abandoned altogether.

2.3 **Renewed Insistence Upon Coal Down-streaming:** Given that coal has long been Indonesia's most important mineral commodity export as well as by far the largest contributor of PNBP or Tier 1 Government Revenue, it is easy to understand why the Government might want to believe that Coal Producers can and should carry out coal local value-added activity (**Coal Down-streaming**) just as have holders of (i) Metal Mineral Contracts of Work (**CoWs**), (ii) Special Production Operation Business Licenses for Metal Minerals which are former CoW holders (**Metal Mineral Continuation POIUPKs**) and (iii) Production Operation Business Licenses for Metal Minerals (**Metal Mineral POIUPs**) (together, **Metal Mineral Producers**) for some years now. The reality, however, is that despite the signing of numerous memoranda of understanding between Coal Producers and "strategic partners" in different countries (including China and the United States of America), offering various new technologies for coal upgrading and other "creative" value added uses of coal, Coal Down-streaming has progressed very little since it first became a compulsory obligation of major Coal Producers in 2020. At a Petromindo coal and metals outlook conference in late November 2024, coal industry representatives were openly sceptical (indeed outright dismissive in some instances) of the commercial viability of the available coal upgrading/Coal Down-streaming technologies and the ability of Coal Producers to utilize the same on a large-scale basis.

MoEMR is clearly becoming very impatient with the slow progress of Coal Down-streaming, repeatedly reminding major Coal Producers of their legal obligation to carry out Coal Down-streaming and, as quoted by online news portal Tambang on 13 December 2024, making clear, in very unsubtle terms, that they need to:

> "*Be careful, PKP2B [CCoW] holders. The main requirement for our PKP2B [CCoW] to extend, one of the requirements is to build down-streaming*."

With, on the one hand, Indonesia's major Coal Producers clearly reluctant to pursue Coal Down-streaming alternatives that they have no confidence in being economically viable and, on the other hand, MoEMR insistent that Coal Producers must, nevertheless, carry out Coal Down-streaming, it is not clear how this is going to end for the local coal industry. There is, however, a high risk that Coal Producers will eventually be compelled to make large investments in wholly unproductive and uneconomic coal upgrading/Coal Down-streaming technologies in order to obtain and, later, maintain their Coal Continuation POIUPKs.

2.4 **Proposal to Increase Coal PNBP Rates/Tariffs:** Just when Coal Producers might have been entitled to think that their business prospects could not possibly get any worse, the Government has quickly shown how mistaken they were to think so.

In early March 2025, the Government made publicly available a document called "*Public Consultation on the Proposed Adjustment of Types and Tariffs for PNBP from Mineral and Coal Natural Resources (Revision of GR 26/2022)*" which proposes substantial PNBP rate

increases for both coal and metal minerals (**PNBP Increase Proposal**). This document envisages that the PNBP rate payable by Coal Producers, while so long as the HBA is US$90 per ton or more, will increase by a further 1% to (i) 9% in the case of coal with a calorific value of less-than or equal to 4,200Kcal/Kg and (ii) 11.5% in the case of coal with a calorific value of more than 4,200Kcal/Kg and up to 5,200Kcal/Kg. The PNBP Increase Proposal was also the subject of an on-line public consultation on 8 March 2025 during which the Director General of Minerals & Coal was quoted by The Jakarta Post, in its 13 March 2025 edition, as having somewhat disingenuously said:

> "*We don't mean to place a burden on anyone, or the industry and we are still hoping that the mining industry can sustain and participate more in the welfare and glory of the nation*."

Coal Producers might reasonably wonder, of course, how increasing the PNBP rate on coal could seriously be regarded by anyone as being anything other than deliberately "*placing a [an additional] burden*" on Coal Producers.

Although the PNBP Increase Proposal is still just a "work in progress" and will not necessarily ever become law, it serves to make only too clear that the Government, desperate to obtain additional revenue in order to fund its ambitious social welfare programs, is actively looking at the mining industry in general and the coal industry in particular as a potential source of a large part of that needed additional revenue. This is only likely to add to the financial worries of Coal Producers.

3. Trying to Explain the Much Tougher Regulatory Environment for Coal Producers

Indonesia's major private sector Coal Producers, being originally holders of CCoWs/PKP2Bs and, subsequently, holders of Coal Continuation POIUPKs, used to have a very privileged position in the Indonesian mining industry. Mainly locally owned and politically well-connected, CCoW/Coal Continuation POIUPK holders traditionally enjoyed a much closer relationship with and received commensurably better treatment from the Government than did holders of Metal Mineral CoWs and, subsequently, holders of Metal Mineral Continuation POIUPKs which used to be largely (although not exclusively) foreign-owned and often (but not always) without strong local political connections. Indirectly, the privileged position enjoyed by the much larger CCoW/Coal Continuation POIUPK holders also greatly benefited smaller private sector holders of Coal POIUPs which generally enjoyed much better treatment from the Government than did smaller private sector holders of Metal Mineral POIUPs.

Starting, however, in about 2018, State-owned Enterprises (**BUMNs**), Regional Government-owned enterprises (**BUMDs**") and wholly locally owned companies (**Local Companies**) became the majority shareholders in some of the largest former Metal Mineral CoW holders including Freeport Indonesia. With BUMNs, BUMDs and Local Companies now dominating not only the coal mining industry but also increasingly the metal mining industry as well, the previously obvious distinction between Coal Producers and Metal Mineral Producers, in terms of which were the more loyal supporters of the Government and, therefore, the more deserving of preferential Government treatment became increasingly blurred. At the same time, the fact that CCoW/PKP2B holders had a much less certain/clear right to obtain Coal Continuation POIUPKs upon the expiration of their CCoWs/PKP2Bs, compared to CoW holders and their fairly unequivocal right to obtain

Metal Mineral Continuation POIUPKs upon the expiry of their CoWs, meant that CCoW/PKP2B holders needed the Government to exercise considerable discretion/show much indulgence in ultimately agreeing to give CCoW/PKP2B holders, at the time of the expiration of their CCoWs/PKP2Bs, Coal Continuation POIUPKs. It was, most probably, always inevitable that the former CCoW/PKP2B holders, now Coal Continuation POIUPK holders, would have to pay dearly for and, indeed, keep on paying dearly for this exercise of considerable discretion/showing of much indulgence by the Government in their favour. Indirectly, this has likewise probably resulted in smaller Coal POIUP holders no longer being viewed by the Government any more favourably than are the smaller Metal Mineral POIUP holders.

Coal Producers are now, very arguably, in an even worse position than are Metal Mineral Producers. This is due, of course, to (i) the continuation and substantial tightening over time of the DM Obligation which only impacts Coal Producers and not Metal Mineral Producers and (ii) the failure of the proposed Coal Levy Scheme to become a reality.

SUMMARY & CONCLUSIONS

Declining world coal prices were already a big problem for local Coal Producers in 2025.

The ability of Coal Producers to readily absorb coal price declines is being reduced by the New HBA/HPB Rules. At the same time, global thermal coal over-supply is resulting in "push-back" to higher Indonesian coal prices from traditional international buyers of Indonesian coal, which international buyers may now have cheaper alternative sources of thermal coal. When one also factors in (i) the recently increased regulatory restrictions on the use of coal export proceeds, (ii) the absence of any progress in "rolling out" the long-promised Coal Levy Scheme for Coal Producers subject to the DM Obligation, (iii) the Government's growing insistence that Coal Producers must start carrying out Coal Down-streaming regardless of the associated cost and (iv) the implications of the PNBP Increase Proposal for coal, the prospects for the local coal industry look increasingly bleak.

Indonesia's Coal Producers are now, in a very real sense, "facing a perfect storm". Coal Producers may even wonder if their seemingly ever worsening position, compared to that of Metal Mineral Producers, is evidence of the inherent truth of the biblical prophecy that, in due course, "the first shall be last and the last shall be first"!!!

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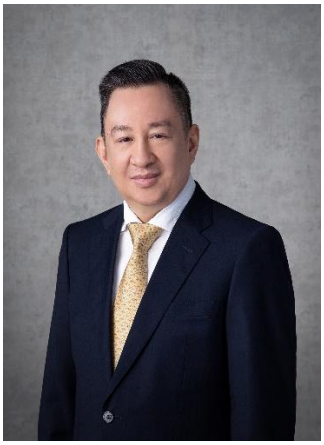

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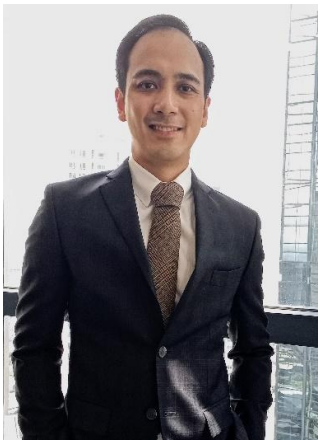

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