THE POLEMIC OF MINERAL AND COAL MINING LAW REVISION AMID THE PANDEMIC **Overview** DPR RI* approved the revision of Law No. 4/2009 on Mineral and Coal Mining. The revised law aims to address mining There are several changes in the revised law, namely management challenges, provide legal certainty for industry 1) Additional of 2 new chapters, players, stimulate downstream value-added industries, and 2) Additional of 52 new articles, provide benefits for the community. However, the civil groups 3) Changes in 83 articles, and criticized the revised law over concerns of fairness and its 4) Removal of 18 articles. impact on the environment and society. The total number of articles in this law is 209 articles Chronology 16 January 2020: **April 2018:** 11 March 2020: 12 May 2020: The revision of Law No. 4/2009 The draft of the revision of On the plenary meeting, DPR RI* Indonesia's Government and DPR RI* approved the was included in the 2014-2019 Law No. 4/2009 by Indonelisted the revision of Law No. 4/2009 DPR RI* settled on the proposed revision of Law No. 4/2009. Prioritized National Legislasia's government was spreadin the 2020-2024 Prioritized National articles' revision. tion Program. ed to the public. Legislation Program. 2017: **27 September 2019:** 18 February 2020: 6 May 2020:

Several Changes in the Revised Law No. 4/2009

DPR RI* decided that the draft of the

revision of Law No. 4/2009 would be

carried over to the next period.



Indonesia's central government takes the policy, regulation, management, and supervision functions in the mining business.



When the Revised Law No. 4/2009 comes into force, permits that existed before the entry into force of this Act were declared to remain in effect until the permits expired.

Indonesia's government and

DPR RI* held a kick-off meeting.



and licensing nomenclature.

Indonesia's government and DPR RI* agreed to

adjust the revision draft to the Omnibus Law regard-

ing several substances: mining operation authority

Increased the share of mining profits to provinces from 1% to 1.5%.



KESDM* initiated

the discussion.

The WPR's* maximum area and depth are expanded and deepened.



The mining area as part of the legal mining area is the basis for determining mining business activities.



Mining activities without a permit are punishable by imprisonment for a maximum of 5 years and a maximum fine of IDR 100 billion (USD 6.74 million).



Foreign mining companies are required to divest 51% of the shares to Indonesia's government, regional governments, BUMN*, BUMD*, and/or national private business entities.



The central and regional governments ensure not to make changes to the use of space and land and guarantee the issuance of supporting permits.



The Minister of Energy and Mineral Resources must provide mining data and information.



IUP* and IUPK* holders are required to:

- a) Use mining roads in mining business activities. It should be made by themselves or in a collaboration.
- b) Allocate social funds of which the minimum amount is determined by the Minister of Energy and Mineral Resources.



IUP* and IUPK* holders for operation and production are required to:

- a) Provide mineral and coal reserve resilience funds used for new reserve discovery activities.
- b) Carry out reclamation and post-mining activities until they reach 100% success rate before shrinking or returning their concession area.





- Legal certainty for business investment and simpler bureaucracy process.
- An obligation for a mining company to explore new reserves every year (Article 36A).
- Stricter punishment for illegal miners (up to IDR 100 billion/USD 6.74 million fines or 5 years of imprisonment).
 The requirement for foreign companies to divest 51% ownership to
- either Indonesia or locally-owned private companies.

 Incentives to develop downstream facilities to generate multiplier
- Increased in provinces' share of mining profits from 1% to 1.5%.
- 7 The implementation of the mineral ore benchmark price is expected to bring justice to nickel miners.

Negative Views

- The enactment in the middle of the COVID-19 pandemic was deemed unethical.
- Lack of public participation.
- Contract renewal guarantee (maximum of 20 years) without a tender process for giant mining companies (Article 169 A).
- The removal of tender process limits BUMN's* chance to take over the mining asset and neglects evaluation of the environ- mental impact.
- Contravention of Law No. 33/2004 on Regional Autonomy as the authority to issue mining permits is now centralized under the KESDM*
- Migher deforestation risk due to potential massive exploration expansion.
- Lack of consideration on the significance of the mining industry to the people in the mining area, indigenous people and women.

The Positive vs Negative Views

Abbreviations

BUMD

Regional-owned Enterprises
State-owned Enterprises
Indonesia's House of Representatives
Traditional Mining Zone

KESDM

Ministry of Energy and Mineral Resources of Indonesia



Resources of Indonesia
Special Mining Permit
Mining Permit

Source

The data has been compiled by PYC research team from various sources.

