



## The Implementation of Minister of Energy and Mineral Resources' Regulation Concerning Licensing in Mineral and Coal Mining Business Activity

by Febi Jaya Conggih



On 7 June 2017 the Director General of Mineral and Coal ("**DGMC**") issued a Circular Letter No. 10.E/30/DJB/2017 TAHUN 2017 ("**Circular Letter No. 10/2017**") concerning the Implementation of Minister of Energy and Mineral Resources' Regulation No. 34 of 2017 on the Licensing in Mineral and Coal Mining Business Activity ("**Regulation No. 34/2017**"). The issuance of the Circular Letter No. 10/2017 was intended to clarify some provisions in the Regulation No. 34/2017.

According to the Circular Letter No. 10/2017, in transporting and selling the mineral or coal, the holder of an Operation-Production Mining Business License (*Izin Usaha Pertambangan Operasi Produksi* or "**IUP OP**") or a Special IUP OP for Transportation and Trading (*Izin Usaha Pertambangan Khusus Operasi Produksi untuk Pengangkutan dan Penjualan* or "**IUPK OP**") may cooperate with another party which has already obtained a Registration Mark of Transportation and Trading Company ("**Registration Mark**") from DGMC.

The Circular Letter states that the IUP OP and IUPK OP holder may assign mining activities to a Mining Services License (*Izin Usaha Jasa Pertambangan* or *IUJP*) holder limited to stripping activities. The license holder shall conduct the remaining activities by itself, especially for the coal procuring activities. The Circular Letter confirms that the IUP OP and IUPK OP may lease mining equipment from other parties, provided that such party already has a Registration Mark.

The Registration Mark is issued by the Minister of Energy and Mineral Resources ("**MEMR**") if the transporting and selling activities are conducted across provinces and/or cross-country or in the framework of foreign investment, or by the Governor if the transporting and selling activities are conducted in one province.

This Circular Letter also states that the company that has already obtained an IUPK OP or certificate of registration (*Surat Keterangan Terdaftar* or *SKT*) after the issuance of Regulation No. 34/2017, must apply for an adjustment in the form of Registration Mark within a period of no more than 6 (six) months from the stipulation of this Circular Letter.

# New Regulation on Ship Registration and Nationality in Indonesia

by Eduardy Armandana Eddin



To improve investment within the shipping sector, on 19 May 2017 the Ministry of Transportation (“**MOT**”) issued Regulation No. PM 39 Year 2017 regarding Ship Registration and Nationality (“**Permenhub No. 39/2017**”). This regulation redefines a number of provisions relating to Ship registration and Nationality Documents, as previously regulated under the MOT No. PM 13 Year 2012 regarding Ship Registration and Nationality (“**Permenhub No. 13/2012**”).

In relation to Ship Registration, Article 2 (1) Permenhub No. 39/2017 sets out provisions regarding the types of registration of ships, as follows:

- a. Registration of property rights;
- b. Loading mortgage; and
- c. Registration of other property on board.

All such registrations above fall under the authority of the Official for the Registration and Recording of Ships’ Transfer of Title. Based on Article 5 (2) and (3) Permenhub No. 39/2017, a registration of ownership can be undertaken if the ship has already been measured and has therefore obtained an official measurement letter. Such registration only applies to ships which have overall internal volumes of at least 7 Gross Tonnage, are owned by Indonesian citizens or Indonesian legal entities and are owned by Indonesian joint-venture companies, on condition that requirements pertaining to shareholding are as follows:

- a. For private companies: the majority of shares in the company must be owned by the Indonesian Citizen;

- b. For public companies: the total shares owned by foreign citizens (either through foreign direct investment of foreign portfolio investment schemes) must not exceed 49% of the total shares.

Previously, Permenhub No. 13/2012 did not regulate any percentage of share requirements for Indonesian joint venture companies. The share of ownership structure addressed above must be proven through a recommendation issued by the Investment Coordinating Board (“**BKPM**”).

Provisions on Ship Nationality set out in this regulation include, among others, provisions on the forms of Indonesian Certificates of Ship Nationality Document, including, the identity of ships having Indonesian nationality, and an International Maritime Organization number (IMO). All ships that are listed and sailing within Indonesian waters require a Ship Nationality Document (Surat Tanda Kebangsaan Kapal) as stated in Article 57 (2) Permenhub No. 39/2017, Certificate of Nationality Ship Indonesia, which be given in the form as follows:

- a. Marine Certificate (“**Surat Laut**”) for ships with a size of GT 175 (one hundred and seventy-five grosse tonnage) or more;
- b. Primary Pass (“**Pas Besar**”) for ships with a size of GT 7 (seven grosse tonnage) up to a size less than the GT 175 (one hundred and seventy-five grosse tonnage); or
- c. Additional Pass (“**Pas Kecil**”) for ships with a size of less than GT 7 (seven grosse tonnage);
- d. River Lake Pass (“**Pas Sungai dan Danau**”) for ships that only sail in rivers and lakes.

With the existence of Permenhub No. 39/2017, the registration of ships becomes easier and faster because the application assessment can be submitted electronically via the Electronic Ship Registration System (“**SPKE**”). Permenhub No. 39/2017 states that application assessments must be completed within only 3 (three) business days, while Permenhub No. 13/2012 stipulated that application assessment only recognized manual submission and could take up to 5 (five) business days.

Article 1 (12) and (13) Permenhub No. 13/2012 stated that: (i) Ship Nationality is defined as the legal relationship between the ship and the country under whose flag it sails; (ii) A Ship Nationality Document is the certificate that grants to the ship the right to sail under the Indonesian flag. Those definitions are no longer incorporated under Permenhub No. 39/2017.

Furthermore, with the enactment of Permenhub No. 39/2017, Permenhub No. 13/2014 regarding Ship Registration and Nationality is revoked and no longer valid.

# Trade Market Integration through Inter-Island Trade Regulation

by Vincent Yap



On 15 May 2017, the Minister of Trade (the “**MoT**”) issued MoT Regulation No. 29/M-DAG/PER/5/2017 regarding Inter-Island Trade (the “**MoT Regulation No. 29/2017**”). The MoT Regulation No. 29/2017 was promulgated on 18 May 2017. This regulation aims to integrate the trade market domestically.

MoT Regulation No. 29/2017 covers:

1. basic commodities, which are the goods that impact the livelihood of many people with the scale of the fulfilment of higher needs and as a factor supporting the welfare of the community;
2. important goods, which are the strategic goods impacting national development; and
3. other goods.

As above-mentioned, under this regulation, domestic trade market integration is carried out by the enactment of inter-island Manifest Domestic (the “**MD**”) which is to be used for any inter-island trade activities. The MD is a document containing material information relating to the goods which are traded inter-island. The regulation provides the template of the MD.

The MD must contain at least the identity of the sender and receiver, kinds and quantity of the goods traded, territory of origin and delivery destination, transportation mode, and summary of the goods and post tariff. Such information must be submitted to the Director of Distribution Facility and Logistics, Directorate General of Domestic Trade, Ministry of Trade, in Document Portable Format (PDF) through the Integrated Licensing Information System (locally known as *Sistem Informasi Perizinan Terpadu* or SIPT). Afterwards, it will be forwarded to the Indonesia National Single Window portal through the INATRADE.

The distribution of goods, specifically the distribution of basic commodities and important goods to remote, outlying, and border areas, with the aim of reducing price disparities is also covered under this regulation. Such distributions must be made through Maritime Outlet (locally known as *Gerai Maritim*).

MoT conducts the supervision of the enactment of MoT Regulation No. 29/2017 through the Central Supervisory Team (locally known as *Tim Pengawas Pusat*) which consists of ministerial members and/or other related technical agencies/bodies.

# Head of Capital Investment Coordinating Board Regulation Regarding Confirmation Status of Taxpayer

by Pratiwi Widyastuti



In efforts to prevent and eradicate the corruption of 2016 and 2017, the President issued President Instruction Number 10 on 22 September 2016. This instruction is subjected to central government, institution, Ministry, and local government. It aims to achieve government transparency, improve the corruption index and ease of doing business.

This order focuses on two things, which are the prevention of criminal acts of corruption and law enforcement in the field of eradicating corruption. These two main concerns will be implemented in seven sectors: mining, infrastructure, private sector, state revenue, commerce, State-Owned Enterprise (BUMN), and procurement of goods and services.

In order to implement the instruction above, on 6 June 2017, the Head of Capital Investment Coordinating Board issued Regulation Number 17 of 2017 on Taxpayer Status Confirmation in Licensing and Non-licensing through the One-Stop Integrated Service of the Capital Investment Coordinating Board ("**Perka BKPM No. 17/2017**").

Any license and non-license services procured through the One-Stop Integrated Service (PTSP) of the Capital Investment Coordinating Board (BKPM) needs such confirmation to obtain a Taxpayer Status Certificate with valid status. This can be done through the Electronic Investment Licensing Service System (SPIPISE) network or application provided by the Director General of Tax. It can also be done manually, in case the online system does not work.

The Taxpayer Status Confirmation itself can be obtained from the Tax Service Office or elsewhere specified by the Director General of Tax representing the Tax Service Office.

The afore-mentioned method containing a valid status is used as a requirement before the License and Non-License on PTSP Center of BKPM. If it contains an invalid status, the request cannot be processed any further. However, it can be reapplied for after obtaining valid status.