



Freeport McMoRan operates this mine in Papua. Under a new proposal, foreign miners might be forced to divest 20 percent of their (Photo: operations to local companies after five years of commercial production. AFP)

## **Government Fine Tunes Mining Law**

The government is planning to require all foreign-owned mining companies to divest 20 percent of their businesses to local entities after five years of commercial production, officials meeting to discuss the new mining regulations revealed on Monday.

The compulsory divestment plan will affect all new mining concessions granted after December, when the 2008 Mining Law was passed. It was met with mixed reactions by the mining community.

Under Article 112 of the new law, the government requires foreign investors to begin selling their shares to either the government, state-owned companies, local-government-owned entities or Indonesian-owned private enterprises after the fifth year of commercial production.

The law requires companies to divest 20 percent of the shares in their local subsidiaries within four years, with targets of 5 percent stakes annually, said Bambang Gatot Ariyono, the director of coal and minerals at the Ministry of Energy and Mineral Resources, on Monday.

"On the ninth year of the foreign companies' operations, they will have finished divesting a 20 percent stake," he said.

"The divestment is aimed at increasing the [local] dividend paid on resources if state-owned or

local government-owned companies purchase the stake.”

Although the government set the 20 percent divestment to be finished in the ninth year, it will be happy to extend the process if foreign companies have difficulty finding local buyers for the stake, Bambang said.

The regulation, which is part of a package of implementing regulations expected to come into law in August, is the first time an across-the-board rule on mining divestment has been passed, with previous divestment rules depending on the year, or generation, in which a mining contract was signed. It covers all mined commodities, including coal and precious metals.

The country's old mining law of 1967, which was valid until last year, did not rule on divestment requirements.

However, mining companies that operate in Indonesia under fourth-generation contracts of work, including US mining subsidiary unit PT Newmont Nusa Tenggara, are required to divest a 51 percent stake to locally owned entities. Other generations are not similarly affected.

Bambang Setiawan, the director general of coal, minerals, and geothermal energy, said the regulation proposal was a political move in line with the country's constitution, which states that all of the country's natural resources belong to the state, with profits to be shared among the people. “We hope to improve public welfare, especially for people living near mines,” he said.

Martiono Hadianto, the president director of US-based Newmont Mining's Indonesian unit, said that the new requirement could be difficult to implement, because the price of stakes in large foreign-owned companies would rise significantly after commercial operations began.

Newmont has been in a protracted dispute with the government over the compulsory divestment of its PT Newmont Nusa Tenggara subsidiary.

“It will be difficult to find local companies that have the resources to purchase stakes,” Martiono said.

Jeffrey Mulyono — head of the Forum on Post-Mining Activities and Forest Reclamation and the president director of PT Bhakti Energi Persada — said that the government should ensure that state-owned companies were given the first opportunities to buy stakes in the foreign mines.

“If private companies buy the stakes, the divestiture process will only benefit private individuals, not the state,” he said.

“It will also be difficult for the government to ensure that the private company is not financed by foreign investors.”

Aviliani, an analyst at the Institute for Development, Economics and Finance, also questioned the divestment rules, saying that protracted price negotiations could slow down the divestment process.

This year, the government expects to book approximately \$2.15 billion in investment in the mining sector, up from \$1.65 billion last year.