

Plunged In A Waiting Game

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Conversion from working contract into mining permit has caused some companies to delay their mining activities. Investment of approximately eight billion dollars is currently on hold. Legal certainty is indeed of utmost importance.

In a recent interview with TAMBANG Magazine, Priyo Pribadi Soemarno, Executive Director of the Indonesian Mining Association (IMA) revealed that an investment of up to eight billion dollars had to be put on hold, due to an impeding stipulation in the mining law No. 4/2009 (the Minerba Law) on conversion of mining license.

He said that there are five companies on the verge of bringing in billions of dollars of investment into the country's mining sector. The five companies, however, are forced to delay their business activities in Indonesia since the new mining law makes it obligatory to convert existing working contract, KK in its Indonesian abbreviation, into mining permit, IUP in its Indonesian abbreviation.

"Their intention to invest (in the mining sector) is loud and clear. (It) should have not been hindered by any regulation or the need to obtain some permit anymore," Mr. Soemarno told our reporters.

The five companies mentioned here are PT. Indotan Inc., recently acquired by Canada's Southern Arc Inc.; PT. Nusa Palapa Mineral aka Sumatera Copper and Gold Ltd.; Rio Tinto Indonesia, Barrick International Ltd.; and East Asia Mineral Ltd. Mr. Soemarno stated that the Indonesian government should duly solve the issue.

Interviewed in his office at Jalan Soepomo, Jakarta, Bambang Gatot Ariyono, Director for Mineral and Coal Mining Enterprises of the Ministry for Energy and Mineral Resources (the ESDM Ministry) stated that the five companies were in the process of applying for mining contracts when the new mining law was introduced earlier this year.

Since they still have not obtained the contracts, they should now seek to obtain mining permits instead, as stipulated by the Minerba Law. "That's the procedure," he firmly told TAMBANG Magazine.

"To my knowledge, they have no problem with that, and they are now in the middle of establishing their legal entities in Indonesia at the Investment Coordination Board (BKPM in its Indonesian abbreviation)," he added.

On the other hand, article 172 of the Minerba Law specifies that there is a privilege for any company already in a process of applying for a contract. A company applying for a KK within a year prior to the entry into force of the law may submit a new application for the IUP without the needs to hold a bid.

Mr. Ariyono further stated that once the company has established its legal entity in Indonesia, the government would issue the IUP without delay.