# Mining corporations pressure Indonesian government over mineral export law

**John Roberts**
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The Indonesian government is in a continuing confrontation with major international mining corporations over its mineral export legislation that came into effect on January 12. The law, which was enacted in 2009, requires miners to process minerals inside Indonesia prior to export in a bid to boost jobs and the overall value of mineral exports.

Even though Indonesian and international companies had five years to comply with the legislation, virtually nothing was done and the country's $US6 billion annual mineral export trade virtually ceased overnight after a ban on the export of unprocessed ores came into effect. The standoff has continued for over a month, threatening hundreds of thousands of jobs across Indonesia.

In addition to the export ban, the government also imposed duties on the export of mineral concentrates of copper, iron, zinc and manganese of between 20 to 25 percent, increasing progressively to 60 percent by late 2016.

A great deal is at stake. Mineral exports make up 12 percent of Indonesia's $1 trillion GDP and up to 20 percent of export earnings. Trade Ministry figures for 2013 show exports of ores, slag and metal ash increased 28.7 percent up from 2012 in value to $6.54 billion and 60 percent in volume to 146 million tonnes.

Indonesia is the largest exporter of nickel ore (about 20 percent of global supply), refined tin and thermal coal. It supplies around 16 percent of the world market in bauxite and exports significant amounts of copper, gold, iron, zinc, titanium and manganese.

The law was passed at the height of the boom in commodity prices driven particularly by China's continued economic expansion. Corporations operating in Indonesia all but ignored the law, presenting little more than plans for future smelters and refineries. On the eve of the legislation's implementation, Mineral Enterprise Director Dede Suhandra commented: "At the last minute, we evaluated all of their preparations. The fact was that many of those documents did not match what the companies had told us."

As the implementation date approached there was clearly an air of panic in the government, not least because of the potential political fallout for this year's national elections. Mines Minister Jero Wacik appealed to parliament to delay the start of the export ban for three years, but was rebuffed.

Companies simply refused to go through the process by the deadline of February 3 of obtaining a recommendation from the Energy and Resources Ministry and then applying to become a registered exporter at the Trade Ministry. Officials reported that as of February 4 not a single application to resume the export of half processed minerals had been received.

It was not until February 20 that the Trade Ministry announced that it had approved export permits for six companies to export processed minerals and refined metal, naming only one PT Smelting, the country's only copper smelter. Many Indonesian firms are launching court cases to have the bans overturned.

Two major international copper corporations Freeport-McMoRan and Newmont Mining have declared that the government's demand that they process copper with higher purity levels in Indonesia was not economically feasible. They insist that the taxes on their copper concentrates constitute a breach of their contracts with the government.

Freeport Indonesia operates one of the world's largest copper mines at Grassberg in Papua and is the country's largest single tax payer. The US owned company has threatened to declare a force majeure—a clause in contracts that can be invoked when unforeseen circumstances such as natural disasters prevent fulfilment. Freeport is also threatening to lay off around half of its 30,000 employees and to wind back investment unless the government makes concessions.

Freeport and Newmont have been in talks with the government but were not included in the six export permits. At present Freeport processes 40 percent of its copper at PT Smelting in which it holds a 25 percent stake. The company is also conducting a feasibility study with state-controlled PT Aneka Tambang into building a $US2.2 billion copper smelter. Newmount smelts about 30 percent of its concentrates in Indonesia.

In a sign that the government is buckling, Deputy Minister of Energy and Mineral Resources Susilo Siswoutomo told the *Wall Street Journal* yesterday that it was considering reducing export duties on mineral concentrates. He said companies would have to demonstrate that they were "serious" about smelting concentrates in Indonesia and the tax cuts would be decided on "a case by case basis."

The major mining corporations such as Freeport have yet to make any significant concessions and are using the threat of large job losses and lower investment to exert further pressure on the government, in conditions where the economy is already faltering.

Indonesia's growth rate for 2013 was just 5.78 percent, its lowest since 2009. The current account has been in deficit for eight quarters, as a result of falling prices for its commodity exports. The deficit is now being compounded by the ban on mineral exports. Indonesia is also being hit by the US Federal Reserve's "taper" of its policy of quantitative easing which is resulting in capital flowing out "emerging markets."

Adding to the pressure, the Japanese business daily *Nikkei* on February 20 reported that Japan was preparing to take Indonesia to the World Trade Organisation to test if the export ban violated WTO rules.

Japan imported 44 percent of its nickel from Indonesia in 2012. The ban has driven up what had been the falling price of nickel. Japanese business fears the Indonesian example might spread. Takayuki Sunita, director-general for oil, gas and mineral resources at the Ministry of Economy, Trade and Industry said "We will be in trouble if other resource-rich countries follow the steps taken by Indonesia."