

Diagnosis Of Nickel Industry Downstreaming Policy In Export Restriction Towards Increasing Economic Added Value In Indonesia

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Abstract

The phrase "control nickel, control the world" is often used when discussing Indonesia's critical role in the global nickel market. In January 2020, President Jokowi's administration temporarily banned nickel ore exports, as outlined in the Minister of Energy and Mineral Resources Regulation Number 11 of 2019. This study aims to diagnose whether the downstream policy of the nickel mining industry can provide an increase in economic added value in Indonesia. The type of research used by the author is normative legal research. Results, The export ban is not intended to hamper trade, but to utilize nickel resources for the country's prosperity through the domestic processing chain. The nickel ore export ban is intended to meet the raw material needs of Indonesian smelters. The ban policy cannot be delayed because mineral resources, especially nickel, are exhausted and non-renewable. With the enactment of Minister of Energy and Mineral Resources Regulation No. 11/2019, there are contradictions in its implementation, especially for foreign investors. This is because the selling price of nickel from Indonesia will automatically be higher than before. However, the implementation of this regulation will not only affect the pace of investment in Indonesia. The Indonesian government has also opened the possibility by offering ease of licensing as mentioned above. Currently, Indonesia needs funds for the construction of smelters (refineries), the construction of its power plants which are the main drivers of nickel processing machines, as well as the training of experts and human resources to do nickel processing properly. Of course, you need a lot of money. In order to accelerate the economy and development, the government has the right to mandate all Indonesian mining companies to prohibit the processing of mining products and the export of raw materials, boost international market prices and boost foreign exchange through increased mining. take action. New renewable energy of the future.

1. Introduction

Indonesia has 17,499 islands with a total area of about 7.81 million square kilometers. Indonesia's sea area is about 3.25 million square kilometers.¹ This makes Indonesia have a lot of natural resources, especially minerals. Mineral and mining wealth in Indonesia has long been recognized by the world. Part of Indonesia's national income is from the profits of mineral and mining import and export. This is done to build Indonesia's economy to be more advanced. This process can relate to and influence the driving factors of economic development of a particular country, region or area.²

Economic development is closely related to national income and per capita income.³ Utilizing the great natural potential can improve the welfare of the Indonesian people, among others through international trade.⁴ International trade, also known as import and export, is the activity of exchanging goods and services from one country to another. International trade brings many benefits, especially for developing countries like Indonesia.⁵

International trade is one of the engines that can drive growth and solve a country's economic problems.⁶ International trade activities provide several benefits, one of which is to meet the needs of a country for a particular item. when a country loses its ability to produce or produce goods and services. In that country, the country looks for other ways, namely by importing from other countries.⁷ This is something that Indonesia can utilize to provide its abundant natural resources to other countries. Indonesia began to establish policies that focused on increasing the export sector in the early 1980s.⁸

In the mining sector, Indonesia is one of the richest countries in the world. This is evidenced by Indonesia's record of contribution to various world mining commodities such as gold, tin, copper and nickel.⁹ This makes Indonesia one of the top 10 exporters of mining products in the world. One of the mining commodities that contributes the most to Indonesia's export balance is nickel. "Control the nickel,

¹ Monika Suhayati, "Rekonstruksi Regulasi Eksplorasi Dan Eksploitasi Sumber Daya Alam Pada Landas Kontinen," *Kajian* 27, no. 1 (December 25, 2022): 13–30, <https://doi.org/10.22212/kajian.v27i1.3587>.

² Didi Djadjuli, "Peran Pemerintah Dalam Pembangunan Ekonomi Daerah," *Dinamika : Jurnal Ilmiah Ilmu Administrasi Negara* 5, no. 2 (July 21, 2018): 8–21, <https://doi.org/10.25157/dinamika.v5i2.1409>.

³ Marsanto Adi Nurcahyo, "Peran Tim Joint Analysis DJBC-DJP Dalam Mengoptimalkan Penerimaan Negara Dari Sector Batubara," *Indonesian Treasury Review: Jurnal Perbendaharaan, Keuangan Negara Dan Kebijakan Publik* 5, no. 1 (April 30, 2020): 31–45, <https://doi.org/10.33105/itrev.v5i1.158>.

⁴ Syahrir Ika, *Kebijakan Hilirisasi Mineral: Reformasi Kebijakan Untuk Meningkatkan Penerimaan Negara (Downstreaming Mineral Policy: Policy Reform to Increase State Revenue)*. *Kajian Ekonomi Keuangan Vol. 1 No. 1*, 2017.

⁵ Akhmad Nur Zaroni, "Globalisasi Ekonomi Dan Implikasinya Bagi Negara-Negara Berkembang : Telaah Pendekatan Ekonomi Islam," *Al-Tijary*, December 1, 2015, 1–22, <https://doi.org/10.21093/at.v1i1.418>.

⁶ Ari Muliarta Ginting, "Analisis Pengaruh Ekspor Terhadap Pertumbuhan Ekonomi Indonesia," *Buletin Ilmiah Litbang Perdagangan* 11, no. 1 (July 31, 2017): 1–20, <https://doi.org/10.30908/bilp.v11i1.185>.

⁷ Anishah Wulandari, Devita Maulidia Soleha, and Rechal Wulandari, "Analisis Dampak Globalisasi Terhadap Perdagangan Internasional," *J-MAS (Jurnal Manajemen Dan Sains)* 8, no. 1 (April 30, 2023): 1160–65, <https://doi.org/10.33087/jmas.v8i1.1202>.

⁸ Marhaeni Ria Siombo, "Kajian Hukum Hilirisasi Dan Penghentian Ekspor Mineral Logam," *JISIP (Jurnal Ilmu Sosial Dan Pendidikan)* 7, no. 2 (June 7, 2023): 1384–91, <https://doi.org/10.58258/jisip.v7i2.4915>.

⁹ Samuel Risal, Dan Buntu Paranoan, and Suarta Djaja, "Analisis Dampak Kebijakan Pertambangan Terhadap Kehidupan Sosial Ekonomi Masyarakat Di Kelurahan Makroman," *Jurnal Administrative Reform* 1, no. 3 (July 12, 2017): 516–30, <https://doi.org/10.52239/jar.v1i3.482>.

control the world” is a metaphor often used when discussing Indonesia's role in the global nickel market. The January 2020 Trade and Industry Brief presents the position of nickel reserves, raw nickel exports, and processed nickel exports at the international level. According to published data, Indonesia currently has the world's largest nickel reserves and is an exporter of nickel ore and concentrate.¹⁰ Unfortunately, Indonesia has not been able to take advantage of this natural wealth and great potential because it does not yet have a nickel downstream process. In addition, the government's inconsistency in implementing the raw nickel export policy exacerbates the situation.¹¹ Considering that the price of processed nickel is 200 times the price of nickel in ore, if Indonesia does downstream well, Indonesia can definitely reap huge profits. Indonesia is the world's largest nickel producer.

By 2020, it is estimated that 30% of the world's nickel production, equivalent to 800,000 tons, will come from Indonesia, bringing the total reserves to 174 tons. This puts Indonesia in first place as the world's largest nickel ore producer, and the Philippines in second place 420,000 tons (16%), Russia 270,000 tons (10%), New Caledonia 220,000 tons (8%), the remaining 36 combinations. Other countries or equivalent to 958,000 thousand tons.¹² However, Indonesia's nickel export figures have experienced ups and downs. Export activity is influenced by several factors, including export prices, domestic prices, real exchange rates, capacity supported by investment activity, commodity imports, and policies and regulations.¹³

In January 2020, President Jokowi's administration temporarily suspended nickel ore exports. This ban decision is contained in Minister of Energy and Mineral Resources Regulation Number 11 of 2019. This is an amendment to Minister of Energy and Mineral Resources Regulation No. 25/2018 on the Implementation of Mineral and Coal Mining. According to economic and policy researchers Izatty and Suhartono, the nickel ore export ban policy should have been implemented in 2014 in accordance with the Minerba Law No. 4/2009. However, in practice, the export ban was implemented by considering government revenues adjusted for conditional export relaxation.¹⁴ The easing of exports of unprocessed minerals (concentrates) will be counterproductive to the series of smelter construction and have a negative impact on downstream nickel. The policy was also driven by consideration of the country's nickel reserves, which are estimated to be only 700 million tons.

¹⁰ Novi Ratna Cahyani, “Kebijakan Pemberhentian Ekspor Biji Nikel Indonesia Tahun 2020: Tinjauan Neomerkantilisme,” *Ganaya : Jurnal Ilmu Sosial Dan Humaniora* 6, no. 2 (May 9, 2023): 423–36, <https://doi.org/10.37329/ganaya.v6i2.2463>.

¹¹ Maria Contesa, Sinta Ningrum, and Mudiwati Rahmatunnisa, “Smelter : Inkonsistensi Kebijakan , Kendala dan Dampak di Indonesia,” *Responsive: Jurnal Pemikiran Dan Penelitian Administrasi, Sosial, Humaniora Dan Kebijakan Publik* 1, no. 1 (October 24, 2018): 6–11, <https://doi.org/10.24198/responsive.v1i1.19095>.

¹² Engeng Dilah Dalilatur Rahmah and Yusuf Iskandar, “Analisis Ekspor Nikel Indonesia dan Faktor-Faktor yang Mempengaruhinya,” *Prosiding Seminar Nasional Manajemen dan Bisnis* 2 (November 29, 2022), <http://prosiding.senmabis.nusaputra.ac.id/index.php/prosiding/article/view/65>.

¹³ Nazaruddin Malik, *Ekonomi Internasional* (UMMPress, 2017).

¹⁴ Hanina Haddad, Helitha Novianty, and Huala Adolf, “Larangan Ekspor Bijih Nikel Indonesia Diantara Stabilitas Perdagangan Internasional,” *Mimbar Hukum* 34, no. 2 (December 30, 2022): 559–88, <https://doi.org/10.22146/mh.v34i2.2686>.

Continuing mining without exploration is expected to deplete the remainder in eight years.¹⁵

The government's nickel export halt policy is subject to international law,¹⁶ The process continues to be carried out by one international organization, namely from fossil fuels. This is about the European Union. The switch from cars to electric vehicles. The European Union formally filed a complaint with the World Trade Organization (WTO) on November 22, 2019, over export restrictions on nickel ore, iron ore, and chromium that Indonesia uses as raw materials for the stainless steel industry. Europe requested consultations with Indonesia. EU Claims:

1. Measures that restrict the export of certain commodities, including those that require domestic processing requirements, domestic marketing obligations, and export licensing requirements, do not appear to comply with Article 11 of the General Agreement on Trade (GATT) 1994;
2. The prohibited subsidy scheme appears to be inconsistent with Article 3.1(b) of the ASCM Agreement; dan
3. Failure to promptly publicize the disputed measure appears to be inconsistent with Article 10 Section 1 of the General Agreement on Tariffs (GATT) 1994.¹⁷

On January 14, 2021, the European Union applied to establish a panel. However, it was delayed by the Dispute Settlement Body (DSB) and finally on April 21, 2021, by a panel consisting of Brazil, Canada, China, India, Japan, South Korea, Russian Federation, Saudi Arabia, Singapore and Chinese Taipei, the establishment has taken place. regulating Turkey, Ukraine, the United Arab Emirates, the United Kingdom and the United States have third-party rights.¹⁸

Based on the Geological Agency's mapping in July 2020, Indonesia has nickel ore resources of 11,887 million tons and nickel ore reserves of 4,346 million tons. Meanwhile, total metal resources reached 147 million tons and metal reserves reached 68 million tons. These results also place Indonesia as the world's largest nickel exporter with a contribution of 27% of total world production.¹⁹ Indonesia is the world's largest nickel exporter, but the government is taking steps to minimize Indonesia's nickel depletion to reprocess and industrialize raw materials from nickel-containing natural resources.²⁰

¹⁵ Herdis Herdiansyah, "Pengelolaan Konflik Sumber Daya Alam Terbarukan Di Perbatasan Dalam Pendekatan Ekologi Politik," *Jurnal Hubungan Internasional* 7, no. 2 (2019): 144–51, <https://doi.org/10.18196/hi.72134>.

¹⁶ Patricia Audrey Ruslijanto et al., *Hukum Penyelesaian Sengketa Internasional* (Universitas Brawijaya Press, 2022).

¹⁷ Shila Yuli Pratiwi, Mey Luvita, and Denik Iswardani Witarti, "Komunikasi Diplomasi Pemerintah Indonesia Dalam Gugatan UNI Eropa Mengenai Pemberhentian Ekspor Bijih Nikel," *Jurnal Komunikasi Universitas Garut: Hasil Pemikiran dan Penelitian* 9, no. 1 (April 29, 2023): 1065–78, <https://doi.org/10.52434/jk.v9i1.2465>.

¹⁸ Nur Farra Hassanah, "Kajian Yuridis Perjanjian Perdagangan Internasional Terkait Aturan Pembatasan Dan Larangan Ekspor Oleh World Trade Organization (Wto) (Studi Perjanjian Antara Indonesia Dan Uni Eropa)," *Jurnal Ilmiah Mahasiswa Hukum [JIMHUM]* 1, no. 4 (December 26, 2021), <https://jurnalmahasiswa.umsu.ac.id/index.php/jimhum/article/view/925>.

¹⁹ Dicky Dwi Radhica, "Proteksionisme Nikel Indonesia Dalam Perdagangan Dunia," *Cendekia Niaga* 7, no. 1 (August 10, 2023): 74–84, <https://doi.org/10.52391/jcn.v7i1.821>.

²⁰ Susanto Susanto, "Kepastian Hukum Investasi Menurut Undang Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal Dan Peraturan Badan Koordinasi Penanaman Modal Republik Indonesia Nomor 5

Mineral resources and coal content contained in the sovereign territory of the Unitary State of the Republic of Indonesia, one nation, are non-renewable natural resources that have an important and strategic role as the basic capital for national development.²¹ and therefore Article 33(3) of the Constitution of the Republic of Indonesia of 1945 ("UUD 1945") states that "the earth, water and natural resources contained therein shall be controlled by the State and shall be utilized for the greatest prosperity of the people".

Currently, Indonesia can only produce Grade 2 nickel derivatives that are needed for stainless steel production. Grade 1 nickel derivatives are currently required for battery manufacturing.²² In his statement, President Jokowi hopes to process Indonesian nickel into grade 1 nickel products and raw materials for lithium batteries used to make electric vehicles.²³ The level 1 nickel processing industry is considered promising for Indonesia. Therefore, the nickel export ban policy implemented by the Indonesian government seems to be aimed at developing the domestic industry. Unprepared to compete with other large industries, the nickel processing industry needs investment support and government protection. Protectionist measures, such as export bans, are implemented by countries to ensure that new industries have sufficient economies of scale and capacity to compete on the international stage.

In a broader context, Indonesia's resolve is based on its desire to shift from being an exporter of raw materials to a producer of high-value processed nickel. This attitude was emphasized by Jokowi's statement that "Indonesia has always exported raw materials, but it is better to be processed and consumed in the downstream industry or within the country."²⁴ The price is around US\$30, but when converted into ferronickel (an alloy of iron and nickel used as an alloying agent in steelmaking), the value rises to US\$100 per ton. By relying on the development of a downstream nickel industry, Indonesia is expected to benefit the sector by adding value to processed nickel products, creating jobs and reducing carbon emissions.

Judging from the background above, the author wants to conduct research on the diagnosis of the downstream policy of the nickel mining industry on increasing economic added value in Indonesia?

2. Method

The type of research used by the author is normative legal research. Normative legal research is a scientific research method to find truth based on scientific logic

Tahun 2013 Tentang Pedoman Dan Tata Cara Perizinan Dan Non Perizinan Penanaman Modal (Studi Kasus PT. Tunas Mandiri Lumbis)," *Jurnal Surya Kencana Dua: Dinamika Masalah Hukum Dan Keadilan* 3, no. 1 (2017).

²¹ Nunuk Febriananingsih, "Tata Kelola Energi Terbarukan Di Sektor Ketenagalistrikan Dalam Kerangka Pembangunan Hukum Nasional," *Majalah Hukum Nasional* 49, no. 2 (November 28, 2019): 29–56, <https://doi.org/10.33331/mhn.v49i2.31>.

²² Irwandy Arif, *Nikel Indonesia* (Gramedia Pustaka Utama, 2018).

²³ Wihana Kirana Jaya, *Ekonomi Kelembagaan: Studi Kasus pada Transportasi Darat dan Bauran* (PT Elex Media Komputindo, 2021).

²⁴ PDSI KOMINFO, "Pemerintah Akan Stop Ekspor Bahan Mentah Tambang secara Bertahap," Website Resmi Kementerian Komunikasi dan Informatika RI, accessed April 25, 2024, <http://content/detail/39029/pemerintah-akan-stop-ekspor-bahan-mentah-tambang-secara-bertahap/0/berita>.

in normative aspects. As for the approach, this research uses a normative legal approach, namely through problem analysis and research with a legal doctrine approach in relation to applicable positive legal norms, the author relates to domestic law.

The study is analyzed using a qualitative normative method using secondary data obtained from document surveys, namely the codification of legal documents. The main legal material used is Presidential Regulation No. 96 of 2021. The conclusion of this research uses inductive reasoning focused on cause and effect, namely the impact of nickel export restrictions on increasing economic added value in Indonesia based on Presidential Regulation No. 96 of 2021.

3. Analysis or Discussion

Indonesian government bans nickel ore exports with effect from January 1, 2020, Member States give less positive response.²⁵ In intergovernmental and supranational organizations, namely the European Union, because it is considered to endanger the economy of the people who continue to develop the electric automotive industry requires nickel ore, which is the raw material for batteries as the heart of electric vehicles. The Indonesian government's ban on nickel ore exports is actually regulated by GATT rules on quantitative restrictions or prohibitions.²⁶ General Agreement on Tariffs and Trade (GATT) Article XI:1 Quota Limits 1994, WTO members say they prohibit all export restrictions or prohibitions other than import duties, taxes or other levies. Indonesia and the European Union are members of the World Trade Organization or WTO as an organization that regulates international trade, important for the economic sectors of its members. Naturally, the presence of the WTO will increase many effects on its members. Of course, Indonesia's accession as a sovereign developing country has an obligation to achieve maximum economic benefits for the national interest.²⁷

By being bound by international agreements ratified by the Establishment of the World Trade Organization (WTO) approved by Law No. 10 of July 7, 1944. Harmonize laws and regulations to comply with WTO rules. Also, due to its foreign sovereignty, Indonesia is obliged to comply with all its WTO regulations. One of them relates to the GATT-WTO provisions. This case is quantitative quota limit restrictive or prohibited. Indonesia as a sovereign state has policy jurisdiction for the benefit of those who manage natural resources Minister of Energy and Natural Resources Regulation No. 11 of 2019 concerning the Second Amendment, Minister of Energy and Natural Resources Regulation No. 25 of 2018 mining operations; minerals and coal; this is not interesting we will contribute to the local community through downstream exploration of nickel value-added. However, the final report of

²⁵ Donny Ardian Prasetya and Hamka Hamka, "Kebijakan Pemerintah Indonesia Menghentikan Ekspor Bijih Nikel Ke Uni Eropa (2019)," *Jurnal Socia Logica* 3, no. 4 (September 27, 2023): 1–10, <https://doi.org/10.572349/socialogica.v3i4.1313>.

²⁶ Nisya Nursyabani, Irawati, and Syahrul Fauzul Kabir, "Implikasi Hukum Sengketa Indonesia Dengan Uni Eropa Dalam Kasus Larangan Ekspor Bijih Nikel Berdasarkan Hukum Perdagangan Internasional (GATT-WTO)," *Bandung Conference Series: Law Studies* 3, no. 1 (January 25, 2023): 629–36, <https://doi.org/10.29313/bcsls.v3i1.5074>.

²⁷ Widhayani Dian Pawestri, "Dialektika Perlindungan Kepentingan Nasional Berdasarkan Konstitusi Ekonomi Dengan Basic Principle Dalam Bilateral Investment Treaties," *Yuridika* 31 (February 28, 2016): 101, <https://doi.org/10.20473/ydk.v31i1.1961>.

the WTO panel will be available on the outcome of the panel on October 17, 2022 noting that Indonesia was found to have violated one of the WTO Principles regarding the prohibition of quantitative restrictions in the WTO as stipulated in Article 11:1994 of the DSB's Gut of Disputes for Dispute Settlement: 592.

Regulated under Article XX of the General Agreement on Trade (GATT) 1994. Exceptions to GATT Article XX include:

- a) preservation of public morals;
- b) protection of human, animal or plant life or health;
- c) import or export of gold or silver.
- d) ensuring compliance with policies that are not contrary to the agreement.
- e) prohibition of goods carried by convicted persons;
- f) preservation of national assets, such as works of art, historical artifacts or antiques;
- g) conservation of perishable natural resources;
- h) there are obligations arising from intergovernmental commodity agreements;
- i) restrictions on exports of domestic materials are necessary to supply the necessary commodities in sufficient quantities for domestic processing enterprises when domestic prices are kept below international prices. These restrictions do not deviate from the principle of nondiscrimination and do not apply to increase exports or protect domestic industries; and
- j) the agreement specifies measures to be taken to ensure the availability of goods and services essential for the acquisition or distribution of products in general or limited local supply. Such measures, which are inconsistent with other provisions of this agreement, shall cease as soon as the conditions giving rise to them cease to exist.

According to the WTO report, some of the arguments put forward by Indonesia include:

“First, that this ban is in accordance with the provisions of Article XI: 2(a) of the GATT regarding export bans or restrictions which may be imposed temporarily to prevent or alleviate critical shortages of foodstuffs or other products essential to the exporting parties, because it is suspected that the supply of nickel ore in Indonesia will be exhausted in a short period of eight years if no further exploration is carried out, efforts made by the government to carry out exploration will be hampered if nickel ore exports continue to be carried out and domestic nickel ore supply will be difficult to reach a value that satisfies the needs of the national industry. Second, Article 20(d) of the General Agreement on Tariffs and Trade (GATT) 1994 is a necessary measure to ensure compliance with Indonesian laws and regulations consistent with the General Agreement on Tariffs and Trade (GATT) 1994.”²⁸

Downstream mining becomes a part of Industrialization that encourages countries that depend on raw materials to become financially independent to be

²⁸ Nursyabani, Irawati, and Kabir, “Implikasi Hukum Sengketa Indonesia Dengan Uni Eropa Dalam Kasus Larangan Ekspor Bijih Nikel Berdasarkan Hukum Perdagangan Internasional (GATT-WTO).”

used for the welfare of their people.²⁹ But in advancing industrialization not only downstream mining, downstream industrial development must be considered in order to produce final products for the prosperity of the community and domestic manufacturing. The success of downstream mining depends on engineering policies and regulations in its implementation.³⁰ Considerations in the provision of raw materials, human resources, technology, and others, especially licensing, are very influential in mineral downstreaming. Revenues from these minerals drive economic growth, state revenues, and employment.³¹ It provides benefits to the people of Indonesia in a fair and reasonable manner. Downstreaming is often referred to as value creation,³² reducing the export of raw materials and instead using these materials because the domestic industry adds domestic value (creating jobs) means that efforts to encourage if there is a need to export, we will export finished products that have been processed from raw materials. Since Covid 19 was designated as a national disaster, it has made consideration of the import and export of goods globally.

The downstreaming of nickel benefits the economic value of the commodity. However, the absence of upstream strengthening can lead to a lack of added value in the finished material. The ban on the export of nickel raw materials is done to keep nickel resources from extinction in the long term to meet domestic needs. The positive effect of value creation from downstream nickel is an increase in value creation in the development of the gross domestic product (GDP) of the downstream mineral industry. and an increase in technological and human resources for regional Gross Domestic Product (GRDP), employment opportunities, mineral exports and national economic growth.

“Metallurgical project investment in Indonesia shows foreign investor interest Memorandum of Understanding (MoU) of USD 9.8 billion or IDR 142 trillion for the development of Indonesia's integrated nickel industry. China's Chengxin Lithium has announced it will acquire a 65% stake in a US\$350 million (Rs 5 trillion) lithium project in Indonesia and build production capacity overseas. Plant project to produce lithium chemicals for electric vehicle (EV) batteries at Indonesia Molowali Industrial Estate (IMIP) in Central Sulawesi.”³³

Increasing added value in nickel is an effort made in the form of a smelter.³⁴ This development is accompanied by domestic development. The government is improving infrastructure for industrial purposes, one of which is metallurgical land, import tariffs and long-term tax preferences, so the mining industry must support legal compliance during the specified production period in accordance with the rules of the Law. March 11, 2020 on Job Creation (Adaptation of Procedures for

²⁹ Dr Mas Rahmah LL.M S. H. , M. H., *Hukum investasi* (Prenada Media, 2020).

³⁰ Sutri Destemi Elsi, *Politik Kebijakan Publik di Sektor Pertambangan* (Publica Indonesia Utama, 2023).

³¹ Agus Sulaksono, “Pengaruh Investasi Dan Tenaga Kerja Terhadap PDB Sektor Pertambangan Di Indonesia,” *Jurnal Ilmiah Ekonomi Bisnis* 20, no. 1 (2015).

³² Arman Hakim Nasution and Hermawan Kartajaya, *Inovasi* (Penerbit Andi, 2018).

³³ Estina Sativa and Eva Noorliana, “Analisis Pertumbuhan PDB Indonesia Melalui Pengembangan Sektor Pertambangan,” *Jurnal Indonesia Sosial Sains* 2, no. 05 (2021): 756–65.

³⁴ Giovanni Ruben, “Kajian Yuridis Kewajiban Perusahaan Pertambangan Mineral Logam Dalam Membangun Fasilitas Pengolahan Dan Pemurnian (Smelter) Di Indonesia,” *LEX ADMINISTRATUM* 9, no. 1 (2021).

Decree No. 91/PUU XVIII/2020) Article 102 (1) states that the owner of an IUP or IUPK in the active stage of production activities is obliged to increase the added value of mineral mining business activities in mining.

Processing and refining of raw materials mined from metal ores. Processing of raw materials for mining, non-metallic. and/or processing of raw materials for rock drilling.

- Article 170A, namely KK, holders of IUP production plants or IUPK metal mineral production plants, carry out processing and refining activities and build processing and / or refining plants; and / or IUP producers; owners, other IUPK producers or IUP producers who enter into special processing and / or refining cooperation agreements for processing and refining or other parties carrying out processing and / or refining activities You can sell metal mineral products. Unrefined goods in certain quantities abroad
- Article 167 of PP No. 96 of 2021 concerning the Implementation of Mineral and Coal Mining Business Activities states that the owners of IUP and IUPK have the right to process and process mineral raw materials at the production operation stage to add domestic value. Or states that refining must be done. Increase the mined mineral.
- PP No. 25 of 2021 concerning the implementation of Article 3 (1) of the Energy and Mineral Resources Sector which states that Holders of Mining Production Facility Business Licenses, Production Facility IUPKs and IUPKs in lieu of Coal Commodity Concession Contracts/Agreements must: say they will carry out improvement activities. You get special treatment in the form of royalties of 0% (zero percent) of the value of state coal.

Downstreamization is closely related to the added value of a product. The more downstream a product is produced, the higher its selling price. The macroeconomic order applies, the less production activities the greater the contribution to the total gross domestic product. The concept of value-added in industry is much different from the retail price ratio of production. The production cost structure is the sum of the price of raw materials, wages, administrative costs, and other unforeseen costs.³⁵ The lower the production cost structure, the more competitive a product is.

Minister of Energy and Mineral Resources Regulation No. 11/2019 requires all companies to process nickel first to increase local market prices before exporting. One of the obstacles to nickel processing in Indonesia is the lack of nickel processing smelters. Another obstacle is the lack of labor, and there are still many workers in Indonesia who do not understand how to handle nickel. Based on existing regulations, the government is more serious in downstreaming nickel growth. The existence of a nickel export ban policy for the country of Indonesia has implications for the increasing construction of nickel refining plants, the growth of Li-ion battery technology in Indonesia, and the increasing demand for foreign investment in Indonesia. to be attractive. The number of countries in Indonesia is increasing.³⁶

³⁵ Ari Purwanti, *Akuntansi Manajemen* (Penerbit Salemba, 2023).

³⁶ Susanto, "Kepastian Hukum Investasi Menurut Undang Undang Nomor 25 Tahun 2007 Tentang Penanaman Modal Dan Peraturan Badan Koordinasi Penanaman Modal Republik Indonesia Nomor 5

Formulation of downstream mineral policies, especially nickel in Indonesia, there are three components in the preparation of downstream policies, namely related to technology, finance, and policy foundations that are arranged in a conducive and sustainable manner for the creation of downstream according to the target. Every policy must provide benefits for the community and many people to get cheap funding opportunities in downstream to help create investment.³⁷ The policies taken must be aligned so that there are not many risks that arise, the costs obtained are used to develop technology in downstreaming so that it is faster to do and get maximum results.

The preparation of a harmonized downstream framework, making mining downstreaming in Indonesia must pay attention to the development of downstream industries. Obstacles to the implementation of downstreaming in Indonesia include the unclear downstreaming strategy. There is a synergy between the interests of mining companies that focus on economic feasibility and the interests of the state that focus on increasing exports, taxes and other government revenues. Even if the government should focus on the concept of 'enhancing value' in the form of strengthening policies that create comfort. Access to raw materials and the development of mineral-based industries for business and industry. As a result, the benefits of minerals in terms of creating economic value are higher.

Some countries have integrated the use of minerals and coal into the industry, creating economies where there are many industries that make some countries more advanced, for example China and India. Kanda also implements an industry that focuses on the production of manufacturing raw materials for development in medical and public utilities. Then there are the United States, Australia, and Germany developing coal downstream. Mining materials such as nickel, iron, aluminum, tembaga are needed for the development of medical devices. Lithium, cobalt are needed for the development of electric vehicles.³⁸

Developing an integrated mining and manufacturing industry creates many sustainable benefits, namely

- 1) Mining companies will no longer sell their mining products in the form of raw ore, but the minerals they produce will be processed for added value and can be directly processed for production purposes by downstream industries, resulting in higher prices. will generate revenue;
- 2) For processing companies, the income earned is based on payment for processing services, so that a reasonable profit is obtained. In other words, the greater the amount of mined minerals processed, the greater the increase in profits achieved by the processing company;
- 3) Downstream industries can obtain mining-based industrial raw materials at a cheaper price than importing them from other countries,

Tahun 2013 Tentang Pedoman Dan Tata Cara Perizinan Dan Non Perizinan Penanaman Modal (Studi Kasus PT. Tunas Mandiri Lumbis)."

³⁷ Rio Fafen Ciptaswara and Sulistiowati, "Implementasi Hilirisasi Mineral Dan Batu Bara Dalam Rangka Mewujudkan Kedaulatan Energi Dan Daya Saing Industri Nasional," *Mimbar Hukum* 34, no. 2 (December 29, 2022): 521–58, <https://doi.org/10.22146/mh.v34i2.3490>.

³⁸ Hassanah, "Kajian Yuridis Perjanjian Perdagangan Internasional Terkait Aturan Pembatasan Dan Larangan Ekspor Oleh World Trade Organization (Wto) (Studi Perjanjian Antara Indonesia Dan Uni Eropa)."

so that products sold in the market will have a more competitive price and gain a larger market share.³⁹

This also requires government incentives for technology development and the creation of domestic industries. The development of an integrated downstream mining and industrial industry in Indonesia is certainly not easy. Increasing the Feasibility of dismantling downstream companies is very low. The government is expected to create various downstream industries in the future. These types of industries include batteries, coal gasification, or coal chemical industries. These are pioneering industrial programs that do not yet exist in Indonesia. Of course, developing technology and downstream mineral and coal industries is not cheap. To facilitate the creation of technological change in the mining industry, many countries such as the United States, Australia and Germany have provided a lot of financial support. Incentives and incentives for those who research, develop, or implement processing technologies are required by the government. Among them can be seen in the United States and Australia developing or developing coal downstream programs.

When using coal to produce clean energy, the government allocates resources in the form of incentives and subsidies. This is also related to building downstream plants according to government specifications. Moreover, Germany offers similar incentives. From the framework for Creating Coal and Mineral Downstream Technologies to Meet Domestic Industrial Demand mainly due to the EU policy of generating and utilizing clean energy and technologies, the federal government then provides a budget together with the central government to various stakeholders to develop priority Industrial programs in the energy and transportation sectors for the coal gasification industry in the form of syngas, development of transportation and vehicle battery manufacturing industries with the main market of the European Union. This also provides an economic boost.

In various fields, it is influenced by market creation and society. The Indonesian government itself, based on low-emission technology, has sought to encourage the promotion of downstream mining by introducing a 0% coal tax on downstream coal. It also offers tax holidays, import duty exemptions for companies that develop coal downstreaming and import raw materials. However, the government's economic stimulus package is basically a reduction in state revenue through taxes and PNPB on mining commodities, which has no significant impact. Growth of the downstream industry in Indonesia.

The amount does not matter to further promote the feasibility of downstream industry projects. Indonesia's financial support policy is more effective when it is directly linked to the cost of capital required to develop downstream industries,⁴⁰ such as:

- 1) implementation of cost recovery for domestic coal minerals and downstream businesses. Cost recovery is an amortization mechanism. Operational and capital costs are reimbursed by the government to contractors engaged in mining management if the product is the result

³⁹ Izzati Dan Suhartono, "Kebijakan Percepatan Larangan Ekspor Ore Nikel Dan Upaya Hilirisasi Nikel," *Jurnal Info Singkat* 11 (2019).

⁴⁰ Prof Dr Ir Irwandy Arif M.Sc, *Good Mining Practice di Indonesia* (Gramedia Pustaka Utama, 2021).

of operational activities that have successfully developed product commercialization. An example of a business unit that applies cost recovery, this mechanism can also be used to encourage the level of investment feasibility, especially in industrial development programs;

- 2) help provide access to low-cost financing for downstream industry development. One of the obstacles in developing start-up industries is the high risk of doing business in start-up industries and the lack of access to low-interest loans from financial institutions. In this regard, it is appropriate for the government to encourage synergy between agencies. Financing with the mining and manufacturing industries so that they can offer soft loans and low-interest bonds. This includes providing adequate guarantees to ensure access by various economic actors in the mining sector to sufficient funding and feasibility of business development for downstream industries;
- 3) creation of domestic industrial markets through subsidized supply to downstream industries. One of the most widely used guidelines for countries creating their own industrial transformation. The payment of subsidies for the development of pioneer industries is in the form of capital goods subsidies or downstream domestic sales product price subsidies. The national assistance mechanism is the most favored mechanism by stakeholders through effort subsidies, as there are concrete figures determining project feasibility. However, if not managed properly, it can lead to inefficiencies and industrial outbreaks, if economic pressures continue for a long period of time.

Therefore, the policy of providing subsidies for industrial development can be provided subject to the subsidies provided being measurable:

- a) for a certain period of time, granted for a certain period of time; business transformation, industry transformation, or creating markets;
- b) the number, i.e., the amount to be declared; in particular, the number set for this particular period of time is calculated based on the estimated cost of capital required for the development of many industries to create a domestic market;
- c) State-Owned Enterprises or their affiliates are disclosed only to affiliated companies or private companies partnering with SOEs that are financed by SOEs that control development projects.

3. Conclusion

The export ban is not intended to hamper trade, but to utilize nickel resources for the country's prosperity through the domestic processing chain. The nickel ore export ban is aimed at meeting Indonesia's smelter raw material needs. The ban policy cannot be delayed because mineral resources, especially nickel, are exhausted and cannot be renewed. With the enactment of Minister of Energy and Mineral Resources Regulation No. 11/2019, there are contradictions in its implementation, especially for foreign investors. The reason is that the selling price of nickel from Indonesia will automatically be higher than before. However, the implementation of this regulation will not only affect the pace of investment in Indonesia. The

Indonesian government has also opened the possibility by offering ease of licensing as mentioned above. Currently, Indonesia needs funds for the construction of smelters (refineries), the construction of its power plants which are the main drivers of nickel processing machines, as well as the training of experts and human resources to do nickel processing properly. Of course, you need a lot of money. In order to accelerate the economy and development, the government has the right to mandate all Indonesian mining companies to prohibit the processing of mining products and the export of raw materials, boost international market prices and boost foreign exchange through increased mining. take action. The new renewable energy of the future.

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