

## INDONESIA

### Governance of Mineral Resources

The Constitution of Indonesia provides that the country's natural resources are controlled by the State for the greatest prosperity of the Indonesian people. The **Indonesian Mining Law is Law No. 4 of 2009 on Mineral and Coal Mining, as amended by Law No. 3 of 2020**. The central government, through the Ministry of Energy and Mineral Resources (MEMR) is responsible for formulating and implementing policies and regulations on mineral resources

Mineral exploration, development, and production rights may be granted through mining business licenses known as "IUPs" to Indonesian individuals and legal entities. A wholly owned foreign company may be eligible to participate, subject to divestment from 5 up to 51% of its shares between years 10 and 25, to the central government, regional governments, state-owned companies, regionally owned companies, wholly owned domestic companies, or through the Indonesian capital market. The divestment schedule is based on mining method (open pit or underground, with or without integrated processing, refining, development or utilization activities)

### Community Engagement

The Mining Law authorizes MEMR to formulate cooperation, partnership, and community empowerment policies to provide social and environmental benefits. The holder of an IUP must:

- formulate a Community Development and Empowerment program in consultation with concerned regional government(s) and community(ies);
- allocate funds for the implementation of the Community Development and Empowerment program, whose minimum amount shall be determined by the Minister; and
- regularly report to the MEMR on the implementation of said program.

Several regulations provide further guidance:

- Community development and empowerment by MEMR Minister (Regulation No 41 of 2016)
- Mineral and Coal Mining Regulation No 26 of 2018 on Implementation of Good Mining Practices and Supervision of Mineral And Coal Mining which requires the development of a blueprint for community development and empowerment.
- Minister for Energy and Minerals Resources Decree No 1824 2018 on Community Development and Empowerment Guidelines which provides additional guidelines on blueprints for community development and empowerment and guidelines for the development of the Master Plan and Community Empowerment. The Master Plan shall include education, health, socio-economic and cultural factors, opportunities for local people to participate, establishment of community institutions, and infrastructure development.
- Community development programs relative to State-Owned Enterprises fall under SWE PER-02/MBU/04/2020 third amendment PER-09/MBU/07/2015

### COMMUNITY DEVELOPMENT AGREEMENTS (CDAs)

CDAs are not legally required in mining projects, but they are a common practice that may arise out of or stem from:

- mandated CSR activities for companies, in general;
- from community development and empowerment programs specifically applicable to mining companies;
- regional and local regulations that may require or encourage mining companies to enter into agreements with local communities;
- community consultations or public hearings that are held by mining companies during the process of securing an Environmental and Social Impact Assessment.