

POSSIBLE FINALIZATION OF C&C LIST – A LONG TIME COMING AND STILL NOT A DONE DEAL¹²³⁴⁵

INTRODUCTION

The long running Indonesian saga of what to do about the country's many thousands of defective and deficient mining licenses (“IUPs”) may be finally drawing to a close.

According to a recent statement by the Minister of Energy & Mineral Resources (“MoEMR”), a decision about what to do with each of those IUPs, that have still not been included in the Clean & Clear List of IUPs (“C&C List”), will be made in May.

With a view to finalizing the C&C List, a regulation was issued in late December 2015 that sets out reasonably clear guidelines as to how certain IUPs, not yet on the C&C List, should be dealt with (“C&C Guidelines”).

As, however, with so many other difficult legal, policy and regulatory issues currently facing the local mining industry, it remains to be seen whether or not there is sufficient political will to revoke those IUPs that, even on the basis of the new C&C Guidelines, cannot be sufficiently regularized to justify inclusion in the C&C List. For a variety of reasons, this seemingly obvious solution has, in the past, proved to be very much a “bridge too far”.

The real significance of finalizing the C&C List is that, if it actually happens, it should mean the end of the moratorium on the issuance of new Exploration IUPs that has now been in place for nearly 5 years. This is, self-evidently, important for encouraging mineral exploration activity in Indonesia, something that is, currently, at what must be almost an historical low point.

In this article, the writer will review the new C&C Guidelines before turning to an evaluation of the likely success or otherwise of this latest effort to eliminate the residual uncertainty regarding the validity of so many IUPs.

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BACKGROUND

In May 2011, the then Coordinating Minister for the Economy announced a **temporary** moratorium on the issuance of new Exploration IUPs in order to deal with the systemic problem of overlapping mining concessions (“**Moratorium**”). The Coordinating Minister also indicated that existing IUPs (and KPs being the predecessors to IUPs) that had not been properly issued in accordance with the applicable procedures would be “cancelled” (**i.e.**, revoked). This was the start of the so-called “IUP National Reconciliation Process”.

As part of the IUP National Reconciliation Process, the Central Government established a team, led by the Ministry of Energy & Mineral Resources and the Home Affairs Ministry (“**HAM**”), to audit existing IUPs in an endeavor to settle the problems created by overlapping IUPs as well as other issues.

Pursuant to the IUP National Reconciliation Process (i) all existing IUPs were to be reviewed, (ii) existing valid IUPs were to be separated from those existing IUPs which were problematic for one reason or another and (iii) the problematic IUPs were then to be either cured of their identified defects and deficiencies or, if this was not possible, cancelled, revoked or otherwise declared invalid or never properly issued.

The end result of the IUP National Reconciliation Process was to be the C&C List, a definitive list of valid and non-problematic IUPs.

After nearly 5 years, the Moratorium has proved to be far from temporary while the IUP National Reconciliation Process has continued in “fits and starts” without the C&C List ever being finalized but with the “in progress” C&C List being updated and reissued on numerous occasions to reflect the latest results of the ongoing IUP National Reconciliation Process.

Readers interested in knowing more about Indonesia’s endemic problem of defective and deficient IUPs as well as about the IUP National Reconciliation Process are referred to the writer’s earlier articles on these subjects being (i) “*Overlapping Mining Concessions – A Systemic Problem Not Easily Resolved*”, Coal Asia Magazine, July – August 2011 and (ii) “*Understanding the IUP National Reconciliation Process – Some Progress But Many Unresolved Issues*”, Coal Asia Magazine, October – November 2012.

One of the main obstacles to early finalization of the IUP National Reconciliation Process has, unquestionably, been the lack of clear legal authority for MoEMR to revoke problematic IUPs issued by Regional Governments if the relevant Regional Governments refused to revoke such problematic IUPs voluntarily. This obstacle has now been, largely but not entirely, overcome by the transfer of authority to issue and, by implication, revoke IUPs from the Regional Governments to the Provincial Governments and the Central Government as part of wide-ranging reform of regional autonomy in the context of the mining industry. Readers interested in knowing more about the substantial “rollback” of regional autonomy in the local mining industry are referred to the writer’s earlier articles on this issue being (i) “*Delegation of MoEMR Supervisory Authority to Governors – Trying to Tame the Beast*”, Coal Asia Magazine, November-December 2015, (ii) “*Possible End To Regional Autonomy In Energy, Mining and Oil & Gas – Has the Beast Been Finally Tamed?*”, Coal Asia Magazine, November – December 2014 and (iii) “*New Rules for Mining License Issuance – What Does it all Mean?*”, Coal Asia Magazine, November – December 2015.

In an endeavor to finally bring the IUP National Reconciliation Process to an end, MoEMR has now issued Regulation No. 43 of 2015, dated 30 December 2015, re Evaluation Procedures for the Issuance of Coal and Mineral Business Licenses (“**MoEMRR 43/2015**”).

COMMENTARY

1. Overview of MoEMRR 43/2015

MoEMRR 43/2015:

- (a) obliges Regents and Governors to submit all IUP licensing documents for review and evaluation;
- (b) sets out the detailed criteria to be applied in reviewing and evaluating IUP licensing documents;
- (c) provides for a time limit for completing the review and evaluation process;
- (d) where an IUP is found to be defective or deficient, specifies the action to be taken in curing that defective and deficient IUP;
- (e) invests other provincial government officials and the Director General of Minerals & Coal (“**DGoMC**”), on behalf of MoEMR, with some degree of “override” authority in the event that a particular Governor is unable or unwilling to provide the evaluation result to DGoMC within the prescribed period;
- (f) mandates that DGoMC shall announce the C&C List status of each IUP; and
- (g) authorizes DGoMC to issue Certificates to all holders of IUPs included in the C&C List.

MoEMRR 43/2015 essentially provides a reasonably detailed “road map” for carrying out the IUP review and evaluation process itself as well as trying to limit the discretion of the relevant Governors in how to deal with individual IUPs found to be defective and deficient.

2. The C&C Guidelines in Detail

- 2.1 **Compulsory submission of all IUP licensing documents for review and evaluation:** Regents/Mayors must submit all licensing documents (i) in respect of domestic investment in **intra**-provincial mining license business areas (“**WIUPs**”) to the relevant Governors and (ii) in respect of foreign investment to MoEMR (Article 2 of MoEMRR 43/2015).

Governors are obliged to submit all licensing document (i) in respect of domestic investment in **inter**-provincial WIUPs to MoEMR and (ii) in respect of foreign investment to MoEMR (Article 3 of MoEMRR 43/2015).

2.2 **Detailed criteria to be applied in reviewing and evaluating IUP licensing documents:**
Evaluation of IUP issuance is carried out based on the following criteria:

(a) **Administrative**

- (i) submission of extension/upgrade application of KP or IUP prior to the expiration of relevant KP or IUP;
- (ii) KP reservation and application made prior to issuance of Law No 4 of 2009 re Minerals and Coal Mining (“**Law 4/2009**”);
- (iii) Exploitation KP is an upgrade from Exploration KP;
- (iv) not more than 1 KP or 1 IUP for each business entity;
- (v) validity period of Exploration IUP does not exceed that allowed by Law 4/2009;
- (vi) application for concession area does not cover the area of an existing Contract of Work (“**CoW**”), Coal Contract of Work (“**CCoW**”), KP or IUP which is still active and is in respect of the same mineral commodity;
- (vii) time period of Production Operation IUP does not exceed time period of Exploitation KP; and/or
- (viii) valid KP after issuance of Law 4/2009.

(b) **Geographic**

- (i) WIUP is not overlapping with other WIUP for the same commodity;
- (ii) WIUP is not overlapping with a State Reservation Area (“**WPN**”);
- (iii) WIUP is not overlapping with administrative area of regency/city or other province;
- (iv) coordinates of Exploration IUP area are in accordance with coordinates of the relevant WIUP;
- (v) coordinates of Production Operation IUP area are located inside coordinates of relevant Exploration IUP area; and/or
- (vi) coordinates of IUP area are in line with DGoMC’s Mining Map.

(c) **Technical**

- (i) Exploration Reports have been filed in the case of Exploration IUP holders which have not yet entered the Feasibility Study Stage; or
- (ii) Exploration Reports and Feasibility Study have been filed in the case of Exploration IUP holders, which have entered the Feasibility Study Stage, and holders of Production Operation IUPs.

(d) **Environmental**

Environmental documents legalized by the relevant authorized institution in accordance with the prevailing laws and regulations.

(e) **Financial**

- (i) Payment receipts for dead rent up to the year of submission in the case of Exploration IUP holders; or
- (ii) Payment receipts for dead rent and royalties up to the year of submission in the case of Production Operation IUP holders (Article 5 of MoEMRR 43/2015).

2.3 **Time limit for completing the review and evaluation process:** The IUP evaluation result must be submitted to MoEMR with 90 days of the relevant licensing documents being received by Governors (Article 21(1) of MoEMRR 43/2015).

2.4 **Specific action to be taken in curing certain defective and deficient KPs/IUPs**

(a) **Failure to Comply with Administrative or Territorial Requirements:** In the event:

- (i) the extension or reservation application for a KP or an IUP was submitted after the relevant KP or IUP had expired;
- (ii) a KP reservation and application was made/approved after the issuance of Law 4/2009; or
- (iii) an area reservation application was made in respect of an area covered by a CoW, CCoW, KP or IUP which was still active and for the same mineral,

DGoMC or the relevant Governor **may** revoke the relevant KP/IUP (Article 7 of MoEMRR 43/2015).

- (b) In the event an Exploitation KP is **not** an upgrade from an Exploration KP, DGoMC or the relevant Governor **may** revoke the relevant Exploitation KP except where the relevant Exploitation KP is held by a cooperative (Article 8 of MoEMRR 43/2015).

- (c) In the event a particular business entity has more than 1 KP/IUP, DGoMC or the relevant Governor may:
 - (i) merge the underlying WIUPs if the WIUPs are contiguous, for the same commodity and have same activity stage, and then issue a new IUP based on the WIUP resulting from the merger; or
 - (ii) instruct the relevant IUP holder to transfer an IUP to a new business entity in which the IUP holder has, at least, 51% of the issued shares and then issue a new IUP to that new business entity (Article 9 of MoEMRR 43/2015).
- (d) In the event the validity period of an Exploration IUP exceeds that allowed by Law 4/2009, DGoMC or the relevant Governor may adjust the validity period of the relevant Exploration IUP so as to be in accordance with Law 4/2009 (Article 10 of MoEMRR 43/2015).
- (e) **Overlapping IUPs/WIUPs/WPNs:** In the event an WIUP overlaps with another WIUP for the same mineral, DGoMC or the relevant Governor may:
 - (i) reduce the relevant WIUP if part only of the relevant WIUP is overlapping; or
 - (ii) recognize the priority right to the relevant IUP of the party that first requested reservation of the relevant WIUP and otherwise first fulfilled all the relevant criteria if the relevant WIUP is entirely overlapping (Article 12(1) of MoEMRR 43/2015).
- (f) Having regard to the principles of utilization, disclosure, **justice** and national interest and/or **local interest**, DGoMC or the relevant Governor **may** adopt other solutions for IUPs which are overlapping and for the same mineral (Article 12(2) of MoEMRR 43/2015).
- (g) In the event an WIUP is overlapping with a WPN, DGoMC or the relevant Governor **may**:
 - (i) reduce the relevant WIUP if part only of the WIUP is overlapping with a WPN; or
 - (ii) revoke the relevant IUP if all of the WIUP is overlapping with a WPN (Article 13 of MoEMRR 43/2015).
- (h) **Incorrect Coordinates/Inconsistency with Mining Map:** In the event the coordinates of an Exploration IUP area are not in accordance with the coordinates of the relevant WIUP, DGoMC or the relevant Governor **may**:
 - (i) change the coordinates in an amended and reissued Exploration IUP if the Exploration IUP area is still inside the relevant WIUP; or

- (ii) revoke the Exploration IUP, if the Exploration IUP area is located entirely outside the relevant WIUP (Article 14 of MoEMRR 43/2015).
 - (i) In the event the coordinates of the relevant IUP area are not in line with DGoMC's Mining Map, DGoMC or the relevant Governor may change the coordinates of the IUP area to be in line with DGoMC's Mining Map in an amended and reissued IUP (Article 16 of MoEMRR 43/2015).
 - (j) In the event the coordinates of a Production Operation IUP area are not located inside the coordinates of the relevant Exploration IUP area, DGoMC or the relevant Governor may:
 - (i) change the relevant coordinates stated in an amended and reissued Production Operation IUP if the coordinates are still partially located inside the coordinates of the relevant Exploration IUP area; or
 - (ii) revoke the Production Operation IUP if the coordinates of the relevant Production Operation IUP area are located entirely outside the coordinates of the relevant Exploration IUP area (Article 15 of MoEMRR 43/2015).
 - (k) **Failure to comply with technical, environmental or financial criteria:** In the event an **Exploration** IUP holder has not fulfilled all the applicable technical, environmental or financial criteria, administrative sanctions (in the form of written warnings, suspension of business activity or revocation of the relevant Exploration IUP) may be imposed by DGoMC or the relevant Governor (Article 17 of MoEMRR 43/2015).
 - (l) In the event a **Production Operation** IUP holder has not fulfilled certain technical criteria (**i.e.**, preparation and filing of Feasibility Study or Exploration Reports) or the applicable environmental criteria, administrative sanctions, in the form of IUP revocation, **may** be imposed by DGoMC or the relevant Governor in accordance with their respective authority. If the relevant Governor does **not** impose an administrative sanction in form of IUP revocation, DGoMC **may** revoke a Production Operation IUP that does not fulfill the applicable environmental criteria (Articles 18 and 19 of MoEMRR 43/2015).
 - (m) **Non-compliant KPs:** In the event a KP has fulfilled the relevant criteria but has not been converted to become an IUP, DGoMC or the relevant Governor may convert the relevant KP to become an IUP in conformity with the provisions of Law 4/2009 (Article 20(1) and (2) of MoEMRR 43/2015).
 - (n) In the event a KP has **not** fulfilled the relevant criteria, then DGoMC or the relevant Governor may adopt the equivalent solution provided for in 2.4(a) to (j) above (Article 20(3) of MoEMRR 43/2015).
- 2.5 **Limited “override” authority:** In the event the IUP evaluation result is **not** submitted, by a Governor, to DGoMC and within the prescribed 90 day period, because (i) the relevant Governor is unavailable, (ii) no one has been officially appointed as Governor of the relevant province or (iii) **“other legitimate reasons”**, a report on the evaluation result of IUP issuance

may be submitted by a provincial government official in the energy and mineral resources sector (Article 21(3) of MoEMRR 43/2015).

In the event a Production Operation IUP holder has not fulfilled certain technical and environmental criteria but the relevant Governor does **not** revoke the relevant Production Operation IUP, DGoMC **may** revoke the relevant Production Operation IUP (Article 19 of MoEMRR 43/2015).

- 2.6 **Announcement of C&C List Status:** DGoMC shall announce the C&C List status of IUPs based on the evaluation results submitted to it (Article 22 of MoEMRR 43/2015).

In the event **no** evaluation result is submitted to DGoMC in respect of certain IUPs, DGoMC shall announce that these IUPs have **not** been granted C&C List status (Article 23 of MoEMRR 43/2015).

- 2.7 **Issuance of Certificates Confirming C&C List Status:** DGoMC is authorized to issue Certificates to all holders of IUPs included in the C&C List (Article 24 of MoEMRR 43/2015).

3. Assessment of Workability of C&C Guidelines

3.1 Positive Considerations

- (a) **Greater Transparency and a Road Map:** The fact that (i) the detailed criteria for evaluating IUPs and (ii) the curative action to be taken in the case of **certain** IUPs that do not fulfill a particular criterion are specified for the first time, makes the IUP review process more transparent and also provides clear guidance to Governors and DGoMC on how to deal with **common** areas of IUP non-compliance.
- (b) **Maximum Time Period for Completing Evaluation Process:** Specifying a maximum of 90 days from when the IUP license documents are received, for completing the evaluation process, gives greater certainty to the process and reduces the opportunity for deliberate and endless delay in the case of wholly non-compliant IUPs held by well connected and well resourced parties.
- (c) **Revocation as the Ultimate Solution:** MoEMRR 43/2015 also “grasps the nettle” of revocation and does not otherwise avoid the difficult issue of what to do about those IUPs that just cannot, regardless of any available reasonable compromise, be brought into compliance with the evaluation criteria. This was always going to be the most controversial aspect of the process of finalizing the C&C List.

Now that the Regional Governments have lost the authority to issue (and, by implication, to revoke IUPs), it **should** be relatively easier for the Governors and DGoMC to assume responsibility for and actually carry through with the process of revoking the remaining IUPs that, at the end of the evaluation process, are still not fit for inclusion in the C&C List.

- (d) **Override Authority in the case of Recalcitrant Governors:** Further, MoEMRR 43/2015 shows good practical realization that, in some instances, Governors could prove to be just as uncooperative and unhelpful as was always likely to be the case with the Regents when it came to the revocation of IUPs held by well connected and well resourced parties. As such, the endeavor to deal with the situation of a Governor, who fails to send the required IUP evaluation result to DGoMC or exercise the final sanction of revocation in the case of certain wholly non-complaint IUPs, by vesting authority in (i) other provincial government officials to submit the evaluation result to DGoMC and (ii) DGoMC to revoke certain IUPs, provides a partial “override” or “workaround” that **may** be helpful in **some** cases. Likewise, the authority given to DGoMC to declare that IUPs, in respect of which no evaluation result has been received by DGoMC, are **not** included in the C&C List provides at least a partial solution to the residual risk that recalcitrant Governors will ensure that no other official in their provincial administration forwards the IUP evaluation result to DGoMC.

3.2 Negative Considerations

- (a) **No Way to Compel Delivery of IUP License Documents:** Although one would have thought that, after nearly five years, copies of all the relevant IUP licensing documents should now be available for review, this is not necessarily the case. In this regard, it is particularly notable that MoEMRR 43/2015 makes no provision for what happens if a particular Regent or Governor simply refuses to co-operate by **not** making the IUP licensing documents under its control available for evaluation. This would seem to be a very fundamental weakness because, unless and until the IUP licensing documents are made available for evaluation, the 90 day maximum evaluation period does not start to run. Based on the writer’s reading of MoEMRR 43/2015, no IUP can be adjusted, amended or, most importantly, revoked until completion of the evaluation process or, at least, expiry of the maximum period of 90 days allowed for evaluation. It is not hard to see a cunning Regent or Governor, anxious to protect the IUPs of well connected or well resourced parties, seizing on this weakness as an easy way to circumvent the whole evaluation process.
- (b) **Still Too Much Discretion:** Despite carefully setting out how to handle many different situations of overlapping WIUPs/IUPs, the C&C Guidelines go on to provide that:

*“Having regard to the principles of utilization, disclosure, **justice** and national interest and/or **local interest**, DGoMC or the relevant Governor may adopt other solutions for IUPs which are overlapping and for the same commodity.”*

Vesting this residual discretion in Governors to make up their own solutions, having regard only to such amorphous and vague concepts as “justice” and “local interest”, provides ample opportunity for unscrupulous Governors to favor well connected and well resourced parties holding IUPs by deciding that, in the case of any particular situation of an overlapping WIUP/IUP, the relevant IUP should not be revoked because of unspecified reasons of “justice” and “local interest”. The harsh reality is that there is always going to be an element of injustice and offended local interest, **for someone**, in any decision to revoke an IUP. If, however, the C&C List is to be, at last, finalized, it

has to be accepted that some injustice and offended local interest is simply inescapable. The presumed good intentions behind this grant of residual discretion are almost certainly going to prove very misguided.

- (c) **C&C Guidelines Not Sufficiently Comprehensive:** Although the C&C Guidelines specify solutions to a large number of the commonly found problematic IUPs, there are other situations, giving rise to overlapping and otherwise problematic IUPs, that are not addressed at all in the C&C Guidelines. One such situation, that the writer has direct knowledge of, is where overlapping IUPs are the product of unresolved disputes over provincial and regional boundaries that have resulted in two or more Provincial Governments or Regional Governments each claiming authority to issue IUPs over the same geographical area. Until such time as these disputed provincial and regional boundaries are settled by HAM, there is nothing that either DGoMC or the Governors can do to that would enable the subject IUPs to be included in the C&C List. Certainly, the residual discretion of DGoMC and the Governors to come up with creative, one-off solutions based on “justice” and “local interest”, as discussed in 3.2(b) above, will not provide any solution to problematic IUPs resulting from disputed provincial and regional boundaries as neither DGoMC nor the Governors have any authority to resolve disputes over provincial and regional boundaries. What then happens to these IUPs? Are they to be simply excluded from the final version of the C&C List and revoked or are they to be excluded from the final version of the C&C List but left in existence with no clear legal status for ever thereafter or at least until MoHA gets around to resolving the subject boundary disputes? This is very unsatisfactory for the IUP holders concerned as, in many instances, they will have obtained their IUPs in good faith and without any prior knowledge of the subject boundary disputes. Such good faith holders of problematic IUPs, the result of unresolved boundary disputes, should not be penalized either by having their IUPs revoked or having their IUPs left in a “never never land” of non-inclusion in the final version of the C&C List but still in existence as legal instruments.
- (d) **Override Authority Inadequate:** The override authority vested in other Provincial Government officials and DGoMC, in the case of uncooperative Governors, is inadequate. First, the circumstances in which another provincial government official may, in place of the Governor, forward the IUP evaluation result to DGoMC after the expiry of the 90 day evaluation period, are too limited. While we might hope that “other legitimate reasons” could be used to cover situations where the relevant Governor has been appointed and is available but simply refuses to cooperate, this vague wording is surely going to result in disputes as to what is and what is not covered by the same. Second, a blatant refusal to cooperate would, if anything, seem more likely to be a non-legitimate reason, rather than a legitimate reason, for a Governor failing to submit the IUP evaluation result, to DGoMC, within 90 days and, therefore, outside the scope of the override authority altogether. Third, it is very hard to imagine any other provincial government official, who values his career, taking it upon himself to forward the IUP evaluation result to DGoMC after the expiry of the 90 day evaluation period and where the relevant Governor has been appointed and is available but simply refuses to cooperate. This would seem to be an almost certain career ending move in most circumstances. Fourth, this override authority does not cover the situation where the

relevant Governor has **not** undertaken the evaluation process at all, with the result that there is no evaluation result to be forwarded to DGoMC by some high principled and professional (albeit career “suicidal”) provincial government official.

A **partial** solution to the deficiency in DGoMC’s override authority, as highlighted in the previous paragraph, may exist in the residual authority of DGoMC to declare that those IUPs, in respect of which no evaluation result has been received by DGoMC, are **not** included in the C&C List. This, however, inevitably means that there will still be residual uncertainty over the legal status of those IUPs that DGoMC declares to be **not** included in the C&C List but that still remain in existence because they have not been formally revoked. Unfortunately, such an outcome undermines the basic rationale for the C&C List in its eventual final version; namely, a complete and definitive list of all IUPs recognized as not being problematic. Until such time as any IUPs, not warranting inclusion in the C&C List, are revoked, uncertainty will remain as to the legal status of these non-included IUPs.

- (e) **Lack of Proper Legal Basis for Some Revocations:** The C&C Guidelines purport to give DGoMC authority to revoke Production Operation IUPs where the relevant Governor refuses to do so despite the non-compliance of the relevant holders with applicable technical or environmental criteria. It is not clear to the writer, however, that there is any proper legal basis for this revocation authority in the case of Production Operation IUPs that are now to be issued by the Provincial Governments rather than by the Central Government (**i.e.**, Production Operation IUPs in respect of domestic investment as opposed to foreign investment and which only cover an **intra**-provincial WIUP rather than an **inter**-provincial WIUP). It may be because of the lack of any proper legal basis for such revocations by DGoMC that the C&C Guidelines resort to the less than satisfactory solution of authorizing DGoMC to announce that certain IUPs are **not** included in the C&C List while still leaving them in existence – see 3.2(d) above.

SUMMARY AND CONCLUSIONS

MoEMRR 43/2015 and MoEMR’s apparent commitment to finalizing the C&C List in May are undoubtedly positive signs that the problem of the large number of defective and deficient IUPs could be getting closer to being fully and finally dealt with at last.

It may be that the recent substantial elimination of any role for the Regional Governments in issuing (and, by implication, revoking) IUPs is what has been previously missing in terms of ensuring that all those problematic IUPs, that cannot be cured of defects and deficiencies, will be revoked at last.

Given, however, the previous timetables for finalizing the C&C List that have come and gone without any clear result being achieved, it is difficult to be very confident that, this time, it will be different. Further, the apparent “holes” in the C&C Guidelines leave the writer concerned that there is still considerable room for vested interests to maneuver and otherwise continue to delay the process of finalizing the C& C List. Finally, unless and until such time as HAM resolves outstanding provincial and regional boundary disputes, it is arguably not appropriate to finalize the C&C List as the holders of

IUPs, compromised by such boundary disputes, will be unfairly penalized.

The most that can really be said about MoEMRR 43/2015 is that it is another well meaning step in the right direction that **may** eventually lead to the finalization of the C&C List. It would be a brave (not to say foolhardy) observer, however, who expressed a lot of confidence in this definitely happening by May.

In the meantime, unless and until the C&C List is finalized and the Moratorium lifted, the outlook for new mineral exploration activity, in Indonesia, will continue to be bleak even if mineral prices start to improve.

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