CHRISTIAN TEO & PARTNERS
(in association with Stephenson Harwood)

COAL BLU SCHEME – REARRANGING THE DECK CHAIRS ON THE TITANIC[1][2][3][4][5]

INTRODUCTION

A temporary coal export ban in January 2022 and threats of draconian sanctions being imposed on coal producers, which do not comply with their domestic market obligation, have apparently proved to be insufficient to overcome producers' reluctance to sell their coal domestically given the much higher prices that are available in the international market.

Indonesia is now proposing to establish a public service agency with responsibility for collecting new levies on coal sales and using those levies to ensure coal producers receive market price for the coal supplied by them to the State Electricity Company and certain other domestic coal users.

The so-called "Coal BLU Scheme" is intended to, finally, provide a comprehensive solution to the long existing problem of how to ensure sufficient supplies of coal to domestic users when the main domestic user, being the State Electricity Company, is unable to pay market price for its coal supplies owing to a weak financial position.

If implemented in its current form, the Coal BLU Scheme will certainly result in a wider sharing of the burden of helping domestic coal users. It will not, however, do anything about addressing the reason why the State Electricity Company cannot afford to pay market price for its coal supplies; namely, the Government's insistence that the State Electricity Company provide electricity to consumers at far below the cost of that electricity. Heavily subsidized electricity prices, along with other forms of energy and fuel subsidies, have been a large and growing financial burden for the Government in recent years, which burden has serious potential implications for its future fiscal stability.

In this article, the writer will review what is currently known about the Coal BLU Scheme and how it will work before turning to the more fundamental issue of whether or not the Coal BLU Scheme really amounts to little more than "rearranging the deck chairs on the Titanic" without, though, doing anything meaningful to improve the Government's fiscal stability and thereby avoid a possible financial disaster for Indonesia at some point in the future.

BACKGROUND

Like many other countries, particularly in the developing and newly developed/industrialized

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world, Indonesia has long provided extensive subsidies to Indonesian households and businesses in pursuit or a range of economic, social and political objectives including, most importantly, encouraging economic development, poverty relief and promoting electoral support for the ruling Government party or coalition. Indonesia's energy and fuel subsidies are particularly extensive and have resulted in the country having relatively low electricity prices compared to many other countries in South East Asia and elsewhere. In June 2021, Indonesian electricity prices were (i) Rp1,444.70 (US$0.101) per kWh for households and (ii) Rp1,114.74 (US$0.078) per kWh for businesses. This is to be compared with household electricity prices in (i) Singapore of US$0.178 per kWh, (ii) the Philippines of US$0.165 per kWh and (iii) Thailand of US$0.114 per kWh.

In furtherance of the Government's policy of heavily subsidizing energy prices, the State Electricity Company ("**PLN**") is obliged to supply electricity to many Indonesian households and businesses at far less than the cost to PLN of acquiring or producing that electricity. This has resulted in PLN long having a very weak financial position which the Government has been unable or unwilling to make good through adequate compensating payments to PLN. PLN's weak financial position has also made it increasingly difficult for PLN to secure and pay for the coal it needs to generate electricity from the many coal-fired power plants it owns and operates. Growing concerns about PLN's financial position and its ability to secure/pay for coal supplies have encouraged the Government to look for solutions to these problems, which solutions do **not** result in any increased burden on the State budget.

One of the Government's solutions to the financial and coal supply problems of PLN has been to require coal producers to prioritize the supply of coal to the domestic market ("**DM Obligation**") by imposing (i) annual DM Obligation quotas on coal producers ("**DMO Quotas**") and (ii) a ceiling price on the sale of coal to certain domestic users. The DMO Quota for 2022 is 30% while the ceiling price for coal, with certain specifications, sold to (i) PLN and other so-called "independent power producers" ("**IPPs**") is US$70 per tonne and (ii) other domestic users in the cement and fertilizer industries is US$90 per tonne ("**US$70-US$90 Concessional Coal Price**").

The DMO Quotas are used to satisfy domestic coal needs in respect of (i) the supply of electricity for public and private purposes and (ii) raw material/fuel required by industry (together, "**Domestic Coal Needs**").

In late December 2021, the Government announced a ban on all Indonesian coal exports, effective immediately and until the end of January 2022 in the first instance ("**January 2022 Temporary Export Ban**").

The January 2022 Temporary Export Ban applied to (i) holders of Coal Contracts of Work ("**CCoWs**"), coal production operation special mining business licenses being continuations of former CCoWs ("**Coal Continuation POIUPKs**"), coal production operation special mining business licenses ("**Coal POIUPKs**") and coal production operation mining business licenses ("**Coal POIUPs**") (together, "**Relevant Coal Producers**") and (ii) holders of coal transportation and sales permits ("**Coal T&S Permits**").

The reason for the sudden imposition of the January 2022 Temporary Export Ban was a looming electricity crisis brought on by a serious run-down in the coal stockpiles of PLN and IPPs. According to the Government, the run-down in coal stockpiles was attributable to the failure of Relevant Coal Producers to comply with their DM Obligation.

The January 2022 Temporary Export Ban was substantially lifted by the end of January 2022.

Following the lifting of the January 2022 Temporary Export Ban, the Government was clearly determined to ensure that, going forward, it would be in a stronger legal position to deal with any Relevant Coal Producers and holders of Coal S&T Permits ("**Coal Traders**"), which did not comply with their DM Obligation or otherwise do what the Government required of them in terms of satisfying Domestic Coal Needs, than it was prior to the announcement of the January 2022 Temporary Export Ban. To this end, the Minister of Energy & Mineral Resources ("**MoEMR**") issued Decree No. 13 of 2022, dated 19 January 2022, re Guidelines for the Imposition of Administrative Sanctions, Prohibition of Overseas Coal Sales and Imposition of Fines as well as Compensation Funds Requirement for Non-fulfilment of Domestic Coal Requirements ("**MoEMR Decree 13/2022**").

MoEMR Decree 13/2022 provides for numerous penalties and sanctions that may be imposed on Relevant Coal Producers which do not fulfil their DM Obligation including (i) suspension of all production operation activities for a maximum of 60 days; (ii) revocation of their CCoWs/Coal Continuation POIUPKs/Coal POIUPKs/Coal POIUPs; (iii) prohibition on making further coal export sales until such time as they fulfil their DM Obligation; (iv) large fines and (v) substantial compulsory payments to a compensation fund (together, "**Penalties & Sanctions**"). Some of the Penalties & Sanctions also apply to Coal Traders which fail to supply coal in satisfaction of Domestic Coal Needs when appointed by the Director General of Minerals & Coal ("**DGoMC**") to do so.

Notwithstanding the Penalties & Sanctions provided for in MoEMR Decree 13/2022, Relevant Coal Producers continue to be reluctant to comply with the DM Obligation and, more particularly, with the US$70-US$90 Concessional Coal Price which, because it is set with reference to coal of particular quality specifications, means that most Relevant Coal Producers actually receive much less than US$70-US$90 for their typically lower quality coal ("**Quality Adjusted US$70-US$90 Concessional Coal Price**"). This continuing reluctance of Relevant Coal Producers is, of course, entirely understandable when the average international market price of the lower quality coal typically supplied by Relevant Coal Producers, in fulfilment of their DM Quotas, is significantly higher than what they allowed to charge PLN, IPPs and certain other domestic industrial coal users ("**Relevant Domestic Coal Users**").

The continuing reluctance of Relevant Coal Producers to fulfil Domestic Coal Needs at the Quality Adjusted US$70-US$90 Concessional Coal Price is manifesting itself in two ways. First, there are growing calls for the immediate implementation of a market price arrangement, funded by an impost/levy/tax on coal sales ("**Coal Sales Levy**"), to be administered by a newly established public service agency ("**BLU**") ("**Coal BLU Scheme**") ("**Immediate Coal BLU Scheme Implementation Requests**"). Second, there have been persistent shortfalls in the quantity of coal supplied to Relevant Domestic Coal Users ("**Persistent DMO Quota Supply Shortfalls**").

According to reports in Bisnis.com on 3 August 2022 and in Dkatadata.co.id on 4 August 2022, Immediate Coal BLU Scheme Implementation Requests were recently made by the Association of Energy & Coal Suppliers ("**Aspebindo**") during a public discussion of the proposal for a Coal BLU Scheme on 2 August 2022. The Deputy Chairman of Aspebindo was quoted by Bisnis.com as having said:

"*The increase in the price of coal commodities has resulted in competition in fulfilling supply between domestic and export because mine owners and coal traders are more interested in export*."

The Aspebindo Deputy Chairman apparently went on to say that:

"*We welcome the policy released by the ESDM regarding BLU which can be a solution to price disparities*."

With regard to the Persistent DMO Quota Supply Shortfalls, it was reported by Kontan.co.id on 10 August 2022 that, at a recent working meeting of Commission VII of the Indonesian parliament ("**DPR**"), MoEMR Arifin Tasrif acknowledged that many Relevant Coal Producers have continued to find ways to avoid complying with their DM Obligation and preferred to run the risk of Penalties & Sanctions being imposed on them rather than foregoing the much higher export prices for their coal. Meanwhile, Bisnis.com reported, on 10 August 2022, that the President Director of PLN has disclosed a significant decline in PLN's coal stockpiles, beginning in early July and due to Relevant Coal Producers having only delivered 14.2 million tonnes of the 31.8 million tonnes of coal they were obliged to do so during the January to July 2022 period. According to Bisnins.com, this low "success rate" of only about 45% has now resulted in MoEMR refusing to allow some 48 non-compliant Relevant Coal Producers to carry out export activities unless and until they fulfil their outstanding DMO Quotas in respect of the January to July 2022 period. A report by okefinance, on 10 August 2022, also indicates that, of the 123 Relevant Coal Producers which are subject to the DM Obligation, only 52 Relevant Coal Producers are actually fulfilling their DMO Quotas.

The Persistent DMO Quota Supply Shortfalls, with the consequent risk to electricity generation, may be seen as evidence of Relevant Coal Producers indirectly putting pressure on the Government in general and the Ministry of Energy & Mineral Resources ("**ESDM**") in particular to comply with the Immediate Coal BLU Scheme Implementation Requests.

ANALYSIS AND DISCUSSION

1. Need for Alternative Approach

The Persistent DMO Quota Supply Shortfalls are clear evidence the DM Obligation is **not** achieving its intended purpose of ensuring that Domestic Coal Needs are satisfied at the Quality Adjusted US$70-US$90 Concessional Coal Price. The page 1 headline of the 12 August 2022 edition of The Jakarta Post, "*PLN Warns of Another Crisis in Coal Supply*", says it all. Once a technical subject, such as coal supply to PLN, becomes frontpage news in the popular non-business/non-industry press, it indicates that this is seen as no longer being just an industry specific problem but, rather, something that all Indonesians need to be concerned about; namely, a real and immediate threat to continuity of electricity supply.

It is interesting to speculate why the Penalties & Sanctions, as provided for in MoEMR Decree 13/2022 for non-compliance with the DM Obligation, are not having the intended effect. As the Penalties & Sanctions include revocation of the CCoWs/Coal Continuation POIUPKs/Coal POIUPKs/Coal POIUPs of non-compliant Relevant Coal Producers, it might reasonably have been thought this would be such a serious potential outcome that no Relevant Coal Producer would want to risk the same. Likewise, the fines that form part of the Penalties & Sanctions are meant to ensure that non-compliant Relevant Coal Producers do not benefit financially from exporting coal which is actually meant to be used to satisfy Domestic Coal Needs. Self-evidently, however, neither of these propositions is proving to be correct in practice. This seemingly incongruous outcome was well expressed by DPR member Diah Nurwitasari who was quoted in the 12 August 2022 edition of The Jakarta Post as having said:

> "*We need to review why business would rather pay fines than meet their obligations, there must be something wrong here*"

The writer would suggest that the most likely reason for the failure of the Penalties & Sanctions to have their intended effect is a "lack of political will" at ESDM to, in practice, strictly enforce the provisions of MoEMR Decree 13/2022 by imposing the most onerous of the Penalties & Sanctions; namely, revocation of the CCoWs/Coal Continuation POIUPKs/Coal POIUPKs/Coal POIUPs of non-compliant Relevant Coal Producers. In this regard, it is noticeable that **none** of the 71 Relevant Coal Producers, which have failed to fulfil their DMO Quotas in respect of the 1 January to 30 June 2022 period, have had their CCoWs/Coal Continuation POIUPKs/Coal POIUPKs/Coal POIUPs revoked. This is to be contrasted with the President's tough and uncompromising statement, made during a virtual press conference on 3 January 2022, that the Government would not hesitate to revoke the mining business licenses of parties that did not comply with the January 2022 Temporary Export Ban or continued to violate their DM Obligation. The reality, however, is obviously very much at odds with this rhetoric.

As the Government is apparently not willing to risk alienating the powerful and well-connected coal industry by revoking the CCoWs/Coal Continuation POIUPKs/Coal POIUPKs/Coal POIUPs of non-compliant Relevant Coal Producers, it has been left with no real choice but to comply with the Immediate Coal BLU Scheme Implementation Requests. Not implementing the Coal BLU Scheme at this point carries with it the risk of the coal stockpiles of PLN and the IPPs continuing to drop until they reach such a low level that it is not possible to avoid an interruption to their electricity generating activities. This is not likely to be a risk that the Government is prepared to accept, especially in the run-up to the April 2024 presidential election.

2. **Current Status of Coal BLU Scheme**

Notwithstanding that the implementation of the Coal BLU Scheme is now, almost certainty, a foregone conclusion for the reasons explained in 1 above, the Government is obviously encountering some difficulties in making this happen as soon as Relevant Coal Producers want. The Coal BLU Scheme has been under discussion for at least 12 months and, on 28 July 2022, the deputy chairman of the DPR's Commission VII was quoted by on-line news portal Dkatadata.co.id as having stated that the new government agency or "BLU" was "*expected to start operating in the early third quarter of 2022*". This, however, has not happened and the decree or regulation needed to establish the Coal BLU has yet to be issued.

The delay in establishing the Coal BLU is said to be due, at least in part, to uncertainty as to whether the legal instrument required to establish the Coal BLU is a Presidential Regulation or a Government Regulation. It seems that it was originally intended to have the Coal BLU established by way of a Presidential Regulation, rather than by way of a Government Regulation, because of the simpler procedural requirements for issuing a Presidential Regulation compared to the procedural requirements for issuing a Government Regulation. Given, though, the number of Government ministries which will be involved in carrying out the Coal BLU Scheme, the thinking now is that a Government Regulation may be required notwithstanding the associated procedural complexities involved, which complexities include having every relevant minister "sign-off" on the new Government Regulation. No timetable has been announced for the finalization and issuance of the Coal BLU Government Regulation.

3. Mechanics of Coal BLU Scheme

3.1 **Preliminary Remarks**: The continuing absence of the Coal BLU Government Regulation means that many of the details of how the Coal BLU Scheme will operate remain quite unclear. It is also very possible that certain aspects of the Coal BLU Scheme, that supposedly have been settled already, will be subject to change as part of the process of drafting and finalizing the Coal BLU Government Regulation. Accordingly, the description which follows, of the presently understood mechanics of the Coal BLU Scheme, is necessarily speculative in nature and may well need to be substantially revised once the Coal BLU Government Regulation is finally available.

3.2 **Model for Coal BLU**: ESDM's model or template for the Coal BLU is said to be the Oil Palm Plantation Fund Management Agency or "BPDPKS" which supports the Government's policy of reducing fuel imports and encouraging palm oil production by making industry use of biodiesel (**i.e.**, fossil fuel blended with 30% palm oil) mandatory ("**B30 Program**"). The objective of the B30 Program is, however, very different to the objective of the Coal BLU Scheme and the role of BPDPKS is also not the same as the intended role of the Coal BLU. Accordingly, it is not at all clear to the writer why BPDPKS is considered to be such an appropriate model for the Coal BLU.

3.3 **Funding of Coal BLU Scheme**: The Coal BLU Scheme is to be funded by a Coal Sales Levy to be collected by the Coal BLU.

It was reported by CNBC Indonesia on 9 August 2022 that the aggregate amount of Coal Sales Levy, to be collected and subsequently managed by the Coal BLU, may eventually be as much as Rp350 trillion or US$26.31 billion.

3.4 **Relevant Coal Sales**: The Coal Sales Levy will, most probably, apply to **all** sales of Indonesian coal **whether domestic market sales or export sales** although some reports have suggested that the Coal Sales Levy will only apply to export sales of Indonesian coal.

3.5 **Rate of Coal Sales Levy**: It is likely that the rate or tariff of the Coal Sales Levy will not be the same for all coal sales regardless of the quality of the relevant coal sold in a particular transaction but, rather, will be determined according to a sliding scale that reflects the actual quality specifications of the relevant coal sold in a particular transaction and has separate rates/tariffs for (i) high quality coal, (ii) medium quality coal and (iii) low quality coal. Coal classified as medium quality will be coal with quality specifications typically needed by Relevant Domestic Coal Users and by PLN in particular.

3.6 **Relevant Coal Sellers**: As the Coal Sales Levy will, very likely, apply to all sales of Indonesian coal, whether domestic market sales or export sales, both Relevant Coal Producers (whether or not they produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users) and Coal Traders (together, "**Coal Sellers**"), will be liable to pay the Coal Sales Levy on any and all coal sales made by them.

It is the inclusion of coal sales by (i) Coal Traders (which are not typically subject to the DM Obligation except when specifically appointed by DGoMC to meet residual Domestic Coal Needs not fulfilled by Relevant Coal Producers) and (ii) Relevant Coal Producers which do not produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users that is the reason why the Coal BLU Scheme is being so actively promoted by Aspebindo. Relevant Coal Producers, which do produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users and are subject to DMO Quotas, will pay the Coal Sales Levy and, therefore, partially fund the Coal BLU Scheme. However, the Coal BLU Scheme will also be funded, in part, by Coal Traders and Relevant Coal Producers which do not produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users. In other words, the Coal BLU Scheme effectively represents a broadening of the responsibility, for ensuring that Relevant Domestic Coal Users are able to satisfy their Domestic Coal Needs at the Quality Adjusted US$70-US$90 Concessional Coal Price, so as to include all Coal Sellers. Until now, this responsibility has been effectively borne as to 100% by Relevant Coal Producers which produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users and are subject to DMO Quotas.

3.7 **Relevant Domestic Coal Users**: Given recent media reports of declining coal stockpiles at cement producers and other industrial users (as well as at PLN), the Coal BLU Scheme will probably cover coal supplied to all Relevant Domestic Coal Users which are presently entitled to the benefit of the Quality Adjusted US$70-US$90 Concessional Coal Price, being (i) PLN, (ii) IPPs and (iii) domestic users in the cement and fertilizer industries. As, however, the Quality Adjusted US$70-US$90 Concessional Coal Price does not apply to domestic users in the metal mineral processing and refining industry, it must be assumed that the Coal BLU Scheme will not cover coal supplied to domestic users in the metal mineral processing and refining industry.

3.8 **Market Price Payment**: Relevant Coal Producers will receive, <u>**in total and from 2 separate sources**</u>, the Indonesian coal benchmark price, as adjusted for the actual quality specifications of the relevant coal ("**Quality Adjusted HPB Price**"), for the coal quantities supplied by them to Relevant Domestic Coal Users in fulfilment of their DMO Quotas ("**DMO Quantity Supplied**").

Relevant Coal Producers will issue 2 invoices for each DMO Quota coal sale to Relevant Domestic Coal Users as follows:

(a) **First Invoice**: The first invoice will be issued to the Relevant Domestic Coal User, as the actual buyer of the coal, in an amount ("**First Invoice Amount**") equal to:

DMO Quantity Supplied X Quality Adjusted US$70-US$90 Concessional Coal Price +VAT of 11%

(b) **Second Invoice**: The second invoice will be issued to the Coal BLU, as the compensating payment agency, in an amount ("**Second Invoice Amount**") equal to:

DMO Quantity Supplied X Quality Adjusted HPB Price +VAT of 11% – First Invoice Amount

Relevant Coal Producers will, in turn, receive two payments for each coal sale to Relevant Domestic Coal Users as follows:

(a) **First Payment**: Payment of the First Invoice Amount will be received by the Relevant Coal Producer from the Relevant Domestic Coal User as the actual buyer of the coal; and

(b) **Second Payment**: Payment of the Second Invoice Amount will be received by the Relevant Coal Producer from the Coal BLU as the compensating payment agency.

3.9 **DMO Quotas**: The existing DMO Quota will, apparently, remain unchanged at 30% of the annual production of Relevant Coal Producers.

3.10 **Effective Date**: At this stage, the intention is that the Coal BLU Scheme will take effect retroactively as of 1 January 2022 given it looks increasingly likely that the Coal BLU Government Regulation itself will only be issued towards the end of 2022 at the earliest. This probably means that, as and when the Coal BLU Scheme is finally implemented, there will have to notionally be (i) a collection by the Coal BLU of accrued Coal Sales Levies in respect of the period 1 January 2022 up to the date of the issuance of the Coal BLU Government Regulation and (ii) a compensating payment made to every Relevant Coal Producer which supplied DMO Quota coal between 1 January 2022 and the date of the issuance of the Coal BLU Government Regulation. In reality, however, this will most likely be dealt with on an offset basis, with only a net amount being transferred between the Coal BLU and each Relevant Coal Producer which supplied DMO Quota coal between 1 January 2022 and the date of the issuance of the Coal BLU Government Regulation. In the case, though, of other Coal Sellers being (i) Relevant Coal Producers which do not produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users and (ii) Coal Traders which are not typically subject to the DM Obligation (except when specifically appointed by DGoMC to meet residual Domestic Coal Needs not fulfilled by Relevant Coal Producers), the Coal BLU will need to find a way to ensure timely collection of the accrued Coal Sales Levies due from these other Coal Sellers as of the date of the issuance of the Coal BLU Government Regulation.

4. **<u>Energy Subsidy Problem</u>**

In 2022, the Government budgeted Rp502 trillion (US$37.75 billion) or **<u>19.87% of its total 2022 expenditure budget</u>** of Rp2,526 trillion (US$190 billion) for subsidies and compensation in order to keep most energy and fuel prices unchanged despite soaring global energy prices and significant domestic inflation. This is more than Indonesia’s 2022 health care budget of Rp255.3 trillion (US$17.73 billion), defence budget of Rp134 trillion (US$9.3 billion) and national police budget of Rp111 trillion **<u>combined</u>**.

Importantly, the Rp502 trillion (US$37.75 billion) spent by the Government on energy and fuel price subsidies in 2022 does **<u>not</u>** include the compulsory coal mining industry subsidization of electricity prices in the form of the Quality Adjusted US$70-US$90 Concessional Coal Price. While the Coal BLU Scheme, when it is finally implemented, will mean that Relevant Coal Producers receive something approaching market price for the coal supplied by them to Relevant Domestic Coal Users, the Coal BLU Scheme effectively continues the compulsory coal mining industry subsidization of electricity prices by ensuring that Relevant Domestic Coal Users will still only pay the Quality Adjusted US$70-US$90 Concessional Coal Price. Broadening responsibility for funding the Quality Adjusted US$70-US$90 Concessional Coal Price, by including **<u>all</u>** Coal Sellers in the “pool” of parties liable to pay the Coal Sales Levy, merely reduces the burden on those Relevant Coal Producers which do produce coal with quality specifications required by or suitable for use by Relevant Domestic Coal Users and are, therefore, subject to DMO Quotas. However, the Coal BLU Scheme does **<u>nothing</u>** to reduce the amount of the overall subsidization of PLN, IPPs and other Relevant Domestic Coal Users by the coal industry.

The Government has taken some very modest steps, in 2022, to reduce individual elements of its energy and fuel subsidies. As of 1 July 2022, electricity prices were increased by 17% but only for a relatively small subset of electricity users being those PLN customers which use more than 3,500 VA. The State oil company has already increased the price of certain types of fuel once in 2022 and a further increase this year, in the price of certain types of fuel, was recently foreshadowed by the Government. Nevertheless, the Government is clearly intending to maintain high levels of energy and fuel subsidies for the foreseeable future as indicated by the recent statement of Indonesia’s Finance Minister, as quoted by Reuters on 8 August 2022, that:

> “*Next year’s subsidies and compensations will still be very large*.”

The recently announced draft 2023 expenditure budget indicated that energy and fuel subsidies would drop by 33.7% in 2023 to a still very large Rp336.7 trillion (US$25.03 billion). However, just a couple of days later, the Finance Minister was quoted by The Jakarta Post, on 24 August 2022, as saying that the Government might actually have to increase the 2023 expenditure budget for energy and fuel subsidies by Rp200 trillion (US$13.43 billion) or 40%, to a truly extraordinary Rp700 trillion (US$52.85 billion), if no decision is made to increase the price of subsidized fuel. This potential “about face, even if it does not eventuate, nevertheless reflects the reality that, with the next presidential election scheduled for April 2024, it is going to be politically extremely difficult for the Government to **<u>materially</u>** reduce energy and fuel subsidies any time soon. If anything, it is probably more likely that energy and fuel subsidies will actually increase before the 2024 presidential election as the ruling coalition seeks to “curry favour” with the electorate. This is despite the fact that a number of economists have pointed out that the Government’s ability to keep funding even the current level of energy and fuel subsidies is unsustainable as it is significantly dependent upon large windfall revenue gains from taxes on cyclical export commodities, such as coal and crude palm oil, continuing indefinitely. The so-called non-tax state revenue, that the Government derives from production royalties on coal and metal mineral sales, has increased dramatically in the last couple of years, with the international market price of coal and various metal minerals, including copper and nickel, approaching historic highs. According to a report in The Jakarta Post on 27 August 2022, the mining industry contributed Rp70.05 trillion (US$4.92 billion) out of a total of Rp452 trillion in non-tax state revenue collected by the Government in 2021. Commodity prices are, however, inherently cyclical. Accordingly, it is not realistic for the Government to assume that coal and metal mineral prices, as well as agricultural commodity prices, will remain high indefinitely.

CONCLUDING REMARKS

The Government has found it impossible to prevent Relevant Coal Producers from finding ways to avoid complying with the DM Obligation. As a consequence, Domestic Coal Needs remain under threat.

It now seems inevitable that the Coal BLU Scheme will be finally introduced later this year and operate retrospectively from 1 January 2022.

Much remains unclear about how the Coal BLU Scheme will work in practice. It is tolerably clear, however, that the Coal BLU Scheme is fairer than the existing arrangement, at least as far as those Relevant Coal Producers, which produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users, are concerned. Coal Traders and those Relevant Coal Producers which do not produce coal with quality specifications required by or suitable for Relevant Domestic Coal Users will, of course, see the Coal BLU Scheme in a very different light as they are going to be compelled to contribute to the funding of the Coal BLU Scheme even though they do not receive any benefit from the same.

The inherent problem, however, with the Coal BLU Scheme is that it perpetuates the coal industry’s compulsory subsidization of PLN, IPPs and other Relevant Domestic Coal Users by ensuring that Relevant Domestic Coal Users continue to only pay the Quality Adjusted US$70-US$90 Concessional Coal Price.

Doing anything to further entrench the reliance of Indonesian industry and consumers upon energy and fuel subsidies, whether from the Government or the coal industry, hardly seems like a good idea from the perspective of putting the Indonesian economy on a stronger footing to withstand the inevitable, eventual downturn in commodity prices. Accordingly, while good news for at least some Coal Sellers, the Coal BLU Scheme looks uncomfortably like an, ultimately, fruitless exercise akin to “rearranging the deck chairs on the Titanic” when it comes to reducing the risk of a future economic disaster for Indonesia. The eventual “collision” of stubbornly high energy and fuel subsidies with falling commodity prices will surely have serious ramifications for Indonesia. We should, therefore, all being watching out for that “iceberg” as it heads inexorably towards the Indonesian economy.

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