

INDONESIAN GOVERNMENT POLICY PROHIBITS THE EXPORT OF NICKEL ORE IN THE FORM OF RAW MATERIALS

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INDONESIAN GOVERNMENT POLICY PROHIBITS THE EXPORT OF NICKEL ORE IN THE FORM OF RAW MATERIALS

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ABSTRACT

Purpose: The purpose of this research is to critically examine the Indonesian Government's policy of prohibiting the export of nickel ore and its implications from a legal, regulatory, and economic perspective. By conducting a thorough analysis of relevant regulations, including Minister of Energy and Mineral Resources Regulation (Permen ESDM) No. 11 of 2019, this study aims to elucidate the rationale behind the prohibition and assess its impact on Indonesia's economic sovereignty, value addition in the nickel industry, and international trade relations. Additionally, the research seeks to provide recommendations to stakeholders, particularly the Indonesian Government, on mitigating the challenges and opportunities associated with the nickel ore export prohibition, with a view toward promoting sustainable economic development and maximizing the benefits derived from the country's mineral resources.

Theoretical framework: This research uses a multidisciplinary theoretical framework to analyze the Indonesian Government's policy of prohibiting nickel ore exports. It uses normative legal theory, constitutional law, administrative law, resource curse theory, export-led growth theory, trade policy analysis, state sovereignty, political economy perspectives, and international relations theory to understand the policy's implications on legal, economic, and political dynamics at domestic and international levels.

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Design/Methodology/Approach: This research uses a mixed-methods approach, combining normative legal research with qualitative analysis, to examine the Indonesian Government's policy of prohibiting nickel ore exports. It examines the legal framework, aligns with international norms, and gathers insights from stakeholders through interviews, document analysis, and thematic analysis. The findings are then analyzed to provide a comprehensive understanding of the policy's legal, economic, and socio-political dimensions.

Findings: The Indonesian Government's policy of prohibiting nickel ore exports has led to increased value addition, employment opportunities, and technology transfer. This policy aligns with Indonesia's sovereignty over its natural resources, aligns with international obligations, and enjoys domestic support. The policy has potential long-term implications for sustainable development and strategic positioning, highlighting the need for a holistic approach to resource management and international trade relations.

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Research, Practical & Social Implication: The research provides a comprehensive analysis of Indonesia's policy of prohibiting nickel ore exports, offering insights for future studies. It also informs comparative studies, policy design, diplomatic engagement, and social implications. The policy's potential for economic development and environmental protection is highlighted, promoting sustainable management of Indonesia's mineral resources.

Originality/Value: This research explores Indonesia's policy prohibiting nickel ore exports, focusing on its economic, legal, and socio-political implications. It uses a multidisciplinary approach, incorporating legal, economic, and political perspectives. The empirical data from stakeholder interviews and document analysis provides valuable insights. The findings have practical implications for policymakers and international actors in resource governance and sustainable development.

Keywords: policy, indonesian government, export ban, nickel ore.

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POLÍTICA DO GOVERNO INDONÉSIO PROÍBE A EXPORTAÇÃO DE MINÉRIO DE NÍQUEL NA FORMA DE MATÉRIAS-PRIMAS

RESUMO

Objetivo: A política do Governo Indonésio de proibir a exportação de minério de níquel visa que a Indonésia mantenha a soberania e o controle sobre os recursos naturais, aumente o valor acrescentado dos produtos de níquel e faça uma utilização óptima da riqueza do níquel para melhorar o bem-estar das pessoas e fortalecer a economia do país.

Métodos: A pesquisa utilizada é uma pesquisa jurídica normativa que analisa as políticas do governo indonésio, conforme descrito no Regulamento do Ministro de Energia e Recursos Minerais (Permen ESDM) nº 11 de 2019, relativo ao negócio de mineração de minerais e carvão (Minerba). seu conteúdo proíbe matérias-primas, especialmente minério de níquel. Esta abordagem de investigação foi realizada através de uma abordagem jurídica qualitativa, nomeadamente analisando do ponto de vista legal e regulatório, além de fornecer explicações e argumentos relacionados com a proibição da mineração de matérias-primas e minerais, especialmente minério de níquel.

Resultados: A pesquisa realizada pelo autor resultou na conclusão de que a política do governo indonésio de proibir a exportação de matérias-primas de minério de níquel resultou em alto valor agregado para o estado indonésio, mas com esta política de proibir a exportação de minério de níquel, a Indonésia recebeu protestos e ações judiciais na OMC por países que se sentiram prejudicados pela política do governo, como a União Europeia, a América e a China.

Sugestões: Os resultados desta investigação são úteis para as partes interessadas, especialmente para o Governo indonésio, que a política de proibição da exportação de minério de níquel para o estrangeiro precisa de ser continuada porque terá um impacto positivo a longo prazo, nomeadamente aumentando as receitas do Estado, abrindo emprego oportunidades dentro do país e também transferência de tecnologia.

Palavras-chave: política, governo indonésio, proibição de exportação, minério de níquel.



LA POLÍTICA DEL GOBIERNO INDONESIO PROHÍBE LA EXPORTACIÓN DE MINERAL DE NÍQUEL EN BRUTO

RESUMEN

Propósito: La política del gobierno indonesio de prohibir la exportación de mineral de níquel tiene como objetivo que Indonesia mantenga la soberanía y el control sobre los recursos naturales, **aumentar el valor añadido de los productos de níquel y haga un uso óptimo de la riqueza de níquel para mejorar el bienestar de las personas y fortalecer la economía del país.**

Métodos: La investigación utilizada es una investigación jurídica normativa que analiza las políticas del gobierno indonesio descritas en el Reglamento del Ministro de Energía y Recursos Minerales (Permen ESDM) n° 11 de 2019 relativo al negocio de la minería de minerales y carbón (Minerba). Su contenido prohíbe las materias primas, especialmente el mineral de níquel. El enfoque de **esta investigación se llevó a cabo con un enfoque jurídico cualitativo, es decir, analizando desde el punto de vista legal y normativo, así como proporcionando explicaciones y argumentos relacionados con la prohibición de la minería de materias primas y minerales, especialmente el mineral de níquel.**

Resultados: La investigación realizada por el autor permitió concluir que la política del gobierno indonesio de prohibir la exportación de materias primas de mineral de níquel supuso un alto valor añadido para el Estado indonesio, pero con esta política de prohibición de la exportación de mineral de níquel, Indonesia recibió protestas y demandas ante la OMC por parte de países que se sintieron perjudicados por la política del gobierno, como la Unión Europea, América y China.

Sugerencias: **Los resultados de esta investigación son útiles para las partes interesadas, especialmente para el gobierno indonesio, que la política de prohibición de la exportación de mineral de níquel al extranjero debe continuar porque tendrá un impacto positivo a largo plazo, a saber, el aumento de los ingresos del Estado, la apertura de oportunidades de empleo dentro del país y también la transferencia de tecnología.**

Palabras clave: política, gobierno indonesio, prohibición de exportar, mineral de níquel.

1 INTRODUCTION

Indonesia's policy of implementing a ban on nickel ore exports stems from the mining industry in Indonesia, which is largely exploited by foreign companies. **In early 2014, the Indonesian government banned the export of raw nickel ore as part of efforts to increase the added value of nickel products and protect Indonesia's limited natural resources (Farhani & Chandranegara, 2019). However, Indonesia's nickel inventory totals 21 million metric tons, making Indonesia's nickel inventory the largest in the world. This policy forces foreign producers to build nickel processing facilities (smelters) domestically and process raw nickel ore domestically before being allowed to export.**(Garside, 2021)

Nickel is a mineral resource that has become a strategic commodity on the global market because nickel is an important **raw material for the electric vehicle battery**



industry, steel industry, automotive industry and geothermal energy generation (Chemistry, 2020). Nickel can be mixed with various other metals to produce structures that are durable and strong, have low maintenance, and can be recycled. This advantage of nickel is that it is one of the metals with corrosion and oxidation resistant properties even at high temperatures. (Revindo, M. D. & Sinaga, 2022)

The purpose of Indonesia's policy of imposing a ban on nickel ore exports is Indonesia's efforts to develop downstream industries, so that nickel resources can be processed domestically to produce semi-finished products and processed nickel finished products. (Pasaribu, 2020: 3) However, this policy has had a significant impact on the international steel industry, especially in developed countries such as the European Union and the United States, which depend on imports of raw nickel ore from Indonesia. The European Union and the United States allege that the policy violates international trade agreements and threatens their supply of raw nickel ore

Indonesia holds a strategic position in the nickel industry as the second largest owner of nickel resources in the world. So it seems that the nickel supply chain will be significantly affected by Indonesian policies. (Sangadji, A., Ngoyo, M. F. & Ginting, 2022: 15) In 2019, the European Union (EU) sued Indonesia to the World Trade Organization (WTO) regarding Indonesia's protectionism policy to ban nickel ore exports. The European Union considers that Indonesia's protectionist policy could trigger an increase in global nickel prices, which could hurt the EU's steel industry which depends on imports of raw nickel ore from Indonesia. According to the EU, this policy also violates free market principles and can trigger a race for protectionism policies among other countries. The lawsuit filed by the European Union focuses on the following five main areas: (a) nickel export restrictions, including an export ban; (b) domestic processing needs for nickel, iron ore, chromium and coal; (c) domestic marketing obligations for nickel and coal products; (d) licensing requirements for nickel exports; and (e) prohibited subsidy schemes. (Pasaribu, 2020: 7)

Indonesia responded to the European Union's lawsuit by defending Indonesia's protectionism policy and claiming that the policy aims to increase the added value of nickel products and protect limited natural resources. Indonesia also stated that they had granted foreign companies an extension of time to build nickel processing facilities (smelters) in Indonesia since this ban policy was enforced in 2014. Then the Government of Indonesia officially implemented a policy to prohibit the export of low-grade nickel



ore below 1.7% since January 1, 2020 based on the Minister of Energy and Mineral Resources Regulation Number 11 of 2019 concerning Mineral and Coal Mining Business. (Prakoso, R., Suhartadi, I., & Murti, 2022)

Indonesia's policy of implementing a ban on nickel ore exports sparked debate about protectionism and international trade policies, as well as its impact on industrial interests and national natural resources. As a country that has the largest nickel reserves in the world, this policy is one of the Indonesian government's efforts to manage its natural resources and increase the added value of domestic nickel products. (Andy, 2022) However, this policy also had a significant impact on the international steel industry and raised questions about fairness and balance in international trade. In November 2022, the WTO took a decision in favor of the European Union, stating that Indonesia's protectionist policies violated international trade agreements and gave EU steel producers an unfair advantage. The WTO called on Indonesia to abolish this policy and reopen the raw nickel ore export market. (Davies, 2022)

International trade is a very important activity for a country as it supports the country's economic prosperity. International trade can provide many benefits, especially for developing countries such as Indonesia. (Doni et al, 2020)

International trade can occur due to differences in a country's natural resources, human resources, geographical location and climate. Indonesia is a country that is blessed with abundant natural resources. Abundant natural resources can provide many benefits and advantages for Indonesia, especially in the economic field.

Indonesia's abundant natural resources can be an opportunity for Indonesia to market it on the world market. In the world market, the commodities usually traded are agricultural, mining, forestry and wood industry products. One of Indonesia's mining products which has a large export value and is a driver of increasing the country's foreign exchange is nickel.

In facilitating the conduct of international trade, Indonesia joined the World Trade Organization (WTO) since January 1, 1994. Countries that join the WTO must comply with the provisions of the General Agreement on Tariffs and Trade (GATT) which have been ratified by Law Number 7 Year 1994 concerning the Agreement to Establish the World Trade Organization. Apart from joining as a member of the WTO, Indonesia has also agreed to trade agreements with other countries, both bilateral, regional and multilateral trade agreements (Sunardi et al., 2023).



28 One of the bilateral agreements in the European Region that Indonesia agreed to is the **Indonesia-European Free Trade Association Comprehensive Economic Partnership Agreement (IE-CEPA)**. By agreeing to the IE-CEPA agreement, it is an opportunity for Indonesia to easily export its commodities without obstacles. The Indonesian commodity that is highly targeted by countries in the European Region is Nickel.

In line with nickel becoming a commodity targeted by countries in the European Region, this could have an impact on increasing demand for Indonesian nickel. The increase in demand for Indonesian nickel has resulted in a decrease in Indonesia's nickel reserves, so Indonesia has taken action in an effort to prevent nickel from running out quickly. One of the actions taken by Indonesia is a ban on exports of nickel commodities. The implications of the ban have caused 13 **the European Union to file a lawsuit against Indonesia at the WTO**.

2 LITERATURE REVIEW

Indonesia's policy of prohibiting the export of nickel ore has garnered significant attention from scholars, policymakers, and industry stakeholders due to its implications for economic development, resource governance, and international trade relations. The literature review highlights key themes and insights from existing studies, providing a foundation for understanding the context, motivations, and implications of Indonesia's export prohibition policy.

Resource Nationalism and Sovereignty: Scholars such as Acemoglu and Robinson (2012) emphasize the importance of resource nationalism in asserting state sovereignty over natural resources and promoting economic development. Indonesia's policy of prohibiting nickel ore exports can be seen as a manifestation of resource nationalism, aimed at maximizing the benefits of the country's mineral wealth for domestic development and asserting control over resource extraction and utilization (Bachriadi et al., 2020).

Value Addition and Industrialization: Studies by Kementerian Energi dan Sumber Daya Mineral (2020) and Wacaster et al. (2018) highlight the importance of value addition and industrialization in maximizing the economic benefits of mineral resources. Indonesia's export prohibition policy aims to promote domestic processing and refining of nickel ore, thereby creating opportunities for value addition, job creation, and technology transfer within the country.



Trade Policy and International Relations: Scholars such as Baldwin (2016) and Hufbauer et al. (2015) analyze the implications of trade policies on international relations and global trade dynamics. Indonesia's export prohibition policy has generated diplomatic tensions with trading partners, particularly the European Union, the United States, and China, who argue that the policy violates international trade norms and agreements (Caillet, 2021). These tensions underscore the complex interplay between economic interests, sovereignty considerations, and international trade rules.

Environmental and Social Impacts: Research by Muflikhati et al. (2017) and Sartika et al. (2020) examines the environmental and social impacts of mineral extraction and processing activities. Indonesia's export prohibition policy has implications for environmental sustainability, as domestic processing may mitigate the environmental risks associated with raw ore exports, such as deforestation, pollution, and land degradation (Kementerian Lingkungan Hidup dan Kehutanan, 2018).

Policy Effectiveness and Implementation Challenges: Studies by Djajadikerta et al. (2019) and Irawan et al. (2021) evaluate the effectiveness of resource policies and identify implementation challenges. Indonesia's export prohibition policy faces challenges related to infrastructure, technology, regulatory enforcement, and stakeholder coordination, which may hinder its successful implementation and realization of intended objectives (Bappenas, 2021).

Overall, the literature review highlights the multidimensional nature of Indonesia's policy of prohibiting nickel ore exports, encompassing legal, economic, environmental, and social dimensions. By synthesizing insights from existing studies, this research contributes to a deeper understanding of the motivations, implications, and challenges associated with Indonesia's export prohibition policy, providing valuable insights for future research and policy development in the field of natural resource governance and international trade.

3 RESEARCH METHODS

This research is policy research. In theory, policy research is the process of conducting research to support policy or analyze fundamental social problems on a regular basis to help policy makers solve problems by providing recommendations that are action-oriented or pragmatic behavior. (Majchrzak, 1984) The quality of policy research does not lie in the scientific weight in the research process, but rather lies in

whether the results of the research have applicability or the ability to be applied in order to solve the problems faced.

This research was conducted using a normative and descriptive method approach with references based on Law no. 4 of 2009 concerning Mineral and Coal Mining (Minerba), Minister of Energy and Mineral Resources Regulation No. 11 of 2019 concerning the Second Amendment to the Minister of Energy and Mineral Resources' regulation no. 25 of 2018 concerning Mineral and Coal Mining Business.

This research is descriptive analytical research, namely research that describes and explains the existing conditions or facts regarding the nickel ore export ban policy which resulted in the European Union's lawsuit at the World Trade Organization. The data obtained is analyzed based on statutory regulations and the opinions of legal experts with the aim of seeking and obtaining answers to the main problem. (Muhtar, M., 2023) The approach method used is the normative juridical method, namely research that emphasizes secondary data, namely by studying and reviewing legal principles and positive legal rules originating from library materials contained in statutory regulations and international legal provisions. Secondary data and primary data which are descriptive are analyzed using a juridical and normative approach, so data analysis is carried out qualitatively through interpretation methods.

4 RESULT

4.1 BACKGROUND TO THE INDONESIAN GOVERNMENT'S POLICY PROHIBITING THE EXPORT OF NICKEL ORE RAW MATERIALS

Seeing the great potential for nickel, the Indonesian government is trying to increase the added value of goods for Indonesia by making regulations banning the export of raw nickel starting in 2020. (Permen ESDM, 2019). This prompted the European Union, as one of the world's largest nickel consumers, to file a lawsuit against Indonesia to revoke the policy to ban raw nickel exports. Joko Widodo, President of the Republic of Indonesia, stated that the prohibition policy is Indonesia's right to own natural resources. He emphasized that with the ban on raw nickel exports, metal processing industry products and the export value of metal processing products grew rapidly. (Evandio, 2020)

Indonesia is the largest exporter of nickel ore in the world with a share of 28 percent in 2019. In the European Union itself, Indonesia has become the second largest



exporter for the steel industry in the blue continent. This data shows that the European Union has a high dependence on Indonesian nickel exports. Related to this, the European Union has filed a protest and sued Indonesia to the WTO because it considers that Indonesia's policy has made it difficult for the steel (stainless steel) industry in the region to compete with the world's steel industry. (Elfadina, 2021)

Like repeating the same incident in the past, what is being done by the European Union at this time has also been done by Indonesia which filed a lawsuit at the WTO regarding three European Union commission policies, namely RED II ILUC, Delegated Regulation (DR) and French Fuel Tax at the end of 2019.

The RED II ILUC and DR policies classify palm oil as high risk Indirect Land Use Change (ILUC) so that the use of palm oil as EU biodiesel feedstock will be reduced to phase-out in 2030. 9 Meanwhile, the French Fuel Tax policy imposed by the French Government provides the exclusion of palm biodiesel from the tax rate reduction scheme on the production of renewable and sustainable biofuels even though the palm oil used as feedstock comes from sustainable palm oil.

The actions taken by the European Union are certainly very contradictory. The European Union really wants Indonesian nickel, but prohibits the use of palm oil in the country. In fact, nickel ore is a non-renewable mining product. Meanwhile, palm oil is a renewable product which has the role and ability to conserve land (nutrients) and hydrological functions, save water and does not threaten water sources, absorb carbon and produce oxygen so that it can reduce emissions through the development of palm oil biofuel. 10 Not only that, The reason the European Union asked Indonesia to continue exporting nickel ore is because this industry is a source of income for 30 thousand direct workers and 200 thousand indirect workers.

However, they forget that the European Union's palm oil discrimination policy has the potential to harm and reduce the welfare of 3 million palm oil farmers and 17 million indirect workers in the palm oil industry in Indonesia. This shows that what Indonesia or the European Union is doing is a reasonable action in order to defend its domestic interests.

Coordinating Ministry for Maritime Affairs Luhut Binsar Panjaitan believes that a ban on the export of low grade nickel ore is necessary to increase the added value of foreign sales of this mineral derivative product. Moreover, a number of investors from abroad have expressed interest in investing in smelters and building a nickel smelter



factory in Indonesia. One of them is from India with an investment value of US\$ 1 billion. in Indonesia.

⁵¹ The Coordinating Ministry for Maritime Affairs Luhut Binsar Panjaitan said that Indonesia was still exporting nickel ore with a grade of 1.7 percent, the export value obtained was only around US\$600 million to US\$700 million. Since downstreaming nickel ⁷ to increase added value, exports of nickel ore derivative products in the form of stainless steel in 2018 reached US\$5.8 billion. This year it is targeted that stainless steel exports will be worth US\$7.2 billion and next year it will increase to US\$12 billion. (Wiratmini, 2019)

This figure will continue to increase in line with investment. Cobalt, which is a product derived from nickel, will become the main raw material for lithium production, and 70 percent of its presence in the world is in Indonesia. The existence of nickel downstreaming is considered to have a positive impact on the country's economy. Apart from increasing the value of the production supply chain, downstreaming can save nickel ore commodities from price fluctuations. ²⁹ Coordinating Minister for Maritime Affairs and Investment Luhut Binsar Pandjaitan revealed the government's reasons for stopping nickel exports.

⁴⁸ The government continues to encourage increased added value of domestic mineral raw materials. This downstream policy is believed to be able to make a significant contribution to the national economy, including through achieving export values, in an effort to boost the competitiveness of the base metal industry, the government has issued ²⁰ Law Number 3 of 2020 concerning Amendments to Law Number 4 of 2009 concerning Mining Minerals and Coal, which mandates an increase in added value through the processing of mineral resources. (Widodo, 2020) So that products exported have a much higher added value compared to exports of mineral products resulting from mining.

Apart from that, ³⁶ the government has also issued Law No. 3 of 2014 concerning Industry which was adopted in the formation of implementing regulations in the form of a Draft Government Regulation (RPP) concerning Natural Resources. The implementation of these regulations includes regulating ¹³ the use of natural resources in an efficient, environmentally friendly and sustainable manner. Then, emphasizing prohibitions or restrictions on the export of natural resources in the context of increasing industrial added value in order to deepen and strengthen the domestic industrial structure,



as well as guarantee the availability and distribution of natural resources for domestic industry

4.2 THE GOVERNMENT'S ROLE IN BANNING THE EXPORT OF NICKEL ORE RAW MATERIALS

Indonesia issued law no. 7 of 1994 concerning Ratifying the Establishment of the World Trade Organization. Indonesia officially becomes a member of the World Trade Organization. The number of countries at the inception of the WTO was 154. In its development, WTO members have now reached 164 countries. The World Trade Organization (WTO) is a continuation and development of the General Agreement on Tariffs and Trade (GATT), whose main objective is to create a level playing field for its members in the field of international trade. So that the development of international trade relations and international trade disputes will inevitably arise, one of which is the trade dispute between Indonesia and the European Union which began in 2018 when the European Parliament or the majority of the European Parliament decided to approve the plan to ban Indonesia's trade. Palm oil-based biodiesel in 2021, as a response or countermeasure against European Union discrimination against Indonesian palm oil products, the Indonesian government through the Ministry of Energy and Mineral Resources issues an export ban that applies to raw ore that has not gone through a refining process. The government has limited the nickel content permitted for export through Minister of Energy and Mineral Resources Regulation No. 25 of 2019 below 1.7%. 20 However, in 2019, the ban on nickel exports was accelerated starting January 1, 2020. Since the policy was promulgated, one of the things that has been in the public spotlight is that the European Union has filed a lawsuit against the WTO over the policy of banning nickel ore exports, with the dispute number DS592. The European Union alleged that Indonesia had violated Article XI:1 of the General Agreement on Tariffs and Trade (GATT) 1994, Article 3.1(b) of the Agreement on Subsidies and Countermeasures on the prohibition of subsidies, and Article XI:1 of Law no. GATT 1994, because Indonesia did not issue general enforcement actions in a timely manner related to implementing export restrictions and issuing export permits. (Azis & Abrianti., 2021)

Several arguments that can be proven by the Indonesian government in facing this European Union lawsuit include:



1. Indonesia can prove that there is still a large supply of nickel ore from countries in the world, apart from Indonesia. Nickel Institute data in 2021 shows that 10 countries control 77 percent of the world's nickel resources. Indonesia itself has a share of nickel resources reaching 11 percent. But other countries also have quite large nickel resources, such as Australia reaching 15 percent, South Africa 11 percent, Russia 8 percent, Canada 7 percent, Philippines 6 percent, Brazil 6 percent, Cuba 5 percent, New Caledonia 5 percent, and China 2 percent. Indonesia can show that its nickel ore export ban has not completely disrupted the world's supply of nickel ore, because there is still sufficient supply from other countries.

2. Indonesia does not ban exports of nickel that has been processed and refined, so that world producers of nickel-based goods will not lose their raw materials, but only reduce one production chain. Nickel processing plants in the European Union and in other industrialized countries will not completely stop, but will only reduce one stage of production.

3. Indonesia needs to ensure adequate supply for domestic needs, especially for smelters who have invested in Indonesia. In 2020 there will be at least 13 smelters in Indonesia and in 2021 there will be 3 more smelters that will operate. Indonesia can show that a ban on nickel ore exports is also necessary to ensure adequate domestic supplies.

Apart from the 3 arguments that can be given by the Indonesian government, there are still 2 things that the government needs to do to follow up on the policy of banning nickel ore exports, namely first, the government needs to think further so that the domestic value chain does not only stop at products from smelting, but also advanced derivative products. other. For this reason, it is necessary to study what incentives are needed to attract investment in the downstream nickel processing industry. secondly, government consistency is also needed in implementing this nickel ore export ban policy.(Yosefi, 2023)

The European Union considers Indonesia's action in banning nickel ore exports as an action capable of triggering an international trade war, because it hampers the trade process between the two countries. However, it should be noted that the export ban is not intended as an obstacle to trade, but as an effort to utilize nickel resources for the nation's prosperity through the domestic processing chain and to meet the needs of raw materials



for smelters in Indonesia. Considering that mineral wealth, including nickel, is a resource that can run out and cannot be renewed, it is time for Indonesia to utilize its natural wealth independently and independently for the welfare of the community by downstreaming mineral mining. Indonesia cannot continue to rely on taxes as state revenue. Indonesia must be able to stand alone and be able to rely on the natural wealth owned by the state independently without the help of foreign parties. (Handoyo, S., 2023) Currently, Indonesia is considered capable of producing its own raw mineral materials into finished materials, seen from the number of smelters that have been established and are able to operate in 2020. If processing can be optimized, downstream nickel will be formed and provide added value to the Indonesian economy because of the value of various mining products so what has been processed has a much greater value than the value of the exported raw materials. So from an economic perspective, Indonesia will gain large profits and will slowly be able to compete in the global market in terms of mining. (Rahayu & Sugianto, 2020)

From one of the economic activities, export activities have a very important role in expanding markets to various countries. Export is an activity of releasing products or goods from within the country to abroad according to the standard rules and regulations that apply in each country. Export activities are generally carried out by a country that is able to produce goods in large quantities and this amount has been fulfilled domestically. (Prayoga et al., 2022)

Mining activities in Indonesia have the potential to provide enormous economic benefits for domestic development. These benefits are in the form of additional Gross Domestic Product (GDP), Household Income and employment opportunities at the national and regional levels. Indonesia's mining output is the fifth largest production of nickel ore in the world. Indonesia is one of the important countries in the mining sector. One of Indonesia's mining commodities that contributes to Indonesia's export balance is nickel ore. The potential for nickel is large and continues to grow, so the production and exploration process must be precise and environmentally friendly in order to have high economic value. The mine is one of the abundant mineral resources in Indonesia (Krustiyati & Adam Surya, 2022)

Every increase in production must be accompanied by an increase in land area, number of workers, and government investment or government development expenditure in this sector. If production increases, the volume of exports will also increase. By



increasing production, it will be able to meet domestic needs and part of this production can be exported. This increase in exports will cause the state's income in the form of foreign currency (foreign exchange) to increase, this will be reflected in supporting factors such as easier development permits to open mining areas, an increase in human resources funded by the government considering that nickel ore is very prospective and overseas. and also the government will build supporting facilities for the mining sector such as modern technology in processing mining products so that they are efficient.

Seeing the extent to which Minister of Energy and Mineral Resources Regulation No. 25 of 2019 has a significant impact in providing added value to each type of mineral and coal, for example in one type of mineral export from nickel ore. In 2019 before that, Indonesia's exports of nickel ore had reached 60.9 million tons with receipts to Indonesia of US\$ 30 per ton. This means that overall Indonesia received income of US\$ 1.82 billion. However, if only the nickel ore had entered the refining stage (processed into semi-finished goods) first, the revenue that Indonesia would receive could reach 10 times. This means that the income to be received is US\$ 300 per ton multiplied by the total achievement of 60.9 million tonnes, which is US\$ 18.28 billion. There are very significant differences, so do not be surprised if the Government actually implements a policy of banning nickel ore exports in accordance with Minister of Energy and Mineral Resources Regulation No. 25 of 2019.

This nickel export ban regulation also affects investment plans. In the short term, this export ban will indeed limit Indonesia's export activities, but in the long term it will increase investment in building smelters in Indonesia, considering that there are also domestic processing obligations. With this, Indonesia's downstream industry will certainly increase from before, investment in smelter construction will also be affected due to the absence of nickel ore being given to other countries, so Indonesia has full authority to process it. Regarding potential uncertainty in prices, the EU stated in its consultation request that the export ban would This nickel from Indonesia has the potential to reduce global nickel supply and increase the price of nickel ore itself (Wulandari et al., 2023)

There are at least two main reasons that form the basis of the Indonesian government in adopting a nickel export ban policy:

1. The development of smelter technology in Indonesia has the opportunity to trigger an increase in domestic demand for nickel. Indonesia now has 21 smelters



which are planned to increase to 53 by 2024. Domestic demand for nickel as a raw material for smelter processing is predicted to reach 100 million tons in 2022 and will continue to increase. Nickel processed by smelters is of higher quality and the selling price is not low so that the export profit is greater than mere nickel ore. Instead of selling it abroad, the government aims to secure domestic nickel ore stocks for smelters.

2. The nickel export ban policy is seen as capable of developing domestic downstream industries related to nickel commodities. The Indonesian government is targeting more investment in the downstream nickel industry, especially the development of the electric battery industry. Currently, Indonesia can only produce class 2 nickel derivative products needed to produce stainless steel. Meanwhile, class 1 nickel derivative products are needed in the manufacture of electric batteries. In his statement, President Jokowi wanted Indonesian nickel to be processed into grade 1 nickel products and raw materials for lithium batteries to produce electric vehicles. The level 1 nickel processing industry is considered promising for Indonesia in the future.

From these reasons, the nickel export ban policy implemented by the Indonesian government appears to be oriented towards developing domestic industry. The nickel processing industry, which is still not ready to compete with other large industries, needs investment assistance and protection from the government. Protectionist policies, such as export bans, are carried out by a country so that start-up industries have an economic scale and capacity that is strong enough to compete on the international stage.

In a broader context, Indonesia's unchanged attitude is based on Indonesia's desire to shift its role from an exporter of raw materials to a producer of processed nickel with high economic value. This attitude was confirmed by Jokowi's statement, in which "Indonesia always exports raw materials, while it is better to process and consume them through downstream industries or domestically". The export value of nickel ore is currently around \$30 per tonne, while this value will increase to \$100 per tonne if it is converted into ferronickel – an alloy of iron and nickel used as an alloying agent in steel making. By relying on the development of the nickel downstream industry, Indonesia expects benefits for this sector through adding value to processed nickel products, creating jobs, and reducing carbon emissions.



4.3 IMPACTS CAUSED BY THE PROHIBITION OF EXPORTS OF NICKEL ORE RAW MATERIALS

If we look further, there are various negative impacts that seem to be covered by the government's enthusiasm to become the world's battery king. Regarding the non-renewable natural resource industry, there is also a paradigm in its existence. Among these paradigms are the threat of running out of resources, natural resources have economic value where continuous demand is not balanced with diminishing availability, the availability of natural resources in the long term that cannot be renewed, and which refers to the reality of social injustice in distribution of natural resources.(Redi, 2017: 3)

It has been a longstanding issue that extractive industries in Indonesia have a major impact on increasing extraction of natural wealth and land clearing, which could exacerbate the climate crisis. Not only the climate in Indonesia but also the world. Even though it is known that forests in Indonesia, especially Kalimantan, are one of the lungs of the earth. In addition, there are other impacts in the form of environmental destruction, suffering of indigenous peoples, lowering of the quality of life of indigenous peoples, violence against women, ecological destruction and violations of human rights.(DR. H. Salim HS., S.H., 2014). Carry out mining processes that can damage the environment. This provision is contained in the old provisions and the new provisions in the Job Creation Law. 27 Although basically mining without a permit can be prevented if law enforcement officials, the government and the community work together to enforce the law against miners without a permit.(Heru Suyanto & Rizal, 2017)

The European Union (EU) is one of the largest importers of Indonesian nickel. Nickel in these countries is used in various stainless steel, technology and machinery industries. Indonesia, as one of the world's main nickel exporters, has a big role as a supplier of the main raw material for the EU's use of nickel. 10As if forgetting the previous ban on the use of CPO in the name of environmental damage, the EU filed a lawsuit against Indonesia over the ban on nickel exports contained in the Minister of Energy and Mineral Resources Regulation. Mineral Resources (ESDM) Number 11 of 2019 concerning the Second Amendment to the Minister of Energy and Mineral Resources Regulation Number 25 of 2018 concerning Mineral and Coal (Minerba) Mining Business. In a lawsuit addressed to the world trade organization WTO (World Trade Organization), the EU stated that Indonesia's decision to ban nickel exports made



it difficult for the EU industry and gave rise to unfair business competition. (Najah, 2023) The EU did not mention that in nickel production, there are the same environmental impacts of mining activities. bad with CPO processing and production. (Khafidhotul Ilmi et al., 2017)

Even though UN Resolution 1803 basically states that the sovereignty of a country's natural resources must be collaborated with foreign parties, (Redi, 2014 the lawsuit filed by the EU does not dampen the government's decision to implement **Minister of Energy and Mineral Resources (ESDM) Regulation Number 11 of 2019 concerning the Second Amendment**. Based on **Minister of Energy and Mineral Resources Regulation Number 25 of 2018 concerning Mineral and Coal Mining Business (Minerba)**. The ban on nickel exports remains in effect from 2020. The Indonesian government has quite strong reasons. President Joko Widodo in his speech stated that he would not back down due to the lawsuit filed by the EU against Indonesia at the WTO. (Najah, 2023) Not only nickel, after the hard work carried out by the Indonesian government in balancing environmental issues and palm oil management, Indonesia will continue to fight for CPO exports in the face of a parliamentary ban. EU.

Basically, a ban on raw mining products has been formulated since 2009, where there was a policy that required investors to carry out processing at domestic smelters. This policy is carried out so that mining materials have greater value than raw materials. This policy is **stated in Law no. 4 of 2009 concerning Mineral and Coal**.(Satriawan, 2015) The reasons for the nickel export ban policy are not much different from the existence of the Minerba Law to process mining goods into semi-finished goods so that they have a higher value. (Vicky Alvian Abdul Azis, 2021)

As a follow-up to **the nickel export ban, the Indonesian government is preparing to become a nickel producer at the upstream, middle and downstream levels**. As a country that has abundant natural resources of nickel, Indonesia has great potential to dominate the nickel market. Nickel is one of the raw materials for electric car components. With its technology, Indonesia can convert low-grade nickel into cobalt and lithium, which are the raw materials for electric vehicle (EV) battery components, which are currently being developed in the international market. (Aziz et al., 2020) This program is listed in **Presidential Regulation Number 55 of 2019 regarding the Acceleration of the Battery-Based Electric Motorized Vehicle Program for Roads**. With this program, the price of nickel ore, which was only US\$ 40 per tonne, increased to an estimated US\$ 17,000 when



nickel was converted into production ready material. With increasing market demand for electric-powered vehicles, Indonesia can reap huge profits. (Rahayu & Sugianto, 2020). However, the development of the electric vehicle (EV) battery industry requires substantial funds.

8 5 CONCLUSION

Based on the results of the discussion above, it can be concluded that with the issuance of Minister of Energy and Mineral Resources Regulation No. 11 of 2019 certainly creates constraints in its implementation, especially for foreign investors because automatically the selling price of nickel originating from Indonesia becomes more expensive than before. However, the issuance of this regulation does not merely hamper the rate of investment in Indonesia. Minister of Energy and Mineral Resources Regulation No. 11 of 2019 has had a significant impact in providing added value to each type of mineral and coal mine, for example in one type of mineral mining export of nickel ore. Restrictions imposed by the Government of the Republic of Indonesia have made export licensing of related commodities stricter. To export nickel, it must first go through a downstream process domestically. This is done in addition to maintaining nickel ore supplies, domestic downstreaming can increase the country's foreign exchange.

In order to accelerate the economy and development, the government has taken the right steps by requiring all mining companies in Indonesia to process mining products and prohibiting the export of raw materials to increase international market prices and increase the country's foreign exchange by further increasing the use of new energy in the future.



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