ANNEX A.2

The ore export ban and mining sector divestment rules

In January 2014 the Indonesian government imposed a ban on the export of unprocessed minerals, including nickel, bauxite, copper and iron. As discussed in the previous Survey, the intention was to force companies to add value domestically before exporting, thereby stimulating activity and employment in the ore processing and smelting sector. The ban was legislated in 2009, but, in the face of strong resistance from industry, the government hesitated to pull the trigger until the end of the term of the previous president. The timing was particularly unfortunate, coinciding with a substantial decline in global demand and the end of the commodity super cycle.

In its original form the regulation banned the export of all unprocessed minerals, including unsmelted concentrates. The result was an almost complete cessation of the export of some minerals, including copper and nickel for a number of months in the beginning of 2014. A transitional arrangement was quickly put into place to account for the long lead times required for the construction of refining and smelting capacity and the required accompanying energy and transport infrastructure. Until January 2017 companies that export concentrates with a minimum purity of 15% and that provide sufficient demonstration of their commitment to build a refining facility can continue to export, although subject to progressively higher export taxes, starting at 20% in mid-2014 and reaching 60% by mid-2016.

Around the world, there was an increased incidence of export restrictions during and after the 2003-11 commodities super cycle. Indonesia's 2014 mineral export ban was nonetheless relatively unique. As documented by OECD (2014), of the 371 export restrictions in force on minerals and metals, only 23 were quantitative and only three were outright bans.

The ban had an immediate and dramatic effect on the production and export of a number of minerals. For instance, Indonesia's production of bauxite fell from 55.7 million tonnes in 2013 to only 2.5 in 2014 and an estimated 1.0 in 2015. Malaysia took this opportunity to increase production from 0.2 million tonnes in 2013 to 3.3 million in 2014 and estimated 21.2 in 2015 (US Geological Survey, 2016). Likewise exports of copper ore and concentrates effectively ceased for the first six months after the ban was imposed.

Some progress has been made in building smelters, but many companies are struggling to make the economics work, particularly in an environment of low prices and weak international demand. Lack of transport and energy infrastructure to support the construction and operation of smelters is holding back progress, as are the complicated multi-tiered regulatory requirements. As to nickel, of which Indonesia is the world's fourth largest producer, three smelters have been built, with another project expected to be completed in 2017. Low world nickel prices, which jumped with the announcement of the Indonesia export ban but have fallen steadily since, have caused delays and cancellation among the remaining smelter projects, meaning few, if any, are likely to be operational before 2017. The four new smelters will double Indonesia's nickel smelting capacity, creating an estimated 17 500 new manufacturing-type jobs (Terauds, 2016). In the bauxite sector progress has been particularly fraught. Alumina smelters are especially energy intensive, requiring large accompanying power-generating infrastructure. Despite a flurry of announced plans to build new alumina smelters immediately after the ban was put in place, not one new smelter has been constructed. The simple reasons are, first, that sufficient smelter capacity exists elsewhere in the world, and, second, alternative bauxite reserves have come on line in Malaysia and Australia to replace the interrupted supply from Indonesia (Home, 2015).

Overlaying the ore export ban are Indonesia's divestment requirements facing foreign owners of mining interests. As the rules currently stand, divestment to a maximum foreign investment of 49% is required after 10 years of commercial production. In the case that foreign interests take over an entity with some local ownership, the rules are even stricter. Recently, changes have been proposed aimed at providing relief to firms engaged in mineral processing. Specifically, a company with foreign investors that engages only in processing and refining will not be subject to any divestment requirements, and the foreign shareholders of a company that holds a mining permit and is also engaged in processing and refining will now be required to divest up to 40% of its shares to Indonesian interests by its 15th year of commercial production.

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