

Implikasi ketentuan domestic market obligation pada investasi pertambangan batubara

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Abstrak

Tesis ini membahas mengenai implikasi pemberlakuan ketentuan Domestic Market Obligation (DMO) pada investasi pertambangan batubara di Indonesia. Pemerintah menetapkan kebijakan Domestic Market Obligation (DMO) batubara, kebijakan itu tertuang dalam Peraturan Menteri ESDM Nomor 34 Tahun 2009. Konsekuensinya, setiap perusahaan memiliki kewajiban untuk menjual batubara yang diproduksinya berdasarkan persentase minimal penjualan batubara yang ditetapkan oleh Menteri dan harus dicantumkan dalam perjanjian jual beli batubara antara badan usaha pertambangan mineral dan batubara dengan pemakai batubara. Ketentuan DMO memberikan dampak positif yaitu jaminan ketersediaan batubara untuk kegiatan industri dan pasar dalam negeri. Namun juga memberikan dampak negatif karena pembatasan ekspor tidak mencakup batubara kalori rendah. Batubara seharusnya dilihat sebagai komoditas energi yang digunakan untuk menggerakkan pertumbuhan industri dan ekonomi. Penelitian ini adalah penelitian hukum normatif dan deskriptif kualitatif. Hasil penelitian menunjukkan bahwa pembatasan ekspor batubara berkaitan dengan amanat undang-undang energi, bahwa sudah merupakan kewajiban negara untuk menjamin ketersediaan pasokan energi di dalam negeri guna mendukung terciptanya ketahanan dan kemandirian energi nasional yang merupakan pilar penting bagi ketahanan ekonomi.

.....This thesis discusses about the implications of the enforcement of Domestic Market Obligation (DMO) regulation to the coal mining investment in Indonesia. The Government applied DMO of coal, the policy is written down in Regulation of the Minister of Energy and Mineral Resources Number 34 Year 2009. As a consequence, every company is obliged to sell their production on the basis of the minimum percentage of coal sales stipulated by the Minister and the provision must be written down into transaction agreement between coal mining business entities and coal users. DMO regulation has positive impact that guarantees the availability of coal for industrial activities and domestic markets. But also negative impacts due to export restrictions not cover for low rank coal. Coal should be treated as energy commodity used to activate the growth of industry and economy. This research is a normative legal study and qualitative descriptive interpretive. The results showed that the coal export restriction is related to mandate of energy law saying that the state is obliged to assure the availability of energy in the country to support national energy independence and resilience that constitutes an important pillar of economic resilience.

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