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LEGAL NEWSLETTER

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RECENT DEVELOPMENTS

Elnusa sells EBE stake to Salamander

Jakarta (ANTARA News) - Integrated oil and gas services company PT Elnusa Tbk has sold its 100-percent stake in its subsidiary Elnusa Bangkanai Energy Ltd (EBE) to Salamander Energy Group Ltd for US\$11.2 million.

"The divestment is part of the company's strategy to increase its profitability and growth by focusing on integrated upstream oil and gas services," Elnusa President Director Suharyanto said in a press statement on Friday.

Elnusa and Salamander signed a sales purchase agreement (SPA) for the divestment of its 100 percent stake in EBE recently.

Although Elnusa had divested a 100 percent stake and operatorship in EBE, Elnusa still held an 11 percent working interest in the Bangkanai field which gave it easy access to provide integrated upstream oil and gas services to the field, he said.

He said Elnusa obtained the 11 percent working interest in the Bangkanai field through an affiliate company, Chariot International Ltd.

EBE currently holds an 80 percent working interest in the Bangkanai oil and gas field in Central Kalimantan, he said.

Given the divestment, EBE now holds a 69 percent working interest in the Bangkanai field, Bangkanai Petroleum (L) Berhad (15 percent), Chariot International Ltd. (11 percent) and Mitra Energia Bangkanai (5 percent), he said.

Suharyanto said Elnusa would use proceeds from the divestment of its stake in EBE to buy new equipment as part of efforts to strengthen its competitive edge in the upstream oil and gas service market. (*)

Source: www.antaranews.com

RI still undecided about joining trans-Pacific agreement

Tokyo (ANTARA News) - Indonesia is still undecided about joining negotiations for an expanded trans-Pacific free trade pact on the grounds it still has to prepare many things before making up its mind.

"We cannot join the negotiations all at once. We need an agreement from other countries because we have not been invited but have to apply for (the membership in the forum)," Trade Minister Mari Elka Pangestu said in a press conference here on Sunday evening.

"The second requirement is formidable. This is what we call an agreement of new generation. So there will be no single sector that will not be included in the negotiations," she said.

She said Indonesia was still not prepared to meet the requirements, noting that it still focused on the settlement of Doha Round and negotiations on the regional trade deal.

"Our priority now is the settlement of Doha Round and the consolidation of regional trade we have been pursuing so far. Afterwards, we will evaluate our preparedness to join the Trans-Pacific Agreement," she said.

The forum was created by Chile, Brunei Darussalam, New Zealand and Singapore in 1999. The forum was revived only in 2008 with the United States, Australia, Peru, Malaysia and Vietnam expressing their interest in joining the forum.

Leaders of the nine countries held their first ever summit on the sidelines of the APEC ministerial and summit meetings in Yokohama on Sunday.

Mari said the Japanese government which previously intended to join the forum later reconsidered its intention and would consult with domestic parties. (*)

Source: www.antaranews.com

LEGAL NEWS



Seminar On UN Convention on Contracts for the International Sale of Goods (CISG)

The United Nations Commission on International Trade Law (UNCITRAL) drafted a convention entitled the UN Convention on Contracts for the International Sale of Goods (CISG) to provide merchants with a uniform sales law. To date, this Convention has been ratified by 67 countries and is referred to by many arbitrators and judges and therefore, it has entered into force as an international sales law. Despite its world-wide acceptance, the Indonesian government has not yet ratified CISG. The seminar held by Badan Pembinaan Hukum Nasional (BPHN) in cooperation with the United Nations' commission UNICITRAL was held in July this year to determine (1) whether CISG should be ratified by the Indonesian government, and (2) whether the Indonesian sales law in the Civil Code needs to be amended to accommodate CISG provisions.

The seminar was delivered by three prominent speakers. The first speaker was Prof. Chang-Sop Ship, a Professor of Law at the School of Law, Korea University, who spoke about Korea's entry into the CISG regime and how it has affected Korea's domestic law. The second speaker was Bayu Setyo Hardjowahono, a lecturer at the Faculty of Law at Universitas Katolik Parahyangan, and the third speaker was Tony Budidjaja from Budidjaja & Associates.

Several reasons were brought up why Indonesia should ratify CISG, among others:

- CISG ensures legal certainty in international trade relations among States;
- Disparities and discrepancies in domestic law is a barrier to international trade;
- International merchants need legal certainty to do business within the Indonesian regulatory framework.

The result of the discussion showed that a majority of Indonesian companies that conduct international sales and a majority of Indonesian law firms recommended ratification of the CISG. Nevertheless, the Indonesian government sees no urgency in ratifying CISG. To solve problems that arise because the Indonesian government is not yet willing to ratify CISG, the result of the research recommends that the Indonesian sales law in the Civil Code be amended by adding CISG provisions into the Indonesian sales law. Lecturers and BPHN, however, recommend that instead of a convention, CISG should be enshrined in the form of a model law to assist States in reforming and modernizing their Contract of Sales law. ---
Amy Septiarini

(for the powerpoint presentation from this seminar, please send a request to mail@mkklaw.net)

Independent Power Seminar



On November 3, 2010 Justin M. Patrick and M. Farhan gave a presentation at the Four Seasons Hotel on Independent Power in Indonesia in collaboration with the American Chamber of Commerce. The Seminar focused on emerging legal issues in connection with implementing independent power in Indonesia, such as land procurement, environmental permitting, spatial planning as well as government incentives and initiatives to reduce the risk profile associated with such projects. If you interested in obtaining the Powerpoint presentation from the event, please send a request to mail@mkklaw.net.



Government Regulation on the Development and Supervision of the Mining Business

by Mohammad Farhan

After a long wait since the last implementing regulations of 2009 Mining Law which were lastly issued in February 2009, another implementing regulation was publicly issued this August. Government Regulation No. 55 of 2010 regarding Development and Supervision of the Mineral and Coal Mining Business Management (GR 55/2010) is one of two implementing regulations that has been delayed. GR 55/2010 basically regulates, firstly, development of the mining industry by the government which consists of:

- guidance and standard implementation, which include technical guidance, feasibility studies, exploration, work programs and budget, etc.
- supervision of and consultation to the management of mining companies;
- education and training in managerial and technical matters; and
- planning, research, development, monitoring and evaluation for implementation of the mining industry.

Secondly, GR 55/2010 also provides provisions for mining supervision by the government. Such mining supervision will cover the supervision of determination and granting of Small-scale Mining Areas (WPR), including the issuance of such license (IPR) and Mining License Area (WIUP) for the mining of minerals, non-minerals, coal, and rocks, including the issuance of such license (IUP).

GR 55/2010 sets out broad outlines for the development and supervision of the mining industry, while more prescriptive provisions on the implementation of development and supervision itself will be provided in specific minister regulations.

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