

Adding value to Indonesian mining exports: Time to revisit export restrictions?

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Highlights

Indonesia has enjoyed solid economic growth since 2010, supported (until recently) by strong exports of primary commodities, in particular fuels and minerals. In contrast with the commodities sector, the manufacturing sector has lost competitiveness and the country has struggled to nurture broad-based industrialization, including through integration into international production networks. This note reviews the role of commodities in the Indonesian economy and assesses the recent policy developments in this area including the introduction of export restrictions as a way of increasing the value added content of exports. Key findings:

- The Government of Indonesia has introduced a series of measures aimed at ensuring that the commodities sector supports broader domestic industrialization and production diversification. These measures include the controversial Mining Law of 2009, which proposed a ban on unprocessed exports of raw minerals to take effect in 2014. The Mining Law also introduced a divestment requirement of at least 51 per cent of ownership to Indonesian parties 10 years after the original investment.
- In the months after the ban came into force in 2014, exports of minerals and FDI inflows in the mining sector fell rapidly. Responding to this, a series of regulations relaxing the laws were hastily introduced in mid-2014. These relaxations allowed export and FDI flows to somewhat recover.
- Exports of commodities fell from an average of \$6.8 billion between 2010 to 2013, to \$1.9 billion and \$3.3 billion in 2014 and 2015, respectively. Lower global commodity prices, alongside the impacts of export restrictions, have also influenced export revenues.
- Indonesia will need significant investment in processing capacity if it is to realise its ambitions of increasing domestic value added. But lower global commodity prices are impacting the ability of companies to finance investment in domestic processing capacity. Furthermore, policy-induced risks impact both domestic and foreign investment.
- Additionally, successive revisions and amendments to the export regulations have generated policy uncertainty that may deter foreign investors. Inadequate infrastructure remains a major impediment to capital and energy-intensive activities such as the production of refined minerals and basic metals.
- In the current environment, export restrictions as the preferred means of achieving greater domestic value added should be revisited. An alternative set of policies might be more centered

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on providing appropriate fiscal incentives. This could include export taxes combined with tax breaks and incentives to establish smelting facilities.

Introduction

With a population of more than 250 million, Indonesia is the fourth most populous country in the world and the largest economy in Southeast Asia. Displaying notable resilience in the aftermath of the global financial crisis, Indonesia has enjoyed solid growth in recent years, with real annual GDP growth generally over 5 per cent since 2010 (table 1).¹ However, the weak external economic environment is creating headwinds to further sustained growth. General sluggishness in the global economy, not least lower demand for commodity imports in China, has led to growth prospects being revised downwards in 2015 and 2016.

Table 1: Indonesia's economic performance

	2010	2011	2012	2013	2014	2015	2016
GDP (in billion current US\$)	755.3	892.6	919.0	914.6	890.6	858.9 ^f	936.9 ^f
GDP (annual percent change)*	6.4	6.2	6.0	5.5	5.0	4.8 ^f	4.9 ^f
GDP per capita (current US\$)	3,178.1	3,688.5	3,744.5	3,675.6	3,531.8	3,362.4 ^f	3,620.4 ^f

Notes: * The growth rate here denotes the growth rate of GDP in constant USD

^f The values for 2015 and 2016 are forecasts

Source: IMF World Economic Outlook 2016

The Indonesian economy remains heavily reliant on primary commodities. In particular, Indonesia has strengths across three broad classes of commodities: mining, oil and gas, and plantation products. The country is one of the world's largest producers of coal, copper, palm oil, tin, nickel, bauxite, rubber, and steel. In 2013, coal accounted for almost 12 per cent of Indonesian exports, palm oil for almost 8 per cent, nickel and copper accounted for about 1.6 and 1.3 per cent respectively.

Integration into broader regional value chains in manufacturing however remains relatively weak and value added in exports limited. Policymakers have aimed for years to spur economic diversification and promote broader-based industrialization. These efforts, however, have had limited success. Indeed, the competitiveness of the Indonesian manufacturing sector has been declining in recent years and has grown more slowly than aggregate GDP. The share of manufactured goods in total exports has also fallen from 18 per cent in the year 2000 to almost 12 per cent in 2015.² Value added in manufacturing accounted for 28 per cent of GDP in 2000, but by 2014 this figure had fallen to 21 per cent. In contrast, the services sector has been the fastest growing sector in the past decade; value added in services accounted for about 42 per cent of GDP in 2015 compared to 39 per cent in the year 2000.³

Stagnation within the manufacturing sector has meant that the rate of job creation has been too slow to absorb the rapidly growing workforce, and a large portion of new employment has been created in low-productivity non-tradable services and the informal sector (World Bank, 2014). In the face of these challenges, the Government of Indonesia's is making a renewed push to ensure that the commodities sector develops in a way to support upgrading in the basic metal manufacturing sector and to promote wider industrialization (Tijaja and Faisal, 2014). Specifically, the Government is seeking to enhance processing capacity, secure domestic supplies for industry, and promote broader economic diversification.

In pursuit of these goals, the Government has introduced a number of measures to deter or prevent the export of raw commodities – including outright banning the export of some commodities – through the controversial Mineral and Coal Mining Law of 2009 and subsequent legislation. However, policy

¹ This growth was experienced throughout economy, and was driven much more by services than manufacturing, therefore the anticipation of the ban had no strong impact. Part of the reason why the ban had such a powerful impact at the beginning was that many firms expected the ban not to be enforced and continued business as usual without really making adjustments.

² COMTRADE data: Manufactured goods include SITC Rev 2, 1-digit code 6.

³ World Development Indicators. Available from: <http://wdi.worldbank.org/>

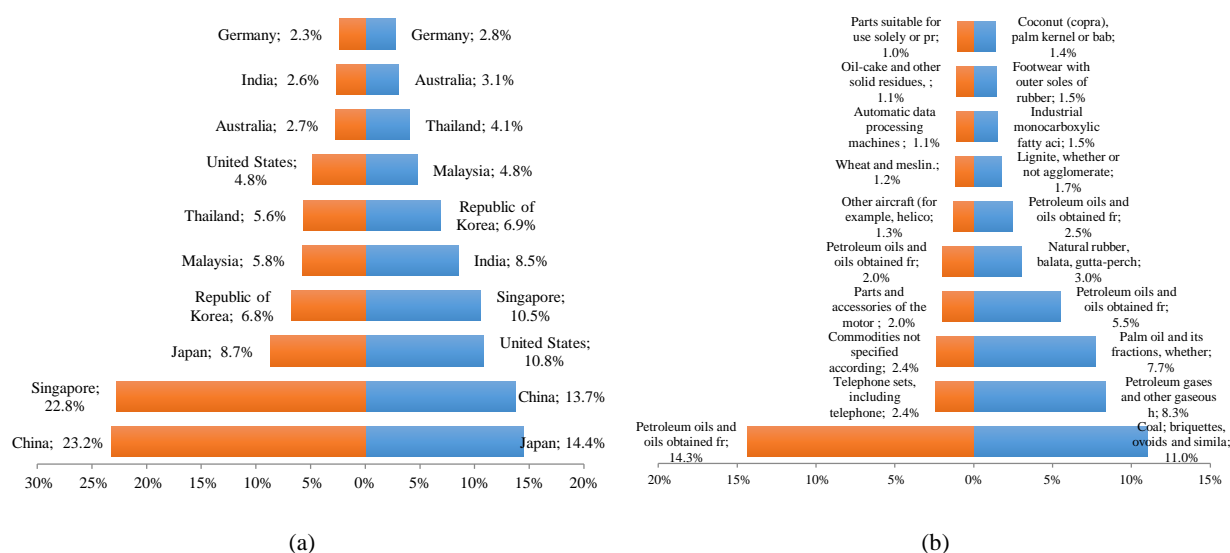
remains in a state of flux and several revisions to the framework have already been made. This note reviews: the role of commodities in Indonesian trade; outlines recent export restrictive policies; and highlights the possible implications of these policies alongside preliminary data on their impacts.

Value added in Indonesian exports

Trade has grown in significance to the Indonesian economy in recent years; exports and imports now account for around 24 and 26 per cent of GDP, respectively. As mentioned above, exports are concentrated in primary products and raw materials, and the top three exports in 2014 were coal, petroleum, and palm oil (figure 1a). Hence, the country has been hard hit by the fall in global commodity prices, and in 2014, the total value of exports contracted by 3.4 per cent. Slowdowns in the economies of its main export partners have contributed to this export decline; namely economic stagnation in Japan – its largest export partner; and lower commodity demand from China – its second-largest destination market (figure 1b). The export decline has been matched by a fall in imports, by about 4.5 per cent. Import products include large volumes of intermediate goods to support domestic industry, such as chemical products, machinery, and transport.

Figure 1: Main products and partners in Indonesian trade, 2014.

Imports (left) and Exports (right in both figures)



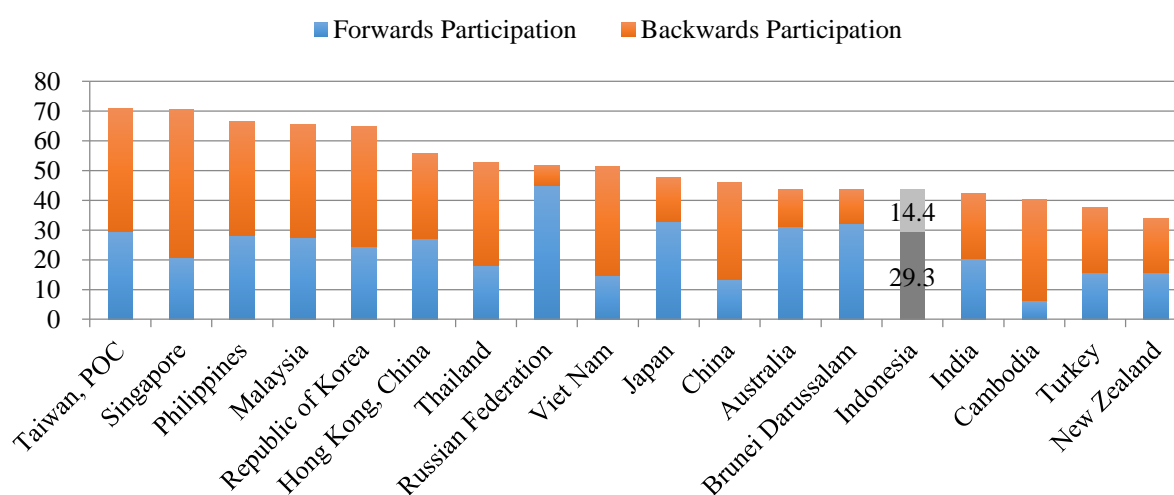
Source: UN COMTRADE – Accessed through WITS

While in recent years, Indonesia benefitted from high demand and prices for its commodity exports, a long-standing concern of policy makers has been the low “value added” content of Indonesia’s exports and weak integration into global value chains in manufacturing. While Indonesia does participate in global value chains, its participation is centred on mining and minerals industries (OECD, 2013). Figure 2 shows that while 41 per cent of the country’s exports are embedded in GVCs it is mainly in terms of “forward participation”, meaning that Indonesia’s products are used as inputs for other country’s final exports. This is a pattern typical in commodity exporters as opposed to economies more driven by export-oriented manufacturing, who would typically import intermediate components and export final products e.g. through the assembly of consumer electronics.

Relatedly, the domestic value-added share is very high in mining and quarrying exports (table 2) due to the low nominal value-added in this sector. Indeed, among Asia-Pacific economies, Indonesia has the highest share of domestic value-added in the sector. This is a characteristic of developing countries that are raw materials and natural resource exporters, and though a high domestic value added share could be misinterpreted as a positive, it can also imply that there is little advanced processing going on in the sector. This is because developing typically lack the domestic capacity for such downstream activities. Hence, generally, industries in developing countries that are more technologically advanced are more likely to have higher shares of foreign value-added.

Table 2: Domestic value added in mining and quarrying exports, 2011	
Economy	Share of DVA (%)
Brunei Darussalam	97.38
Indonesia	95.12
Russian Federation	93.51
India	92.13
Australia	88.36
Viet Nam	87.16
Malaysia	87.05
Turkey	86.75
Japan	86.01
New Zealand	85.06
Thailand	82.48
Philippines	81.03
Republic of Korea	79.7
Cambodia	76.72
China	73.77
Hong Kong, China	70.97
Singapore	65.96
Taiwan Province of China	33.42

Source: OECD TiVA database, 2015 release; Mining and Quarrying includes sectors 10-14 ISIC Rev. 3

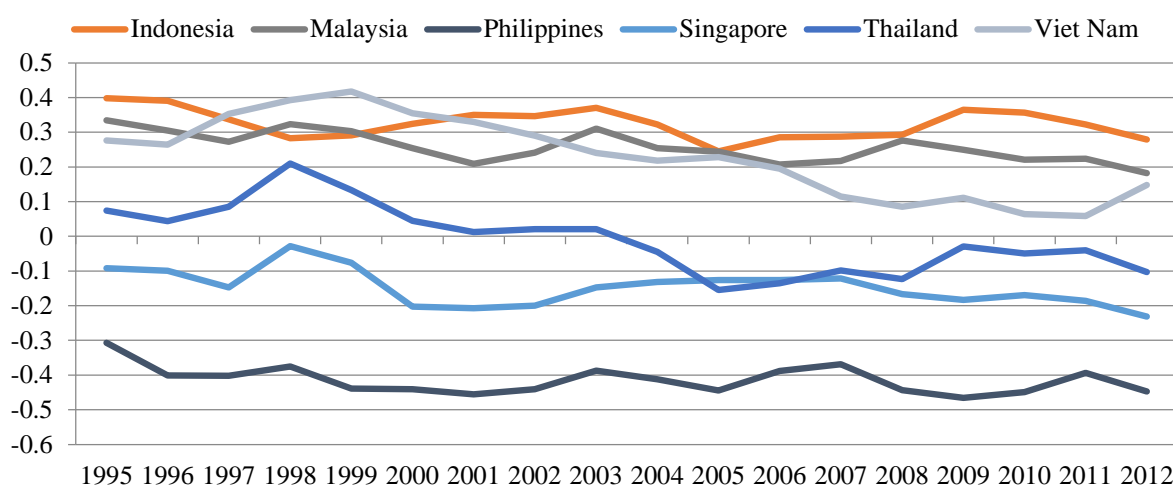
Figure 2: GVC participation as a percentage of exports, 2009

Source: OECD/WTO TiVA database, 2015 release

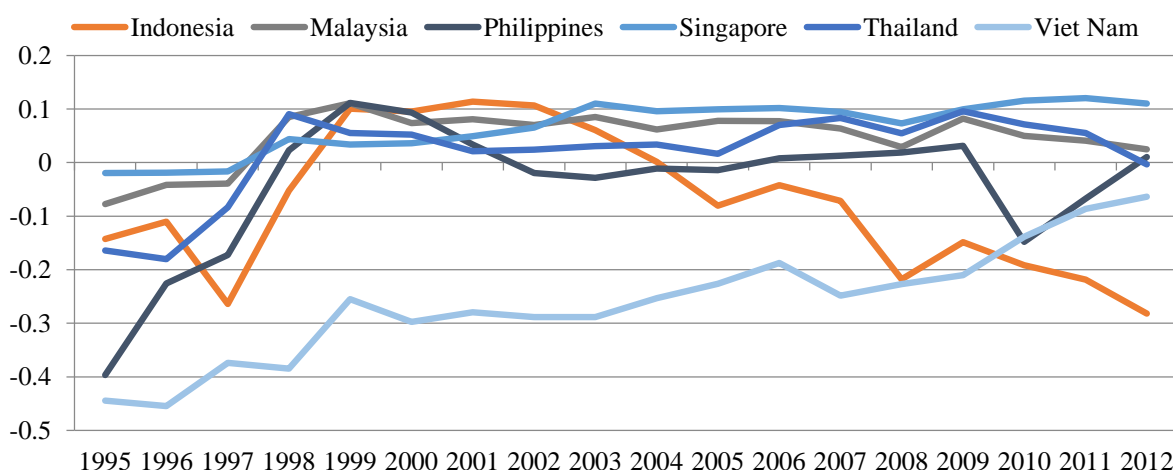
In comparison to primary resource exports, Indonesia's manufacturing sector has been steadily declining in competitiveness. Figure 4 shows the trade specialisation index of Indonesia and some of its ASEAN neighbour economies. The index is a rough proxy for competitiveness (Tijaja and Faisal, 2014), and captures the net value of exports and imports in a sector as a ratio of total trade in the sector, and effectively tells us if the country exports a product more than it imports it, while controlling for bias introduced by intermediate goods traders.⁴ The two figures, 4a and 4b, show how the index has been strictly positive in Indonesia for primary commodities, but has fallen steadily for manufactured goods. There is therefore ample room for upgrading and value addition in the manufacturing sector in Indonesia, and leveraging its natural commodity endowments will likely be key to any broader economic strategy given the importance of the sector to the wider economy.

Figure 4: Trade specialization index of exports for selected Asia-Pacific economies

(a) Primary commodities (SITC 0, 1, 2, 3, 4, 68)



(b) Manufactured goods: (SITC 5 to 8, excluding 667 and 68)



Note: The Export specialization index is constructed as such:

$$ESI_{ci} = \frac{X_{ci} - M_{ci}}{X_{ci} + M_{ci}}$$

The export specialization index for country c compares the net flow of good i (exports minus imports) to the total flow of good i (exports plus imports). This index removes bias of high exports values due to significant re-exports activities, thus is more suitable to identify real producers instead of any intermediate traders.

Source: UNCTAD Statistics; available at: <http://unctadstat.unctad.org/wds/TableViewer/tableView.aspx?ReportId=30953>

⁴ For example, if a country is very competitive in a sector, and produces it so efficiently so as to export it while not needing to import any to satisfy domestic demand, this index would take a value of 1. In the converse case, for imports, the index would take a value of -1.

Indonesian industrial and trade policies

Recent economic reforms in Indonesia have displayed a turn towards a more interventionist industrial strategy, placing greater emphasis on achieving international competitiveness in selected sectors. While there is some overlap and inconsistencies in the approaches outlined by various ministries, several consistent themes are discernible (Tijaja and Faisal, 2014). These include: extracting the maximum benefit from the country's natural resources; enhancing domestic value addition; technological deepening; and human resource development. Three particular documents outline Indonesia's modern industrial and trade policies (with more details in the Annex):

- **Master Plan for Acceleration and Expansion of Indonesia Economic Development (MP3EI)⁵ (2011)** – The MP3EI outlines the broad strategy for industrialisation; it emphasises the importance of international competitiveness and declares the commitment by the Government to pursue an outward oriented industrial policy. The plan aims to support industry through various policy areas including: promoting public private partnerships in the development of infrastructure; easing bureaucratic barriers and improving the quality of the bureaucracy; improving and harmonising regulations; and re-orienting export policies of raw materials and resources to support industry.
- **The New Industrial Bill (2013)** – The bill contains provisions to operationalize the MP3EI specifically regarding industrial development; industrial zoning; the development of industrial resources; industry defence and safeguard; and green industry. The plan is presented in 5-year phases covering a total of 20 years. Key articles related to trade in the new bill include: increasing the added value of natural resources through the development of the domestic processing industry (Article 31); facilitating competitive financing for industrial development through SOEs and private firms (Article 44–45); enhancing control of strategic industries by the state (Article 84); and providing the scope for the government to defend industries incurring losses from global economic pressures through fiscal stimulus and financial credit (Article 100).
- **New Trade Law (2014)** – The first ever Trade Bill approved in Indonesia, this legislation gave the authorities an expanded role in restricting both imports and exports to 'protect' domestic industry. The bill emphasizes the policy objective of maximizing value addition from domestic resources. To this end, exports of strategic commodities can be limited or halted to ensure adequate local supplies, as well as to manage the trade balance.

Alongside these bills, a series of regulations with particular consequences for exports from the mining sector in Indonesia have been introduced. These constitute the controversial "Mining Laws", which seek to divert Indonesia's mineral resources towards the domestic market to support industrialisation. Notably, the Mineral and Coal Mining Law (2009)⁶ stipulates that raw mineral ores cannot be exported directly but must be processed domestically instead (Article 103 and 170). The Law, while passed in 2009, stipulates start of implementation of the ban only in 2014. The Mining Law also introduced a divestment requirement of at least 51 per cent of ownership to Indonesian parties 10 years after the original investment. The details of the laws, specifying purity levels for minerals and the schedule for the divestment requirements, were introduced by subsequent legislation in 2012.⁷

In the first quarter of 2014, after the ban came into force, raw ore exports fell sharply, large worker layoffs were reported, and foreign direct investment fell significantly (Norton Rose Fullbright, 2014). Figure 5 and 6 show the quarterly flows of exports of minerals and foreign direct investment into the mining and quarrying sector, respectively. Figures show fall in exports and FDI inflow following the ban. However, recognising that insufficient domestic smelting capacity had been built, and witnessing the difficulties that the laws was creating for exporters, the Government brought forward a series of regulations in early 2014 relaxing some of the most onerous requirements of the Mining Laws. Legal

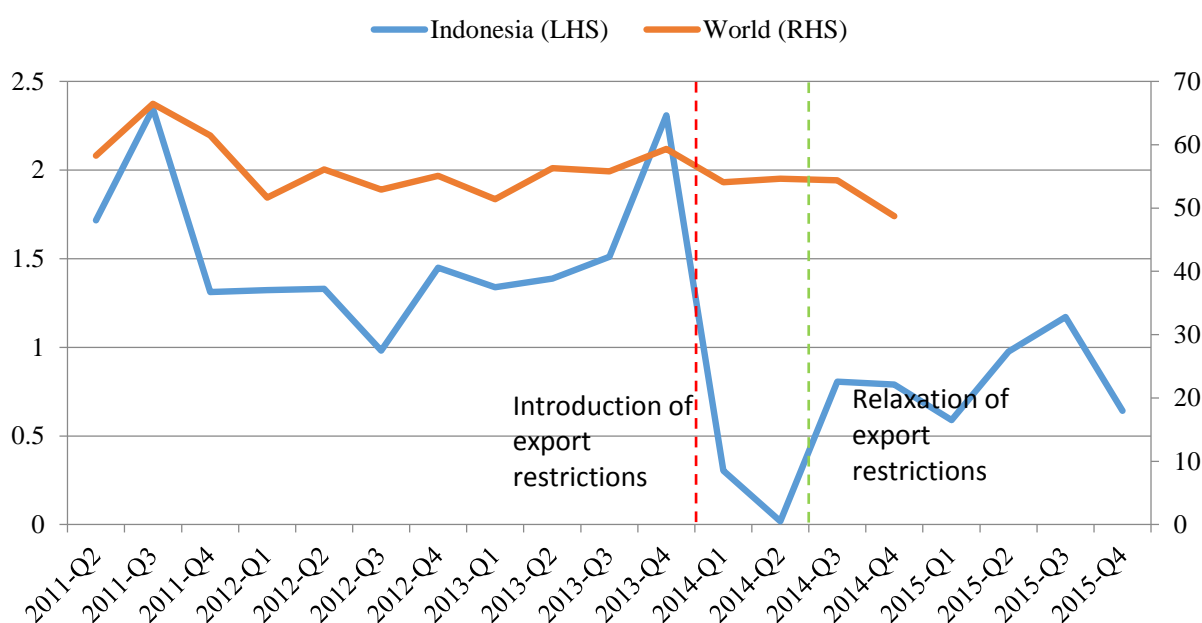
⁵ A comprehensive treatment of these three texts can be found in Tijaja and Faisal, 2014.

⁶ See footnote 5 for a link to the text of the Law.

⁷ The details of which can be found in the Annex.

pressure from the American mining giant Newmont Mining may also have influenced these decisions (Vander Pas and Damanik, 2014)

Figure 5: Quarterly export value of mining ores, slag and ash (HS2007 2-digit sector 26) in USD billion

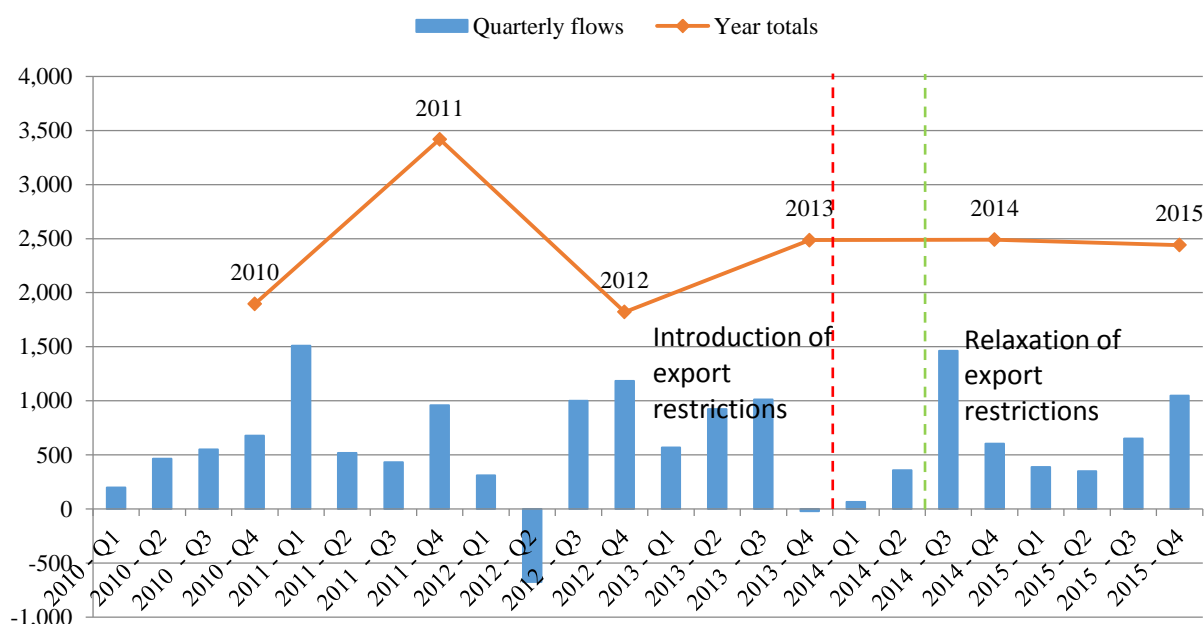


Note: Global exports are included only up to 2014-Q4 because many developing countries have not yet reported data for 2015. The dashed vertical line indicates the export ban coming into effect. The green dashed line indicates the introduction of measures relaxing the ban.

Source: UN COMTRADE and BPS-Statistics Indonesia

These new regulations postponed the outright ban for some mineral exports to 2017 and established instead temporary export taxes. These taxes begin at levels around 20 per cent in early 2014 and mount to 60 per cent in late 2017. The Government also introduced tax incentives for firms committing to building processing facilities. The export duties would be reduced to 7.5 per cent if construction of processing facilities reached 7.5 per cent completion; then to 5 per cent between 7.5 and 30 per cent completion; and they would be eliminated completely on projects at least 30 per cent completed (Deloitte, 2014). Another set of regulations eased the divestment requirements and extended the time period available to firms before reaching divestment benchmarks, also conditional on committing to building smelting facilities. These incentives include allowing foreign investors majority stake, with a minimum 40 per cent ownership by Indonesian parties by the 15th year instead of 51 per cent the 10th year (PwC, 2015).

The retractions provided much needed breathing room for firms already established in the mining sector. It also added incentives promoting domestic value-added production by further lowering taxes for firms committed to building smelters, so that the policies are not entirely punitive. Nevertheless, the original intentions of the 2009 law remain intact, and as it stands, the Government did not rescind on its commitment to fully implement the ban by 2017 regardless of the progress made with smelters. Hence, there have been some recent reports that the Government is considering delaying the ban until 2019, since smelting capacity is still low and development has been lower than expected (Investment Indonesia, 2016b).

Figure 6: FDI inflows in the mining sector in million USD

Note: The dashed vertical line indicates the export ban coming into effect. The green dashed line indicates the introduction of measures relaxing the ban.

Source: BPS-Statistics Indonesia

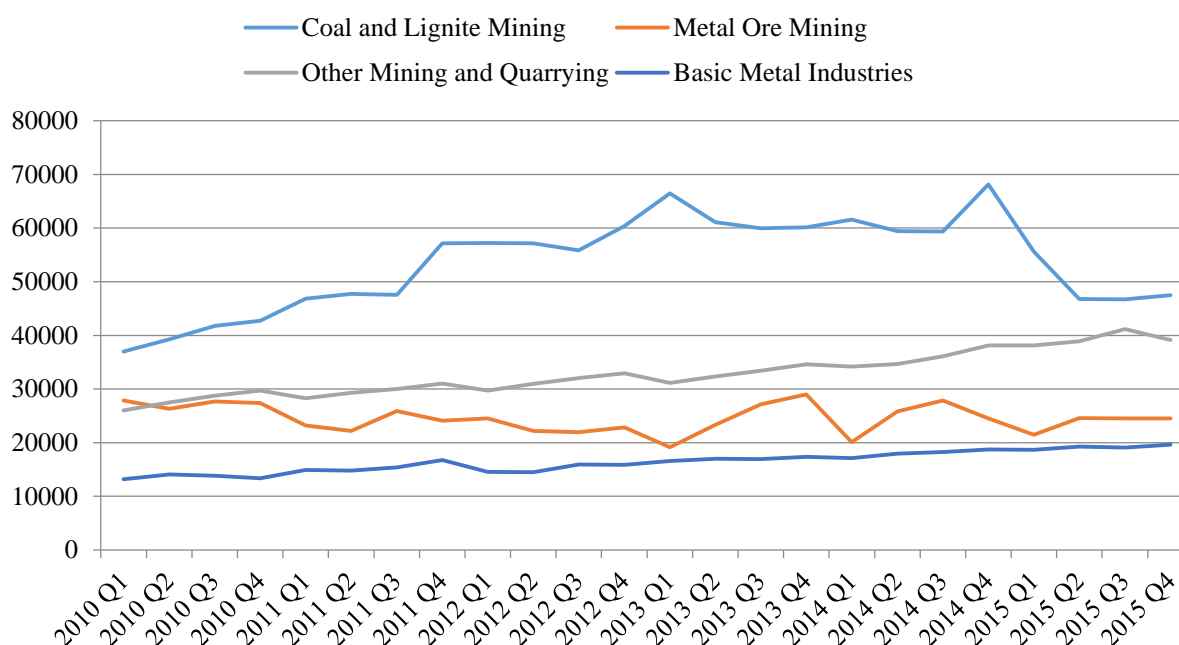
Export restrictions: a path to successful diversification?

It is difficult to make a definitive judgement on the success or failure of these policies so early on, especially with little timely, accurate, and disaggregated data. What does however come through from figures 5 and 6 is that despite the ban leading to a reduction in exports, the flexibilities introduced allowed activity to pick up again, albeit at perhaps slightly lower levels – although this may also be due to lower demand from China. Exports of minerals (HS 2-digits: 26) fared worse, and they went from an average of USD 6.8 billion from 2010 to 2013 down to USD 1.9 and 3.3 billion in 2014 and 2015 respectively.

More encouraging is the fact that FDI inflows remained more stable, and reached around \$2.46 billion in 2014 and 2015, actually slightly higher than the 2010-2013 average of \$2.40 billion. Another piece of evidence in this regard is figure 7, which shows the quarterly output of the mining sector in 2010 Rupiahs, so as to correct for the decline in prices. It can be seen that output in the mining and quarrying sector has remained relatively stable. Although a notable exception is coal production, which fell by 30 per cent from 2014 Q4 to 2015 Q4. It can also be seen in the figure that the output of basic metals is steadily rising, indicating that the processing industry is indeed growing, and from 2013 to 2015 the output of the basic metals industry grew by 12.9 per cent.

However, statistics are not publicly available at a more disaggregated level, and since the mining ban affected various minerals differently it is difficult to say at this time exactly how the industry was impacted. In addition, it can take time for accurate data to be developed, and the current data is likely to rely at least partly on estimations. Nevertheless, some of the more pessimistic predictions may be quelled; activity in the mining sector did not totally collapse, and foreign funds are still flowing into the Indonesian mining sector. There remain however some important constraints that warrant discussion, since their impact will likely determine the success of Indonesian industrial policy in the longer term.

Figure 7: Quarterly output of the mining and quarrying sector (in billion 2010 Indonesian Rupiahs)



Source: BPS Statistics Indonesia

The infrastructure gap

Indonesia has a notorious infrastructure gap, and lack of adequate infrastructure is particularly relevant for capital and energy-intensive activities such as the production of refined minerals and basic metals. Smelters require enormous amounts of electricity, and it is estimated that the investment for captive power units can sometimes exceed the investment on the smelter (Lingga, 2014). Indonesia's energy infrastructure is relatively underdeveloped, and its power consumption per capita in 2013 of 787.7 kWh was much lower than that of its neighbours; with 2470.8 kWh per capita being consumed in Thailand and 4512 kWh in Malaysia. Furthermore, the quality and availability infrastructure is worse outside Java in the islands where most mines are located.

The infrastructure gap is not limited to power generation, port congestion has driven up logistics costs and ports and roads have seen insufficient investment (Tabor, 2015). Similarly, road quality remains low and unequal across the different Islands: an ADB surveys indicate that 41 per cent of district roads and 24 per cent of provincial roads are in poor conditions (Tabor, 2015). The mining sector will therefore require support from the public sector in making complementary investments into infrastructure, particularly on the islands outside of Java.

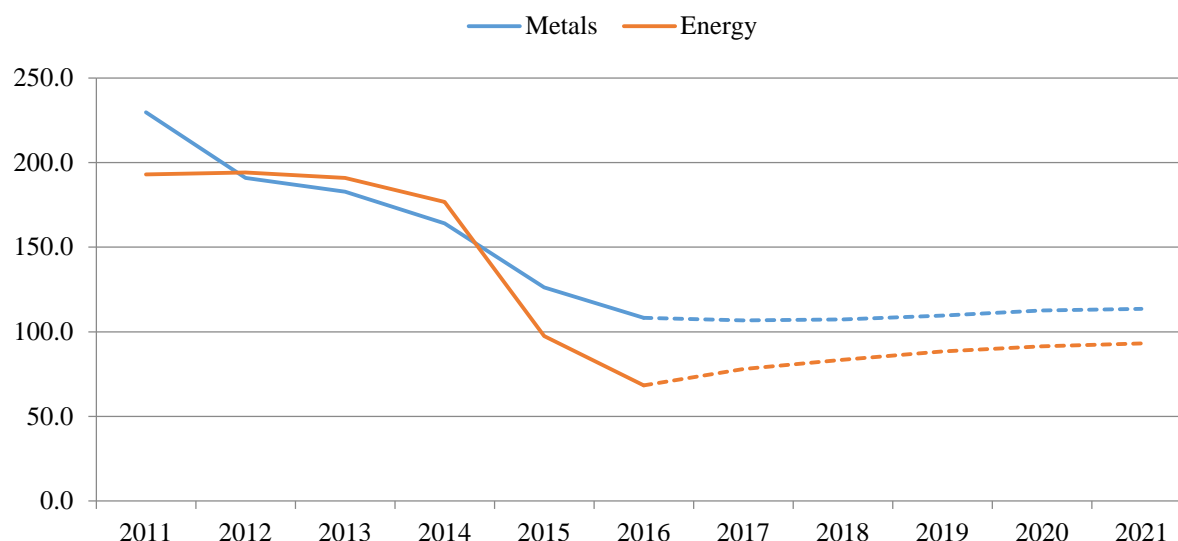
The Government has recently committed to an ambitious plan of boosting infrastructure spending, financed in large part by dramatic reductions in fuel subsidies (Investment Indonesia, 2015). External balances have also slightly improved recently, which made the Government confident to releasing Islamic finance bonds to maintain the momentum of infrastructure spending (World Bank, 2016). In addition, the Bank of Indonesia has very recently begun cutting the interest rate, albeit marginally, from 7.25 to 6.75 per cent on 21 April 2015.⁸

Whether sustained public investment is possible will depend, however, on the broader fiscal and macroeconomic environment. Indeed, government revenues are currently falling. The World Bank

⁸ Central Bank of Indonesia Interest Rate Press Releases. Available from: <http://www.bi.go.id/en/moneter/bi-rate/data/Default.aspx>

estimates that, in 2015, the largest contributors to the decline in government revenues were lower oil and gas revenues (World Bank, 2016). This situation is not likely to improve anytime soon. Figure 8 shows the decline of oil and gas prices and metals, along with IMF projections for 2016 onwards. Commodity prices are predicted to increase slightly, but they are likely to remain low for the foreseeable future. Low commodity prices are not only an issue for public finance, but they may also pose problems for the industry's own financing.

Figure 8: IMF commodity prices and medium-term price projections from Feb. 2016 onwards (2005=100)



Note: Metals Price Index includes Copper, Aluminum, Iron Ore, Tin, Nickel, Zinc, Lead, and Uranium

Energy Index includes Crude oil (petroleum), Natural Gas, and Coal Price Indices

Last available data in 26/02/2016

Source: IMF

The financing gap

Domestic smelter capacity is one of the key obstacles to greater domestic processing. Table 3 shows the state of smelter development as it stood at the end of 2015. The smelters consist of: manganese smelters (3), lead & zinc smelters (4), kaolin & zeolite smelters (4), iron smelters (8), bauxite smelters (7), zircon smelters (11) and nickel smelters (35). While smelter construction is proceeding, these are largely small scale plants and will not provide adequate capacity. To date, moreover, no company has fully committed to building a copper smelter, which is arguably seen by the government as one of the most important in terms of value (Dawborn and Goerke, 2016).

Table 3: Smelter development in Indonesia (2015)

Progress (%)	Phase	Number of Smelters
6-10	Environment Impact Analysis	9
11-30	Ground-breaking	16
31-50	Half-way through Construction	13
51-80	Nearing Completion	9
81-100	Commissioning	25
Total		72

Source: Investment Indonesia (2016b)

The issue of internal revenue generation within the private sector may be where low commodity prices have the most significant impact. Building smelters requires large investments, and beyond the largest two mining firms – the mining giants Freeport McMoRan Inc. and Newmont Mining Corp., who account for a combined share of 97 per cent of the domestic market (Investment Indonesia, 2014) – the capacity to actually undertake such investments may be limited. Many of the smaller firms are likely to not have enough retained earnings to undertake such investments. In addition, the prospects of running smelters at a loss for an extended period of time – which is expected for these types of large scale

investments – combined with the prospects of diminished profits from their mining activities in the years to come, will be an important deterrent for firms on the verge of committing to lengthy and risky investments and uncertain policy environment.

Foreign investment will be a necessary source of financing for the development of a domestic mineral processing industry. However, the string of revisions and amendments coupled with general uncertainty surrounding the future prospects of global mineral industries have contributed to generating an atmosphere of policy uncertainty that may deter domestic and foreign investors. In 2016, the Indonesian government has given further indications that it is considering delaying once more the ban until 2019, and a parliamentary session discussing future options is being held but the outcome is not yet known (Investment Indonesia, 2016b). Given these clear signals about the Government's own uncertainty surrounding the future of the ban, foreign investors may be waiting to see how the policy space evolves before committing to long-term investments. For example, data from the Metal Economics Group suggests that Indonesia's share of the global exploration budget in 2014 was only 2 per cent, which is low given its large natural endowments (Wizenfried and Lesmana, 2015).

The reputation of the Government will have also been impacted by reneging on long-standing contracts of works established with mining companies (Investment Indonesia, 2016a). A recent survey by the Fraser Institute, published in February 2015, shows that Indonesia ranked 112th out of 122 countries in terms of its policy potential index, which measures how business friendly government policy is in the mining sector (Wizenfried and Lesmana, 2015). This is in line with long-standing institutional and regulatory weaknesses that have plagued economic activity in Indonesia. In the 2016 Doing Business rankings, Indonesia ranked at 109 out of 189 countries. Although it is an improvement from the previous year, where it ranked at 120, Indonesia still ranks at 170 for enforcing contracts, 173 for starting a business, and 107 for dealing with construction permits.

This atmosphere of policy uncertainty – which often translates itself in an unfriendly business environment – will have to be corrected if the Government wants to capitalise on the potential of foreign investment in Indonesia. Namely, despite the intentions of imposing the ban being publicly maintained as the end goal of the Government, continuously delaying the ban may lead to an issue of time inconsistency and further harm its credibility.

Conclusions and implications for policy design

The objective of supporting industrialization and diversification remains important. Incentives to support the development of the mineral processing and broader manufacturing sector may generate important dynamic gains for the Indonesian economy. However the above considerations suggest that the Government should revisit export restrictions as its preferred means of achieving these policy objectives.

An alternative set of policies might give more consideration to appropriate fiscal incentives. This could include export taxes combined with tax breaks and incentives to establish smelting facilities. Taxes would be less stringent and definitive than a ban on exports as they could be adjusted accordingly in response to firm behaviour. Especially in light of the deficiency of Indonesian infrastructure, granting more time to the domestic industry to endogenously upgrade and for the appropriate infrastructure to be established is more likely to facilitate capacity development in the long-run. Furthermore, a tax is a more viable instrument in the longer term (not the least it results in higher revenues) in which arguably the Government will want to re-establish exports as a source of public revenues. A more credible and predictable policy environment will reduce concerns within the private sector and create a conducive environment for investment.

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Annex: Policies and regulations relevant to the mining exports

Key additional documents outlining Indonesia's modern industrial policy:

- **The Law No. 27 on Long-Term National Development Plan (2007)** – (Rencana Pembangunan Jangka Panjang Nasional or RPJPN), for the period 2005–2025, which lays the foundation for industrial policy in Indonesia. This plan emphasised the industrial sector as the driver of economic growth, to be supported by other sectors in the economy. Part of the plan to support modernisation of the industrial sector relied on improving efficiency and value-addition in the primary sector, notably in the mining sector.
- **The Presidential Regulation on National Industrial Policy (2008)** – which set a long-term goal for Indonesia to become a strong industrialized nation by 2025. This bill is to be operationalised through a two pronged approach, consisting of the top-down development of 35 industrial clusters, and the bottom-up development of local industries to become core competencies of each region.

Key documents specifying the details of the Mining Law

- **Regulations complementing the Mineral and Coal Mining Law of 2009** – A number of regulations were subsequently introduced specifying the details of the notions introduced in the Law No.4/2009. The Ministry of energy and Natural Resources Regulations No. 07/2012 and No.11/2012⁹ provided the details on the export ban, setting out which minerals are affected and the minimum purity levels required for exports. Meanwhile, Government Regulation No. 23/2010,¹⁰ followed by an amendment under the Minister of Energy and Mineral Resources Regulation No. 27/2013,¹¹ provided more details on the divestment requirements. The latter two pieces of legislation relaxed some of the divestment requirements, and laid out specific schedules for different components of mining activities.¹²

Amendments to the Mining Law

- **Amendments to the Mining Law (2014)** – These include the Government Regulation No. 1/2014, the Ministry of Energy and Mineral Resources Regulation No. 1/ 2014 and the Ministry of Finance Regulation No. 6/2014). These regulations maintained some of the bans on exports of unrefined minerals, but the ban on some of the minerals was replaced by a rising export tax, according to the pre-announced schedule. The all out export ban deadline was extended to 2017 for these minerals.
- This piece of legislation was further amended in August 2014, by the Ministry of Finance Regulation No. 153/2014, which introduced a new export tax schedule for firms that have begun operations on building smelters in Indonesia.¹³ The new tax operates according to the three phases. Phase I means the construction progress is up to 7.5 per cent, Phase II is from 7.5 to 30 per cent, and Phase III means that the project is at least 30% completed.¹⁴

⁹ http://www.gbgingonesia.com/en/main/useful_resources/documents/regulations/Ministry%20of%20Energy%20and%20Mineral%20Resources%20Regulation%20No.7%20of%202012.pdf Law 7/2012

¹⁰ <http://documents.jdsupra.com/9e24184f-53c4-4aa0-8396-5c91ebd10f5b.pdf>

¹¹ http://www.bakermckenzie.co.jp/e/material/dl/supportingyourbusiness/newsletter/emi/ClientAlert_EMI_130926_NewRules.pdf

¹² More information on the specifics of the minimum purity levels and the domestic ownership requirements can be found at: <https://www.pwc.com/id/en/publications/assets/eumpublications/mining/mining-in-indonesia-2015.pdf>

¹³ <http://www.kemenkeu.go.id/sites/default/files/pdf-peraturan/8.pdf>

¹⁴ <https://www2.deloitte.com/content/dam/Deloitte/id/Documents/tax/id-tax-info-jul-aug2014-noexp.pdf>

- A further regulation, Government Regulation No. 77/2014, amends the divestment requirements facing foreign investors. This regulation serves to reduce the divestment requirements and extends the time-period granted before divestment must be completed. However, just like with the taxes, companies must commit to building smelters and processing facilities in order to benefit from this new regulation. By this new regulation, if a firm commits to building a smelter, the maximum divestment becomes 40 per cent instead of 51 per cent, so that foreign owners can still retain majority control, and they must do so in 15 years rather than 10.

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