

ABSTRAK

Aktivitas pertambangan merupakan upaya untuk mencari, menggali, mengelola, memanfaatkan dan menjual bahan galian. Dalam tesis ini, pertambangan lebih diartikan untuk energi di luar minyak dan gas bumi. Untuk mengaturnya, Pemerintah menerbitkan Undang-Undang Nomor 4 Tahun 2009 tentang Mineral dan Batubara. Undang-Undang ini untuk menggantikan Undang-Undang Nomor 11 Tahun 1967 tentang Ketentuan Pokok-Pokok Pertambangan yang dinilai tidak mampu mengakomodir kepentingan negara. Tujuannya untuk menciptakan nilai tambah di dalam negeri. Dalam peraturan baru tersebut, Pemerintah mewajibkan perusahaan pertambangan termasuk PT. *Freeport* Indonesia untuk membangun fasilitas pengolahan dan pemurnian atau *smelter* dengan batas waktu yang ditentukan. Metode penelitian yang digunakan ialah hukum normatif dengan mempelajari bahan pustaka, perundang-undangan dan hasil tulisan ilmiah lainnya yang dianalisis untuk membuat kesimpulan apakah PT. *Freeport* telah melakukan perbuatan melawan hukum atau tidak. Hasil penelitian menunjukkan bahwa PT. *Freeport* Indonesia melakukan perbuatan melawan hukum karena belum menyelesaikan pembangunan *smelter* dam masih mengekspor mineral mentah sampai tahun 2017. Pemerintah Indonesia wajib menindak tegas perusahaan yang melakukan perbuatan melawan hukum sebagai bagian dari upaya menciptakan kepastian dan keadilan hukum dengan mempertimbangkan kepentingan perekonomian nasional.

ABSTRACT

Mining activities are defined as activities and efforts to dig and extract minerals from the earth. Mining activities are also defined as activities to manage and sell the minerals for economic purposes. For this thesis, mining activities are focused on minerals outside oil and gas. To manage such minerals, the government has enacted a law number 4/2009 or called Undang-Undang No 4/2009 on minerals and coal. This law replaced the outdated law no 11/1967, which could not accommodate the interest of Indonesian government. So Law no 4/2009 replaced the outgoing law no 11/1967. The purpose of law no 4/2009 is to create added value for minerals extracted from the soil of Indonesia. Under the new law, all mining companies including PT Freeport Indonesia are obligated to build a smelter under which facilities all minerals taken out from the Indonesian soil will have added-value. The method of this research is a normative law in which the research was made on the basis of library research and academics reading and books on Law and other relevant legal regulations in Indonesia. The ultimate goal of the research is to see whether PT. Freeport Indonesia has been operating in Indonesia according to Indonesian law or not. The result of the research showed that PT. Freeport Indonesia has violated the Indonesian law because the world's largest copper miner has not built any smelter in Indonesia as required by law no 4/2009. Apart from this, Freeport Indonesia has been awarded with a license to export raw minerals to overseas market until 2017. These two actions showed vivid examples of Freeport Indonesia violating Indonesian law. Indonesian government must and have to take strong and firm actions against companies that violate Indonesian laws. Firm actions are needed to ensure legal certainty in Indonesia and thus mining companies operating in Indonesia should be of beneficial for Indonesian economy.