

## ASGM Formalization: Lessons Learned from GOLD-ISMIA

In the midway of project lifespan, GOLD-ISMIA make self-reflection on the achievement of its formalization target. Taking local situations into consideration, the Project reflects that supporting the formalization of 60 mining groups in the 6 project locations within 5 years may not be easy. The Project is therefore opting to re-route its supports based on the outputs resulting from each formalization target.

### 1. Introduction

Formalization of Artisanal and Small Scale Gold Mining (ASGM) activities is an important step towards the reduction and elimination of mercury use from the sector. This view is embedded within the vision of Global Opportunity for Long-term Development – Integrated Sound Management of Indonesia’s Artisanal and Small Scale Gold Mining (GOLD-ISMIA) Project.

GOLD-ISMIA commits to support the formalization processes of mining groups, helping these mining groups to reach a certain stage of formalization by which they will have an access to formal financing and cleaner technologies. Based on GOLD-ISMIA’s assessment of financial services landscape and discussions with relevant government agencies conducted in 2019, financing for ASGM is possible so long that the activities are in line with existing regulations. This means that the ASGM activities shall have clear legal status, including technical and environmental permits issued by relevant government agencies.

GOLD-ISMIA targets that by the end of the Project in 2023, a total of **60 ASGM groups (of which 20% of the miners are women) are supported in their formalization processes** leading to more sustainable income opportunities and safer working conditions.

Halfway through its life span, it is timely for GOLD-ISMIA to review how far this target of formalization has been

achieved. This fact sheet will address this question by taking into consideration the local situations. The next section will present legal context to mining and processing licenses. It will be followed with the summary of legal status of ASGM activities in the 6 project locations, namely: South Halmahera District (North Maluku), North Minahasa District (North Sulawesi), Kulon Progo District (Yogyakarta), Kuantan Singingi District (Riau), North Gorontalo District (Gorontalo) and West Lombok District (West Nusa Tenggara). The project supports and strategies in achieving the formalization target are presented in the subsequent sections.

### 2. Legal Frameworks

Entering into force on 10 June 2020, Law No. 3 Year 2020 is the main legal framework for minerals and coal mining in Indonesia, revising the Law No. 4 Year 2009. As per the Law 3/2020, the mining areas and permits are described as follows:



Figure 1. Mining Areas and Permits (Source: MEMR, 2020)

#### Small-Scale Mining Permit

The WP – WPR – IPR scheme in Figure 1 reflects the legal standing for mining activities within the ASGM sector. The “IPR” or *Izin Pertambangan Rakyat* refers to “community mining permit” which is a permit to conduct mining business within a “community mining area” or hereinafter referred to as “WPR” or “*Wilayah Pertambangan Rakyat*” with

a limited area size and investments<sup>1</sup>. IPR is granted by the Minister<sup>2</sup> to either: (a) individual (*orang perseorangan*) who is local resident, or, (b) cooperative (*koperasi*) whose members are local residents<sup>3</sup>. The maximum area of 1 block IPR granted to individual is 5 hectare and to cooperative is 10 hectare; IPR is valid for maximum of 10 years and can be extended twice for 5 years each<sup>4</sup>. The Article 70 of Law 3/2020 further specifies the obligations of IPR holders include: (i) compliance to existing laws and regulations; (ii) payment of small-scale mining contribution (hereinafter referred to as “IPERA” or *Iuran Pertambangan Rakyat*; and, (iii) submission of a regular report on the implementation of small-scale mining activities to the Minister.

The establishment of “WP” (*Wilayah Pertambangan*) or a mining zone and WPR are mandatory prior to the issuance of IPR. WP is established by the Central Government based on the recommendation from Provincial Government and in consultation with the Parliament<sup>5</sup>. WPR is a part of WP wherein community mining activities are carried out<sup>6</sup>. Among the WPR criteria specified in the Article 22 of Law 3/2020 are that it has the maximum depth of 100 meters (for primary metal mineral) and the maximum area of 100 hectare. In addition, the establishment of WPR shall comply with the sub-national spatial planning use as per the relevant regulations.

### Processing License

The Article 104 of Law 3/2020 states that during operation-production stages (as specified in Article 103), the holders of “IUP” (*Izin Usaha Pertambangan*) or Mining Business Permit or “IUPK” (*Izin Usaha Pertambangan*) or Special Mining Business Permit are allowed to conduct their own processing and/or purification activities or in collaboration with:

- a. other IUP or IUPK holders whose processing and/or purification facilities integrated into their operation and production activities; or,
- b. other parties whose conduct processing and/or purification activities, but not integrated into their mining activities; for this case, the licenses will be issued as per the laws and regulations applied to industry sector.

If the IPR holders are not collaborating with the holders of IUP and IUPK for their processing activities, as per Article 104(b) mentioned above, an industrial business license (hereinafter referred to as “IUI” or *Izin Usaha Industri*) applies. The Government Regulation No. 107 Year 2015 (GR 107/2015) and the Minister of Industry Regulation No. 30 Year 2019 states that IUI is granted by the Minister (of Industry) or governor, regent/mayor within their respective authority and further classifies IUI into:

Type of IUI	Number of Employees	Total Investment <sup>7</sup>
Small-scale IUI	≤ 19	≤ IDR 1 Billion
Medium-scale IUI	≤ 19	IDR 1 – 15 Billion
Large-scale IUI	≥ 20	≥ IDR 15 Billion

Table 1. Classification of IUI

More details regarding IUI for community mining activities are expected to be regulated in the subsidiary policies to the Law No. 3 Year 2020.

### Miners’ Organization

Following the issuance of Law 3/2020, “Pokmas” (*Kelompok Masyarakat*) or informal miners’ group can no longer be the IPR holder; IPR is awarded to either individual or cooperative. Between these categories, however, cooperative

<sup>1</sup> Article 10, Law 3/2020

<sup>2</sup> The “Minister” in Law 3/2020 refers to the Minister of Energy and Mineral Resources

<sup>3</sup> Article 67, Law 3/2020. The Law 4/2009 states that IPR can be granted to “individual”, “cooperative” and/or “mining groups”.

<sup>4</sup> Article 68, Law 3/2020

<sup>5</sup> Article 9(2), Law 3/2020

<sup>6</sup> Article 1(32), Law 3/2020

<sup>7</sup> Depending on the total investment poured into the gold processing activities, either small-scale or medium-scale IUI fits into ASGM

with clear legal status will have a higher level of bankability, as indicated in the GOLD-ISMIA's assessment on the financial landscape of ASGM sector. The legal status of cooperative can be confirmed through obtainment of a Cooperative Act (*akta pendirian koperasi*) which is issued by a notary and approved by the Minister of Human Rights. In addition to being the holder of IPR, the cooperative is also able to apply for IUI.

In short, formalization of ASGM involves issuance of IPR and IUI and obtainment of the Act, as reflected in Figure 2 below.

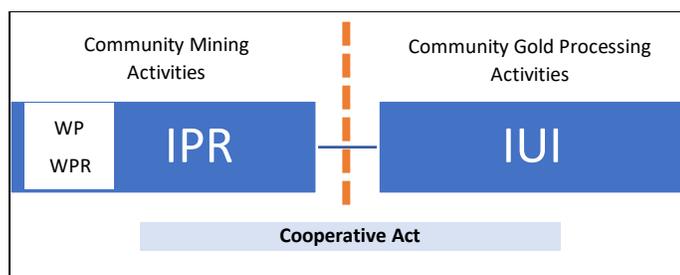


Figure 2. Relevant permit and license in ASGM formalization

### 3. Legal Status of ASGM Activities in the Project Locations

Understanding that to be able to efficiently provide formalization supports, it is important for the Project to first know at which stage the legality of ASGM activities in each location. On this note, soon after the Project was launched in March 2019, the Project started mapping out the status and keep updating the list since then.

The mapping is focused on whether: (i) WPR has been included in the existing WP established by the Ministry of Energy and Mineral Resources (MEMR) and accommodated in the regional spatial plans; (ii) active IPR exists; (iii) gold-processing license has been issued; and, (iv) cooperative has been established.

The latest update is on 31 March 2021 and as reflected in Table 2, as follows:

Project Location	WPR	IPR	Processing License	Existing ASGM Groups ( <i>koperasi</i> and <i>pokmas</i> )
<b>Category I</b>				
<b>North Minahasa</b>	Yes	Yes (2)	No	<u>IPR holder (2)</u> : Koperasi Batu Emas & Koperasi Batu Api  <u>Non-IPR holder (1)</u> : Koperasi Matuari Mandiri  <i>Note: The cooperatives are located in 2 different villages (i.e., Tatelu and Talawaan)</i>
<b>South Halmahera</b>	Yes	Yes (4)	No	<u>IPR holder (4)</u> : Pokmas of Anggai Bersatu I, II, III and IV  <u>Non-IPR holder (1)</u> : Koperasi Permata Obi Raya
<b>Kulon Progo</b>	Yes	Yes (1)	No	<u>IPR holder (1)</u> : Koperasi Produsen Mineral Logam Mulia  <u>Non-IPR holder (4)</u> : Koperasi Ngudi Makmur Sangon, Koperasi Produsen Ngudi Mugi Mulia, Koperasi Produsen Ngudi Rejeki Sangon and Koperasi Hargo Selo Kencono  <i>Note: The cooperatives are located in 2 different villages (i.e., Hargorejo and Kalirejo)</i>
<b>Category II</b>				
<b>Kuantan Singingi</b>	Yes	No	No	<u>IPR holder (0)</u> : None  <u>Non-IPR holder (3)</u> : Koperasi Produsen Tombang Tujuh Loge, Koperasi Produsen Tambang Sejahtera Lohil and Koperasi Wanita Amanah Duo Tompat

Project Location	WPR	IPR	Processing License	Existing ASGM Groups ( <i>koperasi</i> and <i>pokmas</i> )
				<i>Note: The cooperatives are located in 2 different villages (i.e., Logas and Logas Hilir)</i>
<b>Category III</b>				
<b>North Gorontalo</b>	No	No	No	<u>IPR holder (0):</u> None  <u>Non-IPR holder (3):</u> Koperasi Produsen Hulawa Bina Mandiri, Koperasi Konsumen Pasolo Indah Jaya and Koperasi Produsen Hulawa Tinelo Lipu
<b>West Lombok</b>	No	No	No	<u>IPR holder (0):</u> None  <u>Non-IPR holder (8):</u> Koperasi Syariah Gema Sarlina Buana, Koperasi Produsen Maju Damai Sejahtera, Koperasi Produsen Maju Sejahtera Abadi, Koperasi Serba Usaha Cakrawala Tambang, Koperasi Produsen Taro Karya Sejahtera, Koperasi Serba Usaha Tibu Batu, Koperasi Kokar Suasa and Kelompok Penambang Cair Barokah.  <i>Note: The cooperatives are located in 3 different villages (i.e., Buwun Mas, Pelangan and Cendi Manik)</i>
<b>Total</b>	<b>4</b>	<b>7</b>	<b>0</b>	<b>27</b> (22 <i>koperasi</i> with Cooperation Act and 5 <i>pokmas</i> )

Table 2. Legal status of ASGM activities in GOLD-ISMIA project locations (as of 31 Mar. 2021)

Based on their respective maturity level, the project locations are categorized as follows:

- **Category I** (with WPR and IPR, without IUI): North Minahasa, South Halmahera and Kulon Progo
- **Category II** (with WPR, without IPR and IUI): Kuantan Singingi
- **Category III** (without WPR, IPR and IUI): North Gorontalo and West Lombok

#### 4. Formalization Supports

Table 2 shows that all project locations have different level of maturity in term of the legality of ASGM activities. As of 31 March 2021, within project locations there are: 4 WPR areas/blocks, 7 IPRs, 27 miners' groups and no gold-processing licenses issued.

The ideal strategies to achieve the formalization target will be to support: (i) establishment of 38 new cooperatives to add up to the 22 existing cooperative; (ii) obtainment of IPR and IUI by both existing and new cooperatives within the locations with WPR (i.e., Category I and II); and, (iii) establishment of WPR for the locations within Category III. However, these strategies are unable to be fully implemented for the following reasons:

- Not all locations are ready to manage, in average, 10 mining groups** – To ensure sustainability of the cooperative requires sufficient leadership and managerial skills, and finding 10 leaders and 10 group of managers in one location at one time can be challenging. Having too many cooperatives in one village, for example, will potentially create competition leading to socio-economic frictions and conflicts among the miners. The field observations conducted by GOLD-ISMIA informs that 2-3 cooperative are the ideal number in one village.
- Halted issuance of mining permits and licenses** - following the entry into force of Law No. 03 Year 2020, on 18 June 2020 the MEMR officially instructed that the application of mining permits and licenses, including IPR and IUI, are unable to be processed until the subsidiary regulations are issued. To date, these regulations are still being finalized by the Central Government and therefore, the Project's supports for issuance of IPR and/or IUI for the 16

mining groups within Category I and II have to be postponed.

- c. **Five-year cycle of WPR establishment** – as per the current practice, revision to the existing WP to accommodate a new proposal of mining area (e.g., WPR) is conducted every 5 years. This is because the revision involve consolidation with all the 34 provinces in Indonesia which takes time. With the latest Ministry’s Decree on WP establishment is in 2017, the next Decree is expected to be issued in 2022. This schedule impacts on the delayed approval of WPR proposals submitted by the project locations within the Category III.

Overcoming the above situations, the Project has strategized its formalization supports, as follows:

1. **To expand the project scope by facilitating the establishment of new cooperatives to nearby project village** (in North Minahasa, West Lombok, Yogyakarta and Kuantan Singingi). This effort includes: (i) assisting the transition of existing *pokmas* into cooperative so that they are eligible to apply/renew IPR and (ii) encouraging the formation of women cooperatives whose members are female miners and/or wife of the miners. The latter reflects the project commitment to gender equality and women empowerment within ASGM sector.

The application of this particular strategy between 2019 and Q1 - 2021 resulted in 11 new cooperatives<sup>8</sup> located in Kulon Progo (5), Kuantan Singingi (3), and North Gorontalo (3); 21.20% of total members are females. The establishment of 11 cooperatives are in progress and expected to be completed by Q2 – 2021. This addition will result in 38 mining groups existed within the project locations by Q2 - 2021.

At the same time, the Project also capacitate the members of existing and newly established cooperatives with relevant knowledge and skills,

such as non-mercury processing technologies, business operations and financial management and leadership. By this, the miners’ cooperatives are expected to have self-sustenance to operate their business after the project closure.

2. **To assist the fulfilment of environmental permit.** While procedures of IPR and IUI will be detailed out in the subsidiary regulations of Law No. 3/2020, environmental permit (*izin lingkungan*) is clearly mentioned in the Law as one of the requirements. In this regard, the Project assist the cooperatives to apply for the environmental permit pursuant to their future IPR and IUI applications.

The Project has thus far provide supports to the conduct of Environmental Impact Assessment (EIA) for (i) IPR application of 2 cooperatives in Kuantan Singingi for IPR application and (ii) IUI applications for the 3 existing processing plants owned by KLHK in West Lombok and South Halmahera and BPPT in Kulon Progo. Supports to more EIA studies are being considered.

3. **To support the completion of WPR proposals.** The Project facilitate the field mappings conducted by the sub-national governments in order to complete the WPR proposals prior to submission to the MEMR. These supports are provided to the Government of Gorontalo Utara and West Lombok (within Category III).

## 5. Self-reflection and Strategies

Nevertheless, the Project reflects that meeting the formalization target based on the number of mining groups supported may not be easy for the reason mentioned in Point 4(a). Likewise, this is unwise strategy for the Project to force establishing new cooperatives for the sake of the “60” target [also see Point 4(a)].

<sup>8</sup> These new cooperatives are included in Table 2.

The Project, instead, interprets the target based on the outputs resulted from each stage of formalization. These outputs are Cooperative Act, IPR application, IUI application, approved IPR and approved IUI. In this regard, the Project has developed a formalization roadmap as follows:

Locations	2018 - 2020	2021	2022	2023
<b>North Sulawesi</b>	0	1 Act	1 IPR app	1 IPR
<b>North Maluku</b>	0	3 Act	5 IPR app + 1 IUI app	5 IPR + 1 IUI
<b>Yogyakarta</b>	5 Act	0	4 IPR app + 1 IUI app	4 IPR + 1 IUI
<b>Riau</b>	3 Act	2 IPR app	2 IPR + 1 IUI app	2 IPR + 1 IUI
<b>West Nusa Tenggara</b>	0	6 Act	8 IPR app + 1 IUI app	8 IPR + 1 IUI
<b>Gorontalo</b>	3 Act	0	2 IPR app	2 IPR
<b>Total per year</b>	<b>11 (Act)</b>	<b>15</b> (12 Act + 2 IPR app)	<b>26</b> (20 IPR app + 2 IPR + 4 IUI app)	<b>27</b> (22 IPR + 4 IUI)
<b>Total</b>	<b>79 formalization outputs</b>			

Table 3. GOLD-ISMIA's Formalization Roadmap (output based)

Table 3 indicates that by the end of the project lifespan, a total of 79 outputs are estimated to be resulted from the formalization supports provided by GOLD-ISMIA.

This self-reflection helps the Project revisit its ability to meet the project target and at the same time, consider another route to achieve this target. For development agencies or project donors, it is useful to allow the project managers realign the project target during the project implementation.

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