



THE REGULATION OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA  
NUMBER 78 YEAR 2012

CONCERNING

THE APPOINTMENT OF THE MINISTER OF LAW AND HUMAN RIGHTS,  
THE MINISTER OF INTERNAL AFFAIRS, THE ATTORNEY GENERAL AND  
THE CHAIRMAN OF THE CAPITAL INVESTMENT COORDINATING BOARD  
TO HANDLE THE ARBITRATION CLAIM AT THE INTERNATIONAL CENTRE  
FOR SETTLEMENT OF INVESTMENT DISPUTES RELATED TO THE  
REQUEST FOR ARBITRATION OF CHURCHILL MINING AGAINST THE  
GOVERNMENT OF THE REPUBLIC OF INDONESIA

BY THE GRACE OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that in order to handle the arbitration claim at the International Centre for Settlement of Investment Disputes related to the request for arbitration of Churchill Mining against the Government of the Republic of Indonesia, it is necessary to take strategic measures to authorize the Minister of Law and Human Rights, the Minister of Internal Affairs, the Attorney General and the Chairman of the Capital Investment Coordinating Board;
  - b. that in order to win the arbitration claim and to avoid the State's losses as a result of the claim as referred to in paragraph a it is necessary to take certain accurate and fast measures with due regard to the prudential, transparency, efficiency, effectiveness and accountability;
  - c. that the Government of the Republic of Indonesia has signed the Convention on the Settlement of Investment Disputes between States and Nationals of other States and ratified it by the Law Number 5 of 1968 concerning the Settlement of Investment Disputes between States and Nationals of other States;



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- c. that Article 25 paragraph (1) and paragraph (3) of the Convention gives the right to the signatory State to designate a constituent subdivision of a State to the International Centre for Settlement of Investment Disputes to represent in the dispute settlement process administered by the International Centre for Settlement of Investment Disputes and to notify that such approval as referred to in Article 25 paragraph (3) of the Convention shall not be required;
- e. that based on the consideration as referred to in paragraph a, paragraph b, paragraph c, and paragraph d, it is deemed necessary to stipulate the Regulation of the President concerning the Appointment of the Minister of Law and Human Rights, the Minister of Internal Affairs, the Attorney General and the Chairman of the Capital Investment Coordinating Board as the Attorneys-at-Law to handle the Arbitration Claim at the International Centre for Settlement of Investment Disputes related to the Request for Arbitration of Churchill Mining against the Government of the Republic of Indonesia;

- In View of :
- 1. Article 4 paragraph (1) of the Constitution of the Republic Indonesia 1945;
  - 2. Law Number 5 of 1968 concerning the Settlement of Investment Disputes between States and Nationals of other States (State Gazette of the Republic of Indonesia Year 1968 Number 32, Supplement to the State Gazette of the Republic of Indonesia Number 2852);
  - 3. Law Number 32 Year 2004 about Regional Government (State Gazette of the Republic of Indonesia Year 2004 Number 125, Supplement to the State Gazette of the Republic of Indonesia Number 4437) as amended by Law Number 12 Year 2008 (State Gazette of the Republic Indonesia Year 2008 Number 59, Supplement to the State Gazette of the Republic of Indonesia Number 4844);



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4. Law Number 4 of 2009 concerning the Mineral and Coal Mining (State Gazette of the Republic of Indonesia Year 2009 Number 4, Supplement to the State Gazette of the Republic of Indonesia Number 4959);
5. The Regulation of the President Number 54 of 2010 concerning the Procurement of Goods/Services of the Government as amended several times at the latest amended by the Regulation of the President Number 70 of 2012 (State Gazette of the Republic of Indonesia Number 155, Supplement to the State Gazette of the Republic of Indonesia Number 5334);

IT HEREBY DECIDED:

To stipulate : THE REGULATION OF THE PRESIDENT CONCERNING THE APPOINTMENT OF THE MINISTER OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA, THE MINISTER OF INTERNAL AFFAIRS, THE ATTORNEY GENERAL AND THE CHAIRMAN OF THE CAPITAL INVESTMENT COORDINATING BOARD AS THE ATTORNEYS-AT-LAW OF THE PRESIDENT OF THE REPUBLIC OF INDONESIA TO HAND THE ARBITRATION CLAIM AT THE INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES RELATED TO THE REQUEST FOR ARBITRATION OF CHURCHILL MINING AGAINST THE GOVERNMENT OF THE REPUBLIC OF INDONESIA.

Article 1

- (1) To appoint the Minister of Law and Human Rights, the Minister of Internal Affairs, the Attorney General and the Chairman of the Capital Investment Coordinating Board as the Attorneys-at-Law Team to take necessary strategic measures to handle the Arbitration claim at the International Centre for Settlement of Investment Disputes related to the Request for Arbitration of Churchill Mining against the Government of the Republic of Indonesia;



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- (2) To determine that the Minister of Law and Human Rights shall act as the coordinator of the Attorneys-at-Law Team;

#### Article 2

- (1) In order to carry out the duties as referred to in Article 1, the Attorneys-at-Law Team shall be authorised to do the followings:
  - (a) to designate the Government of the Regency of East Kutai as a party in the arbitration process at ICSID;
  - (b) to notify that the disputes as a result of the administrative decision of the local government shall not become the authority or the jurisdiction of ICSID;
  - (c) to directly appoint the Arbitrator to represent the Government of the Republic of Indonesia in the arbitration forum of ICSID;
  - (d) to directly appoint the legal consultant to hand the claim whose shall have the position as Assistant of the Team; and
  - (e) to form Supporting Team.
- (2) The authorities as referred to in paragraph (1) shall be performed with due regard of the prudential, transparency, efficiency, effectiveness and accountability principles;

#### Article 3

In performing its duties, the Attorneys-at-Law Team shall coordinate with the Coordinator Minister of Politic, Law and Security, the Minister of Foreign Affairs, the Minister of Finance and the Regent of East Kutai.

#### Article 4

The Vice President may give guidance and supervision to the Attorneys-at-Law Team.



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Article 5

The Attorneys-at-Law Team shall report the implementation of its duties and authorities to the President and Vice President.

Article 6

All costs required for the performance of duties and authorities as referred to in the Regulation of the President shall be borne by the State Budget.

Article 7

This Presidential Regulation shall come into force on the date of its enactment.

In order for this regulation to be come public, to order the publication of the this Presidential Regulation in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta  
on 22 September 2012  
PRESIDENT OF THE REPUBLIC OF  
INDONESIA,

(Signed)

DR. H. SUSILO BAMBANG YUDHOYONO

Enacted in Jakarta

On 25 September 2012

THE MINISTER OF LAW AND HUMAN RIGHTS  
OF THE REPUBLIC OF INDONESIA

(signed)

AMIR SYAMSUDIN



PRESIDEN  
REPUBLIK INDONESIA

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This copy conforms with the original  
REPUBLIC OF INDONESIA  
SECRETARIATE OF CABINET  
Deputy for Political, Legal, and Security,

(signed)

Bistok Simbolon