

## **CHAPTER IV**

### **PT. NEWMONT'S INFLUENCE TOWARD INDONESIA**

In the processing of natural resources, very large capital required is, sophisticated equipment, experts are required. Moreover, there is also a huge risk. Indonesia as a developing country is in need of funds in organizing the economy of the country. One form is to establish cooperation in minerals processing (mine) that can be made directly by the Government and/or designating a Contracting Party when required to carry out work that is not or cannot be done by the Government which is stated in article 10 paragraph (1) of Act No. 11 of the year 1967. When the mining venture undertaken by the contractors, the Government's position is as the giver of the consent to the contractor concern. The permissions that are granted in the form of Government include the power of mining, contract works, the Covenant of works and the production sharing contract. In this case the contractor is national and foreign private parties.<sup>1</sup>

PT Newmont Nusa Tenggara and the Government of Indonesia signed a contract on December 2 of 1986 and became the basis to the start of construction of a green Stone Mines, with a total investment of \$1.8 Billion US. PT Newmont was appointed by the Government as a single contractor for the mining concession in Indonesia. The entry of the PT Newmont as an investor gave a fresh breath for Indonesia in building the economy and any gaps that occur in the periphery of the mines as well as the national level because of the positive contributions provided by the parties of

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<sup>1</sup>Made Ester Ida Oka Patty, dalam tesis tentang : Pelaksanaan Kontrak Karya Antara Pemerintah Republik Indonesia Dengan Perseroan Terbatas (PT) Avocet Bolaang Mongondow, 2008. Hal.3. diakses dari <https://text-id.123dok.com/document/q73j39ny-made-ester-ida-oka-patty.html>

Newmont in building Indonesia. Then the influx of PT Newmont through Contract Work give rise to reciprocal in profits to two sides between Indonesia and the investors (Newmont). The sole rights granted to PT Newmont Government within the works contract is the right to search and conduct mineral exploration in the area of contract works to develop and mine every deposition. Minerals found in the area of mining, processing, transporting, storing and purifying of all minerals produced, marketed, sold, and conducts all operations and other activities as needed. Except against radioactive minerals or hydrocarbons compounds, the stones, then mining activities by PT Newmont must first get approval from the Government.

#### **A. Contribution of the PT Newmont in investments.**

In ACT N 0.25/2007 described the role of the investor towards national development, namely: that to accelerate national economic development and realize the political and economic sovereignty of Indonesia, required an increase in capital investment to managing the economic potential into real economic strength by using capital originating from domestic and abroad.<sup>2</sup>

Gold and copper mining company, PT Newmont Nusa Tenggara (NNT) project the production of gold concentrates approximately 114,000 ounces and copper 192 million pounds in mine BatuHijau, West Sumbawa, West Nusa Tenggara (NTB) this year. BatuHijau mine currently employs more than 4,000 workers and 3,000 contract workers. More than 60% of workers comes from the province NTB. Employees in Green Stone has sustainable opportunities to attend training increased skills according to your needs. This provides direct economic benefits for the province NTB and improve the skills and ability of the local community in various fields of skills

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<sup>2</sup><https://www.bi.go.id/id/tentang-bi/uu-bi/.../UU25Tahun2007PenanamanModal.pdf>

commonly used in the mining industry. With the start of the investment of PT. Newmont on West Sumbawa gives significant influence in the development of the economy, after West Sumbawa do expansion that caused nearly all West Sumbawa economy depend on mine results. Not only the economy of West Sumbawa is dependent upon the results of mine, even the Central Government declared the country's customs receipts still hung out of the export of industrial minerals and coal because the price (minerba) crude palm oil or oil Palm oil (CPO) never improved. The Director of revenue and Customs and Excise Regulations, the Directorate General of customs and Excise, Sugeng Aprianto, say the Government is targeting customs acceptance out of Rp 2.88 trillion in 2016. This figure is below the realization of year 2015 amounting to Rp 3.9 trillion.<sup>3</sup>

It said the exit of customs contributors come from two companies, namely PT snapper class of Freeport Indonesia and PT Newmont Nusa Tenggara. "Is expected this year to Rp 1.4 trillion Newmont. The total Rp 2.88 trillion, almost equally from both. Last year its realization of Rp 3.9 trillion, if combined, barely above 90 per cent both, "says she Jakarta, Friday (8/1/2015).<sup>4</sup>

However, that is no less important than the existence of PT Newmont investment in especially West Sumbawa NTB was the country's foreign exchange income aspects especially in the periphery of the mine (Provincial and district). Royalties payable to PT. NNT to the Government in accordance with the agreed work contracts in article 13 which reads as follows.<sup>5</sup>

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<sup>3</sup><https://www.liputan6.com/bisnis/read/2407222/freeport-dan-newmont-masih-jadi-andalan-penerimaan-bea-keluar>

<sup>4</sup>Ibid

<sup>5</sup>Indonesia Corruption Watch : Dugaan Kerugian negara dari Royalti PT Newmont Nusa Tenggara, Periode 2004 -2010. [www.antikorupsi.org](http://www.antikorupsi.org) (13 mei 2012)

## 1. Gold

- a. If the sales price of gold is US\$ 300per troy ounce or lower, the applicable royalty rate shall be: 1% of the sales price.
- b. If the sales price of gold is US\$ 400per troy ounce or higher, the applicable royalty rate shall be: 2% of the sales price.
- c. If the sales price (G)of gold is between US\$ 300per troy ounce and US\$ 400per troy ounce, the applicable royalty rate shall be: = [ 1 + (G-300)]% of the sales price 100.

## 2. Silver

- a. If the sales price of silver is US\$ 10per troy ounce or lower, the applicable royalty rate shall be: 1% of the sales price.
- b. If the sales price of silver is US\$ 15per troy ounce or higher, the applicable royalty rate shall be: 2% of the sales price.
- c. If the sales price (S)of silver is between US\$ 10per troy ounce and US\$ 15per troy ounce, the applicable royalty rate shall be: = [ 1 + (S-10) ]% of the sales price.

## 3. Bronze

- a. Because royalty rates for copper is not mentioned in PT NNT's contract, then the adjustment is referring to the Government's decision in this case refers to REGULATION No 13/2000 of 23 February 2000. The royalty rate for copper which is 4% of the value of the sale.

With royalty rates payments be promised increased 4% for copper, 3.75% to 3.25% for gold and silver, as well as Customs payments

Out contributions to the Government of Indonesia Newmont increased 300% from the previous payments. Since 1999 till 2015, Newmont has noted, a non-tax deposit taxes, royalties, purchase goods and services from both local and national, as well as the community development programs of us. \$9.4 billion to Indonesia.<sup>6</sup>

## **B. Bargaining Power of PT. Newmont to Indonesia**

Although political considerations seem to be emerging as a major concern of diplomacy of a country, contributing economic factors apparently also not less important.<sup>7</sup>

One form of interaction or relationships are good in diplomacy is the existence of a reciprocal relationship between one party when another party. These relationships can happen through collaboration in even a problem though. The existence of the problem will appear an intention to try to fix the issue is going to become a joint attention these interactions are then showed that the existence of the role of power belonging to each party's good or whether the relationship reciprocity was dependent upon the attitude of the two camps involved in harnessing the power that is in it. The efforts of the Government of Indonesia have done getting the response from the mining company PT. Newmont Nusa Tenggara which shows rejection policy development of industrial smelters since the beginning. A review of some regulations still has not been assessed based on the mutual benefit that is contained in the Contract Works since long time. So, the effort over this rejection is still not fully

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<sup>6</sup><https://finance.detik.com/berita-ekonomi-bisnis/d-2979280/newmont-semester-i-2015-setor-rp-15-triliun-ke-ri>

<sup>7</sup>Morgenthau, H.J. Politics Among Nations, hlm. 69-70(Buku Diplomasi hlm.9)

accepted by the mining company was already 17 years old explore and exploitation the results of natural resources that Indonesia. As a follow-up to the response above, PT. Newmont did a pretty thorough effort affect many facets of this country.

### 1. Power of The Mine Ceased Operations

PT. Newmont Nusa Tenggara still obstinately to refuse this smelter industry development policy despite already undergoing changes. The reaction of rejection occurs when PT. Newmont Nusa Tenggara issued a discourse production will cease operations from Green Stone Quarry until the impact to the condition of the workers in it. The condition causes the raw materials already produced so accumulate in the mining area which remained operating Plan termination of production operation this leveled President Director MartionoHadianto of PT NNT in the description of a press release. *If the warehouse is full, then we stop the operation. If stopping the operation then we will be forced to laying off employees. We stop the operation started around early June 2014.*<sup>8</sup>

He also explained that in order to minimize expenses and keep the ability and readiness of the company to be back in operation, about 80 percent of the 4,000 employees at the BatuHijau is placed in standby status with pay cuts ranging 6 June 2014. So many employees that will be discharged.<sup>9</sup>

Then in the description that has been conveyed by Manager Processing and Power plant PT NTT

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<sup>8</sup><http://ekonomi.metrotvnews.com/read/2014/06/06/249594/newmont-hentikan-operasi-tambang-batu-hijau>

<sup>9</sup><http://www.viva.co.id/berita/bisnis/510012-newmont-resmi-hentikan-operasional-tambang-batu-hijau> Selasa 25 Juli 2017 pukul 20.23.

IlyasYamin through media, that provides information on BatuHijau mining area of PT NTT in district Sekongkang, west Sumbawa, already more than 3,500 employees of PT NNT has returned, and while the rest of the thousands of other threatened employees and contractors will experience things in such a way if PT NNT still doesn't allow for placing in export stock concentrates copper accumulate in the warehouse, so warehouse capacity buildup. his concentrates 93,800 tons, only 90,000 tons of warehouse capacity.

Newmont was official delivered a notice to the Government and employees that the company was declared state of kahar (outside the power/force majeure situations) according the contract works, because of the application of the prohibition of exports that make Newmont cannot do production activities. It said President Director MartionoHadianto of PT NNT told reporters after the met Director General of Industrial relations and the construction of the Social Security Ministry Buildingwas Irianto manpower and transmigration (Kemnakertrans), Jakarta, Wednesday 7 June 2016.<sup>10</sup>

## **2. International Court of Justice**

President Director of PT. MartionoHadianto, NNT stated that the move made PT. This is the last step of NNT done PT NNT and shareholders because they feel that they should be brought to the International Court of Justice to make sure it works, the rights and the interests of stakeholders the company is protected

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<sup>10</sup>Ibid

also has given the large foreign exchange for Indonesia during this.<sup>11</sup>

In the lawsuit, Newmont explains the existence of a rule banning the import of raw minerals have been detrimental to him. In addition, the policy bans the export of minerals are not in accordance with the contract of Work (COW) and a bilateral investment treaty between Indonesia and the United States. In the process of its implementation, the parties involved in the case of the dispute through international arbitration will spend much of the cost. But more important is that the dispute resolution process takes quite a long time. Resolution of disputes through the Arbitration lawsuit conducted by PT Newmont in rejecting Indonesia Government policies. The company felt objected to the policy applied by the Government. When the policy is applied then it will impact badly on the company. The enactment of a ban on the export of concentrates that may require purification of raw materials is carried out in Indonesia. But in the purification of raw materials companies cannot cultivate raw material so all proceeds from production. That is because the smelter or refining existing in Indonesia such as PT Smelting Crunch in East Java are only capable of holding and purifying concentrate a number of 30%-40% of the production results that PT Newmont. So, the PT Newmont did a reduction in production, and if production is reduced, it will happen anyway against the reduction of employees.

Copper and gold mine in BatuHijau are currently under care and maintenance as it does continue to attempt resolution of export. The company remains the appropriate control activities to ensure human

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<sup>11</sup><https://finance.detik.com/berita-ekonomi-bisnis/d-2624684/ini-alasan-newmont-gugat-pemerintah-ri-ke-arbitrase>Selasa (1/7/2014).



safety and security, water resources, and the environment.<sup>12</sup>

Arbitration is a way of settlement of a civil dispute out of court based on the agreement made in writing by the parties to the dispute. (tampongangoy , 2015) .

### **C. Benefits of Working contract PT. Newmont-Indonesia**

Agreement between the Government of the agreement with PT NNT takes place after PT. NNT apply for concession of the mine in Indonesia based on a letter Number 0434/03/M. X\_ROBINFAN\_X/86 dated October 27, 1986. With reference to the letters of recommendation from the Chairman of the House of representatives Number KS. 02/2907/DPR-RI/86 dated 27 September 1986 and Chairman of the Beximco 211/a. 1/8 September 1986 President Soeharto on 6 November 1986 Letter No. B-43/Pres/11/1986 to the Minister of mines and energy subject to approval for 34 (thirty-four) fruit of the paper Contract the work one is PT. NNT.<sup>13</sup>

In working contract (contract of work) that was signed between PT. NNT with the Government of Indonesia. PT NNT on December 2, 1986 year. PT. NNT was appointed by the Government of Indonesia as a single contractor for the mining concession in Indonesia. The contact area of the paper is given to the Government PT Newmont Nusa Tenggara is a 1,127,134 acre (one million one hundred

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<sup>12</sup><https://ekonomi.kompas.com/read/2014/07/02/1514456/Pemerintah.Telah.Terima.Gugatan.Arbitrase.Newmont>

<sup>13</sup>Syahrul Mutofa & Saipul Mustofa, Kedudukan Hukum Negara Dalam Perjanjian Kontrak Karya (Studi Perjanjian Kontrak Karya Pertambangan Antara Pemerintah RI dengan PT NNT), Makalah Tahun 2012, hal

32. Diakses dari <https://hukumperdataunhas.wordpress.com/2013/04/17/kontrak-karya-antara-pemerintah-dengan-pt-nnt/>

twenty-seven thousand one hundred thirty-four). The sole rights granted to PT NNT Government within the works contract is includes the right to seek and to conduct mineral exploration in the area of contract works to develop and mine any Mineral deposits that are found in the area of mining, processing, purifying, distorted and transporting all minerals produced, marketed, sold, and conducts all operations and other activities as needed. Except against radioactive minerals or hydrocarbons compounds, the stones, then mining activities by PT NNT must first get approval from the Government.

With a single to right gave PT NNT, then PT NNT has the right of control and the single management of all its activities in accordance with an approved Work Contract and on the basis of the then PT NNT have full responsibility including against operations including all risks in accordance with the terms and conditions agreed in the contract works. Second, PT NNT can employ sub contract the sub-contractors nice or not affiliated with a company to carry out the operation if PT NNT need it.<sup>14</sup>

World Mining of Indonesia has a very unusual profile. Indonesia was ranked the world's six major ownership materials mine. However, in terms of investment climate, Indonesia was ranked the aftermath.<sup>15</sup>

Good management will make mining sector not only provides contribution towards the gross domestic product (GDP) of Indonesia, but also open up many jobs, even creating power-Indonesia-mining professionals. Many

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<sup>14</sup>Ibid, hal 28.

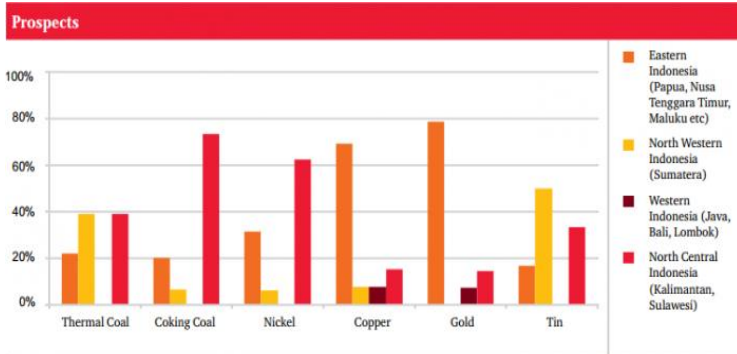
<sup>15</sup>[https://www.ima-api.com/index.php?option=com\\_content&view=article&id=1937:potensi-dan-tantangan-pertambangan-di-indonesia&catid=47:media-news&Itemid=98&lang=en](https://www.ima-api.com/index.php?option=com_content&view=article&id=1937:potensi-dan-tantangan-pertambangan-di-indonesia&catid=47:media-news&Itemid=98&lang=en)

experts in geologist and mining Indonesia who now works in Australia, United States, Africa, and Southeast Asia.<sup>16</sup>

The Government and people of Indonesia step during this feel very hard in building this nation, because such development requires considerable costs while the Government funding and community are not enough to manage the mining. By it, the Government is working to its fullest by attracting foreign investors to infuse its investments into the country. In this case the author would like to give you an idea of how the great contributions of PT. Newmont against Indonesia so PT. Newmont became the mainstay of the Government in managing the mining in large areas of Sumbawa NTB. One of the subsidiaries of the largest mining companies in the world, namely the Newmont Mining Corporation, headquartered in Greenwood Village, Colorado, United States. According to Mr. Ruby W. Purnomo, as head of communications company PT Newmont Nusa Tenggara, amounting to 51% of profits obtained FROM PT Newmont Nusa Tenggara given for Indonesia and the rest to foreign parties. If compared with other mining companies, the Division of profit in PT Newmont Nusa Tenggara is enough relief with gratuities for parties of Indonesia. There are important factors in involvement foreign investors who "helps" Indonesia in managing to process the natural resources in the country. The factor i.e. the lack of encouragement and support the Government of Indonesia in assisting human resources (HR) we are experts and competent in their fields to conduct research (research) if the nation is indeed more carefully along There are still many areas of Indonesia's huge potential SDAS that can be found and may have been a target for foreign investors. This is apparent from the survey conducted by the Fraser Institute mining industry against Indonesia seen from the graph below.

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<sup>16</sup>Ibid



**Figure 1. Survey of Mining Companies 2012/2013.**

Source: *PWC Indonesia - Fraser Institute Annual Survey of Mining Companies 2012/2013.*

This return definitely refer to the problem of limited funds and relatively stingy if compared to funds that can be issued in other Countries for research needs in this country. This of course hampers Indonesia origin researcher to be able to work to its full potential to find and create new things required of this nation. At Discovery Green Stone Mine on Sumbawa Island, it takes ten years to the geologists out doing exploration starting from the analysis of soils and rocks, geological mapping, drilling and ultimately to find copper in profiri 1990. then, for the construction of the project was carried out with a total cost of 1.8 Billion dollars and completed in 1999.<sup>17</sup>

<sup>17</sup>Ahmad Khulaemi A. Pengembangan Masyarakat Sumbawa Barat (NTB) Melalui Coorporate SoCial Responsibility PT. Newmont Nusa Tenggara. Forum Manajemen Vol. 0 4 No. 3.Hal.12

## 1. The Position of Indonesia-PT. Newmont In World Trade System

Wallerstein in her writings reveal that the country's position in the World system is tied to his role in the activities of processing industry.<sup>18</sup>

According to him the State possess the source production with low ability to perform processing of the sources, potentially becoming the country's Periphery. On the other hand, the country's core is a country which not only has a source of production but also has other production factors such as capital and technology to be able to manage the sources of production. However, according to him, the country's core will have a huge tendency to not do the processing to excessive resource assets and prefer to hold a lot of cooperation with the country's Periphery.

This is supported also by the opinion of Daniel Chirot and Thomas d. Hall, who assess the trend as the nature of the state will try everything possible to get the highest possible profit by issuing a maximum effort.<sup>19</sup>

According to this, the position of Indonesia in the world System is a State of the United States as the country with the Periphery core. It can be seen from the ownership of the production as a source of raw materials in Sumbawa has now managed by PT. Newmont. In the new order era, Indonesia as the third world countries did not have enough technology to be able to manage the abundant energy sources in

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<sup>18</sup>Immanuel Wallerstein. The modern World System I: Capitalist Agriculture and the Origins of the European World-Economy in the sixteenth Century.(New York:academic Press. 1974), hlm.347-350.

<sup>19</sup>Daniel Chirot and Thomas D Hall.WORLD-SYSTEM-THEORY, (Annual Reviews, 1982)  
diaksesdari<http://www.jstor.org/stable/2945989>.hlm. 85.

Sumbawa, but economic needs, urged the Government to immediately undertake the management of the against its natural resources as a factor in production to push Indonesia's economic growth when it. United States, as a country with advanced industry technology and capital it has certainly viewed this as a promising economic opportunity. In cooperation with third world countries in the management of the source of the raw materials is certainly very beneficial because basically the Government is able to do emphasis the production costs compared to perform processing of the natural resources of their own. This is because the third world living standards are lower than the standard of living of developed countries such as America, States in General. On the other hand, as the MNC from United States, Newmont also pocketed licensing and employment contract with the Government of the United States itself. Government of United States themselves also have an employment contract with an MNC his State. Basically, the United States Government against MNC contract his country set the stipulations regarding contributions made by the United States against the MNC itself. In this case, the PT. Newmont running contracts with the Government as the largest gold supplier MNC of United States.

Thus, the position of the United States as the core is visible from the United States Government how to manage companies in other countries with binding company in the provisions that bring the interests of United States as a country. It also shows the superiority of the State in controlling the Distribution Of Technology carried out by his country's MNC to other countries. In fact, the bond contract between MNC with the Government are not only done to the MNC amounting to Newmont or Freeport which became the main supplier of gold United States but

also against other MNC like Coca cola, Petral and other.<sup>20</sup>

## 2. Interdependence Between Indonesia-PT Newmont

According to Ronan Van Rossem, dependencies arise as a consequence of World System.<sup>21</sup> Dependency gives attention to the Periphery Countries in conjunction with the State of the core. According to James Petras dependency shows that there is inequality between Core and Periphery in cooperation of the two countries.<sup>22</sup>

Therefore, the dependency between Indonesia with United States will be demonstrated by comparing the gains obtained by the two Country's cooperation PT. Newmont that has gone on since the signing on December 2 the year 1986. PT. Newmont has provided many advantages for the parent Country i.e. United States second gold exporters is Newmont after Freeport-Mc Moran with revenue production of 230,000 metric tons per day. While the income of the Newmont Mine has green stone 8.4 billion lbs. of copper and 7.9 million ounces of gold reserves by the reserve aged over 25 years based on the level of production of the year 2011. In 2011 the green stone quarries produce 283 million lbs. of copper and 318 thousand oz of gold. Currently.<sup>23</sup>

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<sup>20</sup>Corporation Political Contributions Policy. Diakses dari <http://www.politicalaccountability.net/index.php:html/GetDocumentAction/i/5266>

<sup>21</sup>James Petras, dependency and World System Theory: A Critique and New Directions, Diakses dari <http://www.jstor.org/stable/2633477> .hlm. 148

<sup>22</sup>James Petras, *ibid*, hlm 149.

<sup>23</sup>Freeport strikers accused of hurting investment in Indonesia, diakses dari [http://news.xinhuanet.com/english/world/2011-12/12/c\\_131301574.htm](http://news.xinhuanet.com/english/world/2011-12/12/c_131301574.htm)

Since the beginning of the creation of their collaboration, the figure steadily increasing from year to year as demand from the United States. Although the value can still be rivaled by few other American's main commodity, but gold itself has long term value which can be the result of American economic crutch gold values tend to be stable in the global market. For Indonesia's own presence of Newmont has opened up employment opportunities for the people of Indonesia, especially the area of the mine on Sumbawa and circumference Mataram, however is not just the Sumbawa and Mataram could enjoy to work at Newmont, but residents Indonesia, a company based in other areas also have the opportunity to be working in the mining company. Until now, the PT. Newmont has employed more than 4100 employees and 3000 employees' contracts, more than 64% of which comes from the province of West Nusa Tenggara. This provides direct economic benefits for the province NTB and improve skills and ability of local communities to be able to compete in the field of employment are engineering. Employees at the green stones also have ongoing opportunities for skill enhancement training according to your needs. In addition, the presence of the mine operation caused many members of the community around the mine which directly or indirectly able to grab business opportunities, such as suppliers of equipment, building materials, foodstuffs, or needs other, for the company. In BatuHijau, PTNNT has and implemented sustainable local purchase programs, to support the increased local business development.