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Guidance on ‘Placed into Service’ Facilities: Uncertainty about cost recovery

Yudhanto Aribowo /William Deertz

In this issue

On 17 November 2009, BP Migas issued Guideline no 033/PTK/XI/2009 on the ‘Placed into Service (“PIS”) conditions of Oil and Gas Production Facilities (“PTK 033”). PTK 033 is a follow up regulation in response to Minister of Energy and Mineral Resources Regulation No. 22/2008 concerning the negative list of non-cost recovery (“MEMRR 22/2008”).

One of the items listed in the MEMRR 22/2008 as not being subject to cost recovery is the establishment and operation of PIS Projects/Facilities that are not able to operate in accordance with the economic life due to the Production Sharing Contract (“PSC”) contractor’s negligence. There has been no formal clarification from the Government on defining what actually constitutes negligence, until the further clarification in the PTK 033 below.

Highlights of PTK 033

- PTK 033 requires a PSC contractor to obtain BP Migas’ approval for the PIS facilities prior to claiming the cost recovery for the depreciation of such facilities.
- Such approval can be processed if the PSC contractor submits the PIS documents which contain various completion documents including the comparison between actual capacity/performance and original approved capacity/performance.

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- BP Migas will undertake an administrative and technical evaluation which will take a total of 15-25 days.
- BP Migas' approval on the PIS documentation will determine the percentage of the actual capacity/performance in relation to the original approved capacity/performance.

Absence of gross negligence

MEMRR 22/2008 stated that cost recovery for facilities which under perform compared to the originally approved plan would be ineligible for cost recovery if the under performance was due to the contractor's negligence. Negligence was not defined in MEMRR 22/2008, however, we understand that subsequent dialogue between industry participants and the Government established that negligence would only apply to gross negligence and willful misconduct by the contractor. This is evidenced in a recent draft Government Regulation on upstream cost recovery and income tax which states that the Company can not cost recover unoperated PIS assets due to the Contractor's gross negligence and willful misconduct. Both terms are generally well defined and understood within the legal framework. PTK 033 is silent as to whether the provisions in this regulation apply to all instances of under performing facilities or only those that result from the gross negligence or willful misconduct of the contractor. Presumably it should only relate to gross negligence or willful misconduct but the lack of clarifying language in PTK 033 provides further ambiguity.

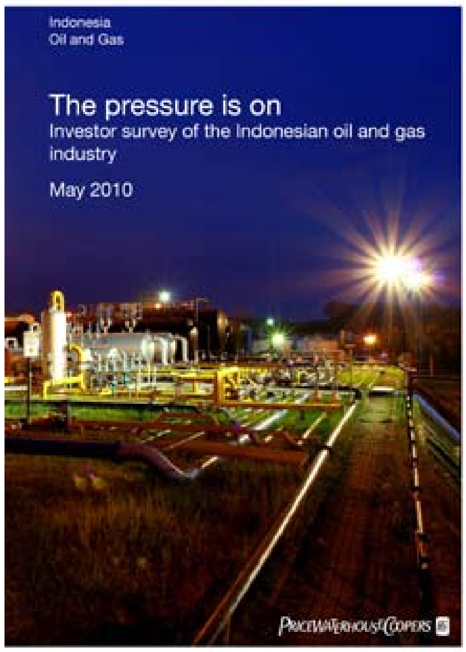
Delay of cost recovery as a result of bureaucratic process

Under PTK 033, a PSC contractor needs to prepare the PIS documentation first, then have it evaluated by BP Migas. BP Migas' evaluation on PIS documentation will take 15-25 days prior to their approval, but the guidance is silent on how long the formal approval process will take. In any event PTK 033 is likely to result in a delay of at least one to two months before cost recovery can be claimed for PIS facilities. Prior to PTK 003 it was general practice to recognize facilities as PIS at the time when the facilities become capable of generating revenue.

We understand that the Indonesian Petroleum Association has sent their response to BP Migas requesting that it reconsider the applicability of PTK 033. Stay tuned for the update in an upcoming newsletter.

The pressure is on – Investor survey of the Indonesian oil and gas industry

Paul Van der Aa/William Deertz



PricewaterhouseCoopers Indonesia (PwC) released its fourth biennial survey of the Indonesian oil and gas sector, “The pressure is on – Investor survey of the Indonesian oil and gas industry”. The survey responses come from companies representing approximately 68% of Indonesia’s current petroleum production. The objective of the survey is to highlight contributions of the oil and gas industry to the Indonesian economy and the issues preventing full realization of benefits for all stakeholders. Overall, survey participants indicated that Indonesia is still regarded as attractive; however the “shine” seems to be wearing off. We noted a general shift in survey participants’ sentiment, as their perception of the industry seems to be less optimistic, which is not good for investments.

The participants’ general view seems to be that the capital spending will decline or at least stay the same over the coming 5 years. This is a significant change in perception compared to the 2008 survey results where the vast majority of the survey participants thought that capital expenditures would increase or even significantly increase. This pessimistic view is a worrying development as the Government of Indonesia (GoI) is keen to see an increase in investment in the Indonesian oil and gas industry.

In previous surveys, we highlighted several issues that were preventing the Indonesian oil and gas industry from attracting much needed investment. Although there have been some minor changes in the top five, we noted that the most significant issues remain. The five most critical issues facing the industry are as follows:

1. Interference from other government agencies, such as the tax authorities
2. Uncertainty over cost recovery and BP Migas / BPKP audit findings
3. Contract sanctity
4. Corruption, Collusion and Nepotism (“KKN”)
5. Confusion over Law No. 22/implementing regulations

We noted that survey participants were slightly optimistic on the development of a number of challenges over the longer term as they expect some improvements within the coming five years. However, despite this ray of hope, the survey participants also indicated that they don’t expect any significant improvement for the remaining challenges. The main reason behind this somewhat pessimistic view may be that many of the challenges confronting Indonesia, such as KKN and judicial reform, require structural changes and it will take a long time to implement real changes.

As in the 2008 survey, industry participants indicated that geological prospectivity remains Indonesia’s most attractive feature, followed by political stability. This is a positive sign and will improve levels of foreign investment, however, this needs to be tempered with the survey participants’ negative views on intra-ministerial coordination.

Overall, one can conclude that in order to remain competitive, it is critical that the investment climate in Indonesia continues to improve. In order to attract more investment Indonesia needs regulatory clarity, consistency, certainty and competitiveness.

Please refer to www.pwc.com/id for an electronic copy of the report. The full survey results will be presented at the Indonesia Petroleum Association Convention on 19 & 20 May 2010 at the Jakarta Convention Center. Should you wish to obtain more information regarding the survey results, please do not hesitate to contact the survey authors or your usual Energy, Utility and Mining specialist contact.

Indonesia's implementation of Extractive Industries Revenue Transparency

Yudhanto Aribowo/William Deertz

On 23 April 2010, Presidential Regulation No 26/2010 on Transparency of National and Local Extractive Industry Revenues ("PR 26/2010") was issued. PR 26/2010 is a regulatory framework for the implementation of the Extractive Industries Transparency Initiative ("EITI").

EITI is a minimum global standard for oil, gas and mining revenue transparency at the national level. EITI is now being implemented by 30 countries around the world. Indonesia has stated its intention to implement and comply with EITI since December 2008. PR 26/2010 is a major milestone toward the implementation of the EITI in Indonesia.

Features

Features of PR 26/2010 are as follows:

- Formation of a Transparency Team ("Team"). Under PR 26/2010, the government will form the Team which will be directly responsible to the President. The team consists of government stakeholders, including the Ministry of Energy and Mineral and Resources, Ministry of Finance, Ministry of Internal Affairs, the Finance and Development Supervisory Body (BPKP) and the Executive Agency for Upstream Oil and Gas Business Development (BPMIGAS), with representatives from these agencies from the director general level up to the minister level. The Team will also consist of representatives from industry associations, NGOs and regional governments.
- Reporting to the Team by extractive industry firms of revenues conveyed to government, and reporting to the Team by Central Government, Local Government, and BP Migas of revenues collected from these firms.
- Reconciliation of reported amounts by a reconciler, who will be appointed by the Team.
- Full public disclosure of the results of the reconciliation.

Impact to extractive industry players

With many in parliament, NGOs and the general community arguing that the extractive industries do not contribute adequately to the nation, PR 26/2010 is a way for these contributions to be transparently and accurately evaluated by all concerned. This will increase the level of trust by the government and NGOs for industry and in that way should eventually improve the investment climate.

There are some other impacts to which the industry may need to pay attention, now and in the future.

- Format, content and frequency of EITI reporting templates are not specified under PR 26/2010 and will be determined by the Team in the future. As such the burden represented by industry reporting cannot be predicted now. However since representatives of oil & gas, mineral and coal industry associations will all be part of the Team, it can be reasonably hoped that the report will be composed in a way that will result for a "win-win" solution for all parties.

- The information reported by Companies will be required to be based on financial statements that have been audited by an independent auditor. Companies incorporated in Indonesia have a statutory requirement for audited financial statements. However many of the largest oil/gas players are foreign companies operating as branches and as such are not bound by such a requirement, although they do have to submit to government audits. Therefore, some oil/gas industry players may in the future have to assign external auditors to comply with the EITI reporting requirement.
- PR 26/2010 is silent as to the consequences, if there are any, of any “unreconciled” balances which may remain after the process of reconciliation has been completed.

Implementation

PR 26/2010 is effective at the time of its issuance with approximately three months allowed for the Transparency Team to be formed. However, it could take up to a full year for the scope of the Initiative to be decided upon, for a time bound and budgeted work plan to be approved, for the reconciler to be hired, and for operational funds to be secured. As such, a reasonable guess is that reporting will come into force in about the second quarter of 2011, covering revenues conveyed and received in the 2010 calendar year. Please contact your usual PwC Energy, Utility and Mining adviser for any questions or concerns you may have.

Building the bridge of the future: Public - Private Partnership in power sector development

Agung Wiryawan/Gopinath Menon

For the past few years, the development of Indonesia’s economy has been mainly driven by strong domestic consumption which has resulted in a 4% - 5% GDP growth. In order to foster further growth --- it is expected that economic growth will be 7.3% by 2014 (at an average of 6.3% - 6.8% per annum), the Government of Indonesia (“the Government”) has emphasised infrastructure development to provide pillars for sustainable economy activities, which has been part of the Government’s priority program under its *Rencana Pembangunan Jangka Menengah Nasional Kedua* (“Second Five-Year Development Plan”).

The importance of infrastructure development is apparent, as there are huge infrastructure gaps which are deemed an impediment the to economy activities. It is estimated that the development of infrastructure will need around USD 150 billion (*source: Investing in Indonesia’s Infrastructure, Coordinating Ministry of Economic Affairs, April 2010*) in 2010 – 2014, of which the government can only provide about 30%. Hence, the participation of the private sector is seen as essential to fulfil the gap.

The introduction of the Public Private Partnership (“PPP”) concept has been highly regarded as one of the key answers to attract the private sector to participate in infrastructure development, including in the power sector. As a background, the involvement of the private sector in power started since the 1990s, during which Power Purchase Agreement (“PPA”) had been signed before the Asian economic crisis in late 1997 --- this is also known as the first generation of Independent Power Producers (“IPPs”). The second generation of IPPs refers to the PPA’s signed after the financial crisis, i.e. during the period 2005 – 2008.

During the second generation of IPPs, the Government received 126 project proposals with only 18 projects being awarded. This low success ratio (14%) compared to the first generation of IPPs (with success ratio of 59%), was mainly due to unattractive risk sharing profile from the investor’s point of view and no Government guarantees provided. Historically, the key success factor of the first generation of IPPs was the availability of Government guarantee, whilst for the second generation, in general, this is not provided --- although a few Confirmation Notes have been issued to IPPs supported by JBIC financing.

The third generation of PPA is now being developed by Perusahaan Listrik Negara ("PLN"). There now exists more well - defined risk allocations to help bankability of projects, and includes key features such as government support. This risk allocation mechanism is expected be much clearer, as this model PPA will be governed based on the PPP regulatory framework, i.e.:

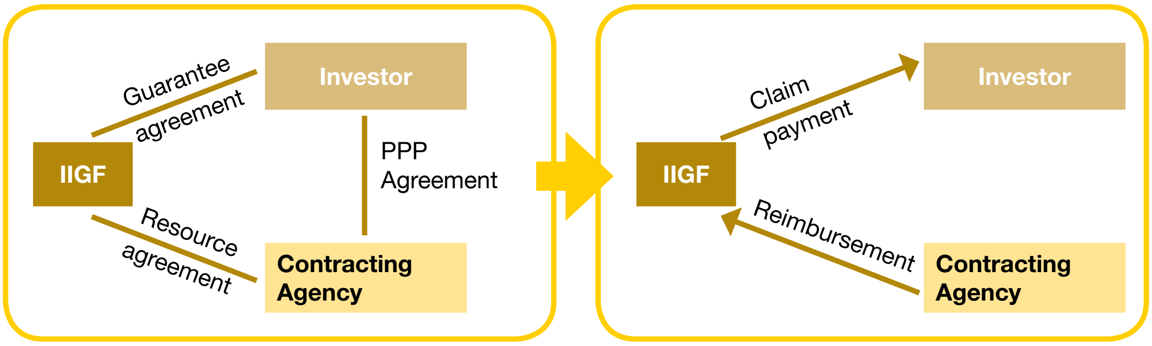
- Presidential Regulation 13/ 2010 on PPP on infrastructure projects;
- Ministry of Finance ("MOF") Regulation 38/ 2006 on Government Support for PPP infrastructure projects; and
- The Indonesia Infrastructure Guarantee Fund ("IIGF") is established as a guarantor for projects

(source: Public Private Partnership in PLN, as presented at the Infrastructure Asia Conference, 15 April 2010)

Under the Presidential Regulation 13/2010 framework, the government guarantee concept is based on the proper risk sharing mechanism in which the risks should be allocated to parties best able to manage and control them. This regulation provides a framework for the MOF Regulation 38/ 2006 which describes the type of risks the Government would be able to guarantee (e.g. political events, project performance, and demand) and the main principles for providing such support (e.g. project legality, project quality – technical and financial, fiscal policy and transparency).

To strengthen the guarantee framework further, the MOF has established the IIGF which will serve as a guarantor for projects. PT Penjaminan Infrastruktur Indonesia (Persero), as the legal entity for the IIGF, was established with an initial capital of about USD 100 million. The concept is that IIGF will function as a "Single Window" in appraising/ reviewing and granting any requests for government guarantees for projects. By having this single window concept, IIGF will provide (i) a consistent policy on appraising guarantees, (ii) a single process for claims and (iii) introduce transparency and consistency to the process – which will improve market perceptions.

The mechanism will work as shown in the following diagram:



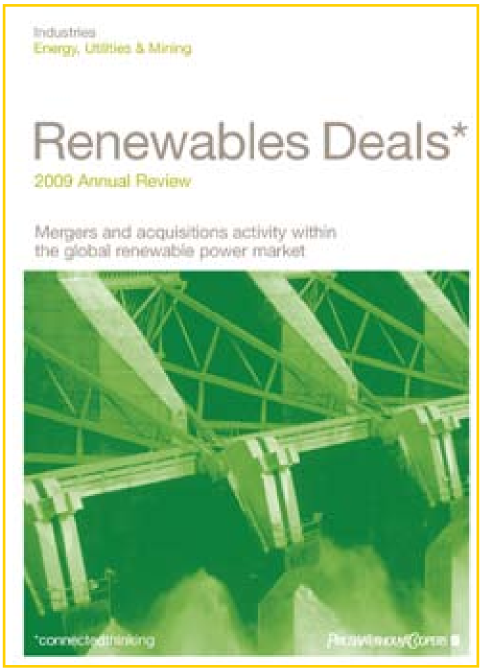
source: An Introduction to Indonesia Infrastructure Guarantee Fund (IIGF), as presented at the Infrastructure Asia Conference, 15 April 2010.

There is a recourse arrangement between the IIGF and Contracting Agencies (in this case PLN), which is essential to ensure IIGF's financial viability and sustainability. The IIGF will provide guarantees only on risks for which Contracting Agency is responsible (as specified in the PPP Agreement). Hence, the investors will need to separately bear (cover through other instruments), commercial risks or other political risks beyond Contracting Agency's commitment.

The challenge, however, will be mainly as to how this initiative can easily be executed in delivering successful projects. As we understand the initial capital is quite low compared to the needs of the projects. The test case will be in the implementation of the Central Java 2 x 1000 MW IPP project in 2010. This project will be done under the third generation PPA model (PPP framework); in which the Government, together with IIGF will review the guarantee proposal submitted by PLN. The success of this model will provide a benchmark for future private sector participation in power projects in Indonesia.

Renewables Deals 2009 Annual Review

Anthony Anderson



We are pleased to announce that we have released our thought leadership publication *'Renewables Deals 2009 Annual Review'*. Mergers and acquisitions activity within the global renewable power market' It sits alongside its companion report – *Power Deals* (refer to our earlier NewsFlash No.35) – and, together, the two publications provide a comprehensive look at trends and the outlook for M&A activity in the power utilities sector. This report examines the rationale behind the overall trends and the key individual deals in the renewable energy sector. We have expanded the range of data sources to provide what we believe to be the fullest account of deal-making for renewable power assets.

Our review shows that renewables deals form a significant part of overall power sector M&A activity but that core (non-hydro) renewables deal activity has been very subdued. In part this reflects continued difficult conditions in credit markets. In addition, many key players have been focused on developing project portfolios that they have built up over a number of years. In this sense, global investment is happening but not through M&A activity.

Renewables Deals offers an insight into the deals, the players and the motivations that are driving merger and acquisition activity within the global renewable power market throughout 2009.

Renewable energy is accounting for an increasing slice of overall M&A activity in the power utilities sector. Deal numbers and total M&A value in the sector as a whole declined significantly in 2009 but the decline in deals for renewable assets or technology was much less marked than in the wider sector. The share of total sector value attributable to renewables deals rose from 17% in 2008 to 25% in 2009 – accounting for US$33.4bn of gas and electricity's US$131.1bn total deal value. These are some of the key findings in Renewables Deals 2009. The number of renewables deals fell by over a third (36%) year-on-year from 2008 to 2009 but average deal size (for deals with disclosed values) rose by a third (34%) – up from an average of US$45.5 million to US$60.8 million.

Hydropower accounted for half of the 10 largest deals of 2009 in contrast to 2008 when wind dominated and only two of the top 10 deals were for hydro assets. The largest deals were also more geographically dispersed with all of the major markets represented in the top 10 compared to 2008 when seven were European deals. The biggest deal was the US$6bn transfer of power generating units in the Three Gorges Hydroelectric facility in China from parent company China Three Gorges Project Corporation to its majority-held Shanghai- listed power producer China Yangtze Power. The deal was the most notable example of a number of deals in the Chinese power utilities sector in which power generation assets were moved into listed entities as part of their continued restructuring and integration process.

Away from Europe and China, the largest renewable energy deal was in North America with TransAlta's US$1.5bn purchase of Canadian Hydro Developers.

Mark Hughes, European energy leader, PricewaterhouseCoopers, said:

> "Private equity is showing a high level of interest in renewables technology purchases as illustrated by the HgCapital/AIG Financial Products Corporation deal in solar and activity in the wind sector by players such as Nordic Capital and Riverstone Holdings. Another trend in the technology deal space is the increasing role of players such as Siemens and Rolls Royce providing early stage funding through stakes in engineering and technology providers in the nascent wave and tidal sector. In the past, such funding might have come from venture capital funds but they are becoming more risk averse in the current climate."

Europe continues to be the focus for the largest concentration of renewables deals, accounting for 44% of all deals in 2009, up from 38% in the previous year. In 2008 Europe accounted for about half of total renewables deal value. This fell to 38% in 2009, still by far the largest share of any region, but down because of the impact of the value of large hydro deals in China and Columbia which helped push up the Asia and South America share. Together these two regions accounted for 36% of 2009 total deal value, up from 19% in 2008.

Utility companies, who have been the biggest buyers of renewables assets, face massive capital investment challenges to replace ageing infrastructure and to modernise through, for example, the introduction of smart grids. These companies will be assessing how best to manage this while also maintaining their corporate credit ratings. This could inhibit deal flow with renewables having to compete hard for capital with other types of energy assets as utility companies prioritise investment that they perceive will have the most short to medium term strategic value.

In many parts of the world, wind power is coming of age with an acceleration of new projects. This growth is putting pressure on the supply chain and, in turn, this is promoting M&A interest. We are likely to see more financial investor in companies that are occupying sought-after components or services in the supply chain. Corporate buyers in the form of wind farm developers and operators will be similarly interested as they seek to secure supply for their own projects. Similar bottleneck issues affect the solar supply chain and, looking much further ahead, are likely to be felt in the wave and tidal sector.

This annual review of Renewable Energy deals ("RE") highlights the relatively low level of activity in RE in Indonesia. Noting that the Government's targets for the increased use of 'new' and renewable energy to comprise 17% of the total energy mix, including geothermal (5%) and liquefied coal (2%) by 2020 (Presidential Regulation No.5/2006 on the National Energy Policy) then substantial investment will be required in the RE space. The recent announcement of renewable energy incentives, which may assist Indonesia in meeting these targets, is discussed in another article in this NewsFlash.

Draft regulation regarding extension of PSC contracts

Paul Van der Aa/William Deertz

The Minister of Energy and Mineral resources has recently issued a draft regulation for the extension of Production Sharing Contracts ("PSC"). The extensions may be proposed at the earliest of ten years or at the latest of two years prior to the expiration of PSC. According to the draft regulation, for PSCs that are bound under natural gas trading agreements, the Contractor may propose an extension earlier from the aforementioned limits.

Contractors can apply for an extension of the PSC by sending their request to the Minister of Energy and Mineral Resources, with copies sent to PT Pertamina (Persero) ("Pertamina"). In the event that Pertamina is interested to participate in exploration and/or exploitation activities, it has 30 days to submit a letter of interest, and has to submit a formal proposal within 1 year.

The draft regulation states that the award of extension is to be based on, among others, the concerned potential reserves, technical and economic considerations for the concerned concession.

The Contractor may propose an extension under the following conditions:

1. The government has received production sharing from the Working Area and/or new reserves have been discovered and are ready for development;
2. The Contractor's performance is considered satisfactory; and
3. The contract extension is deemed profitable for the state.

In the event that the Minister approves the proposed PSC extension, this may be with:

1. the same fiscal terms and conditions; or
2. the same fiscal terms with amended terms and conditions; or
3. new fiscal terms and new terms and conditions.

In the event Pertamina and the Contractor(s) respectively meet the requirements as stipulated in this draft regulation, the Minister may:

a. decide that Pertamina is to perform the exploration and/or exploitation in the work area; or
b. decide that the Contractors are to perform the exploration and/or exploitation in the work area; or
c. decide that Pertamina and/or Contractors are jointly to execute the exploration and exploitation in the work area.

The draft regulation states that it is prohibited, within a period of 3 years as of the effective date of the contract extension, for:

a. The Contractor/Pertamina who holds the majority interest in the working area to transfer their majority interest to non-affiliated parties; or
b. The majority share holding Contractor who holds the interest in the working area to transfer their shares to non-affiliated parties.

The draft regulation stipulates that, in the event that the Minister disapproves an extension, the current contractor must maintain the production level fairness up to the expiration of the production sharing contract.

As some PSC's are approaching the end of their contractual lives, the potential extensions of PSCs are the subject of much discussion amongst industry stakeholders. With oil production declining, the Government of Indonesia ("GoI") is keen to attract (new) investments for the oil and gas industry in Indonesia.

It is important to note that the oil and gas companies operating in Indonesia are profit oriented entities and understand that any contract negotiation will come with a cost. The question remains whether these costs are in the form of a lump sum payment upfront, periodic payments during the life of the contact, or a share of the liftings. In any event, contracts can factor these costs into the economics of the contract and decide whether it is still financially viable for them to operate in Indonesia. However, as the draft regulation provides the opportunity for Pertamina to acquire a share of the working interest in the PSC, this may mean more operational involvement (and uncertainty) of Pertamina after the extension has been awarded, which is something that may be difficult for contractors to factor into their financial models.

In our opinion, it is vital that the GoI ensures that the terms of the PSC extensions are fair for all parties involved, so that the Indonesia oil and gas sector stays attractive for investors.

This draft regulation provides some clarification as it relates to the PSC extensions, but the following are matters that require further clarification:

1. how is the Contractors' prior performance to be assessed?
2. what basis or framework will be used to evaluate if a contract extension is profitable for the state?
3. who will evaluate under what terms and conditions Pertamina will be allowed to enter the contract?

Renewable Energy ("RE") incentives – is now the right time to invest?

Anthony Anderson/Antonius Sanyojaya/Gadis Nurhidayah

In late January 2010, the Government issued a new Minister of Finance ("MoF") Regulation No.21/PMK.011/2010 (PMK 21) providing tax and duty incentives (effective 28 January 2010) for entities utilising RE sources. Interestingly, this PMK 21 does not appear to be issued in reference to the Energy Law No.30/2007 which grants the authority to provide incentives for the use of RE sources under a Government Regulation ("GR") and Regional GR. Nor does it reference Presidential Regulation No.5/2006 ("Perpres 6") on the National Energy Policy, which in Article 6, also provides for Ministerial Regulations to provide incentives.

Utilisation of RE? Direct and Indirect

It is not clear whether the Energy Law definition of "utilisation" can be applied to PMK 21 although, it may be a reasonable approach given the legal hierarchy.

The Energy Law in Article 1 defines utilisation as follows:

> *"Energy utilisation is an activity of using the energy, both directly and indirectly, from the energy source".*

If so, logically any, company which could trace its power source to a RE origin (i.e. an indirect user of RE), would arguably be eligible for the incentives described below. We query if this is the intended operation of PMK 21?

We assume however that companies directly using RE power (e.g. PLN, or certain mining companies with captive hydropower plants) would now be eligible for these incentives. PMK 21 does not however indicate what percentage of your power must be using RE, in order to claim the incentives. We note also that Article 1 of the Geothermal Law adopts a slightly different more refined definition of direct and indirect utilization, with the latter including the use of geothermal to produce electricity for public or private purposes.

RE Producers – Left Out in the Cold or Clarification required?

Another issue to be clarified is whether that it was only intended that the users of RE would be entitled to these incentives. This would be in line with Article 21(3) of the Energy Law but not Article 20(5) of the Law. Article 20(5) of the Law stipulates that the provision [we read as production of] of energy from new energy and RE sources would be eligible to receive certain incentives and facilities from the Government. (Note that under Article 1 of the Energy Law the provision of energy from new energy sources could be from local or foreign sources and is defined to include energy from new technology both of the RE type and from: nuclear, hydrogen, coal bed methane liquefied coal and gasified coal sources.)

To simply exclude the producers of RE may be a policy oversight, but would arguably be worthy of rectification or clarification if the energy mix of Indonesia is to be changed. We note that the provisions dealing with VAT and import duty do suggest that the facilities would extend to parties licensed to produce (for example-licensed for geothermal mining) but some clarification of intent would be useful.

The Incentives

PMK 21 seems to confirm the existing income tax, VAT, duty facilities or incentives (under GR No.62/2008 – see below) under one package, to be applicable for entities utilising RE sources. The RE referred to is energy sourced from sustainable natural resources including: geothermal, wind-power, bio-energy, solar-power, hydropower and energy from the movement and differentials of sea-level temperatures. This definition is consistent with the Indonesian Energy Law No.30/2007 definition of RE sources.

In brief, the facilities consist of the following:

1. Income Tax

PMK 21 extends the facilities under GR No.1/2007 as amended by GR No.62/2008 to the **user** of RE resources. The facilities include:

a. "investment credit" of 30% on qualifying capital spending;

b. accelerated tax depreciation/amortisation entitlements;

c. reduced cross-border dividend withholding tax; and

d. an extended tax loss carried forward period.

(please refer to our EUM Newsflash No.28/2008 for further coverage).
In addition, PMK 21 provides an automatic exemption for Article 22 Income Tax on imports of capital goods, excluding the spareparts.

2. VAT

PMK 21 provides VAT exemption on imports of strategic goods (ie. machineries and equipments, excluding spareparts), in line with the prevailing GR No.12/2001 as lastly amended by GR No.31/2007.

3. Import Duty

PMK 21 provides two types of duty exemptions. The first is applicable for imports of machineries and materials according to PMK 176/2009, while the second is applicable only for import of capital goods by a power company entering into contract with PLN under PMK 154/2008. It is unclear however whether the power company can choose PMK 176 in assessing the import duty facility, as it is more favourable.

4. Tax Borne by the Government

The facility available refers to the State Budget Laws and regulations, which for the time being would be for import VAT of goods in the oil and gas and geothermal exploration sector as stipulated under MoF Regulation 24/2010.

Some Issues to be Clarified

Whilst the issuance of the incentives is welcome, in summary some key issues remain to be clarified:

a. are the incentives only for users of RE, or also producers of RE?

b. what qualifies as an indirect use of RE?

c. what percentage of your energy needs must be met to obtain tax incentives? When will clarification on this point be issued?

d. how will the Article 22 exemption work without a tax exemption letter?

e. will the incentives be extended to other new energy sources as is already the case for coal gasification? (Coal gasification is already listed as an industry eligible for the GR 62/2008 incentives and query why the GR 62/2008 incentives have not logically been extended to other "new" energy sources (as defined under the Energy Law such as CBM and coal liquefaction).)

Please contact your usual PwC adviser if you would like to discuss your eligibility for these RE incentives or how to apply for the facilities based on the implementing regulations of GR No.1/2007.

NewsBytes

PwC Indonesia to participate in the 34th Annual IPA Convention 18-20 May 2010

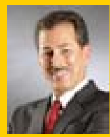
PwC Indonesia will be hosting a booth at the upcoming IPA Convention and Exhibition at the Jakarta Convention Center. Come stop by booth M-115 at the Main Lobby area for our latest industry publications and to discuss industry issues etc. with our people. Our Technical Advisor, William Deertz will be presenting the Oil & Gas Survey results as discussed on page 3 on 19 & 20 May.

Hope to see you there !

PwC Indonesia in the 16th Coaltrans Asia 2010 30 May - 2 June 2010

PwC Indonesia will be sponsoring the lounge at the 16th Coaltrans Asia 2010 at Bali International Convention Centre Indonesia. We will have senior members of our mining team available to discuss industry issues, with PwC Indonesia Tax Partner, Ali Mardi will be chairing the Coal Mine Operations and Economics session on Day 2.

Contributors



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Code of conduct
The way we do business*

Putting our values in action

Excellence
Delivering what we promise and adding value beyond what is expected.

We achieve excellence through **innovation, learning and agility.**

Teamwork
The best solutions come from working together with colleagues and clients.

Effective teamwork requires **relationships, respects and sharing.**

Leadership
Leading with clients, leading with people and thought leadership.

Leadership demands **courage, vision and integrity.**

This summary is not intended as professional advice. It is suggested to always consult with your usual PwC Indonesia contact.

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