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Client Alert

Ministry of Industrial Affairs Plan to
Revoke Minimum Local Content
Requirements for the Development of
Electricity Infrastructure



The Ministry of Industrial Affairs had stated its intention to further effectuate relaxation on local content requirements for the development of electricity infrastructure. The plan to revoke the MOI Reg 54/2012 had been conveyed by the Ministry to the Coordinating Ministry of Maritime Affairs and Investment. Pending the effective revocation, we may expect several shifts in the future implementation of local content requirements for the development of electricity infrastructure.

I. Introduction

In an effort to stimulate foreign investment in the development of renewable energy, the Ministry of Industrial Affairs of the Republic of Indonesia (“**MOI**”) has stated its intention to effectuate relaxation of local content / *Tingkat Komponen Dalam Negeri* (“**TKDN**”) requirements in the development of electricity infrastructure for public interest.

Through its Letter No. S/31/M-IND/HK/V/2024 dated 13 May 2024 (“**MOI Letter**”), addressed to the Coordinating Ministry of Maritime Affairs and Investment, the MOI intends to revoke the Minister of Industrial Affairs Regulation No. 54/M-IND/PER/3/2012 regarding the Guidelines on the Utilization of Domestic Products for the Development of Electricity Infrastructure and its amendments (“**MOI Reg 54/2012**”).

Under this publication, we will provide our view on the *status quo* and expected outcomes on the plan to revoke MOI Reg 54/2012. Please note that this publication: (i) is not intended to neglect the importance and the gist of other relevant regulations regarding local content requirements in the development of electricity infrastructure; and (ii) may not yield full accuracy—pending further action from the relevant government instrumentality.

There might be certain legal issues that are not covered with the explanations provided hereunder, hence, to get the accurate views and understanding of the current conditions, please contact our legal consultants (the details are provided on the last page).



II. Status Quo of MOI Reg 54/2012

The MOI Reg 54/2012 was issued to set the minimum TKDN requirements in the development of electricity infrastructure for public interest (i.e., thermal power plants, geothermal power plant, hydro power plants, solar photovoltaic power plants, as well as its interconnection facilities).

In August of 2023, the MOI had put into effect relaxation measures on minimum TKDN requirements for the utilization of solar photovoltaic modules in MOI Reg 54/2012—pushing back the escalation of a required minimum of 60% local content to take effect in 2025. Nearing the second half of 2024, the MOI is seemingly planning to revoke this requirement altogether instead, along with the rest of MOI Reg 54/2012.

Please be advised that: to date, **we are not aware of any definitive regulatory product that has effectively revoked MOI Reg 54/2012**. The MOI Letter had only expressed the MOI's intention that it “will revoke” MOI Reg 54/2012. We expect to see a regulatory product of at least the same hierarchical level (i.e., a ministerial regulation), to effectuate the revocation of MOI Reg 54/2012.

III. Expected Outcomes of the Revocation of MOI Reg 54/2012

Through the MOI Letter, the MOI provided the several rationales for the revocation of MOI Reg 54/2012, as follows:


1. The substance of governance in MOI Reg 54/2012 is more relevant to the development of electricity infrastructure (projects) that falls under the authority of the Ministry of Energy and Mineral Resources (“MEMR”).
2. Not all types of power plants that are available to be developed in Indonesia are covered by MOI Reg 54/2012 (e.g., wind power plant, wave power plant, hydrogen power plant, biomass power plant, nuclear power plant).
3. The MOI supports the development of electricity infrastructure (projects) and escalation of the use of domestic products through the regulation of minimum TKDN threshold requirement in specific industries, as intended by the Law No. 3 of 2014 on Industrial Affairs and the Government Regulation No. 29 of 2018 on the Empowerment of Industries, and other implementing regulations.
4. The revocation of MOI Reg 54/2012 is necessary to avoid conflict of provisions on the obligation to use domestic products, that have been set under laws and regulations of a higher hierarchy issued after MOI Reg 54/2012.

Considering the above, below are our expected outcomes, in the event the revocation of MOI Reg 54/2012 is put into effect:

1. Fulfillment of TKDN Requirements for Electricity Infrastructure

In the event MOI Reg 54/2012 is revoked, we are expecting two alternatives to be put in place:

- (a) There are no longer specific TKDN requirements the electricity supply industry. In turn, the general TKDN requirement of 25%, as set out under Article 61 para. (2) Government Regulation No. 28 of 2018 on the Empowerment of Industries, shall prevail.



To note that, despite the revocation of MOI Reg 54/2012, the requirement for electricity business actors to prioritize the use of domestic products as mandated by: (a) the Government Regulation No. 14 of 2012 on the Electricity Supply Business Activities, as amended (“**GR 14/2012**”); (b) the Government Regulation No. 25 of 2021 on Implementation of Energy and Mineral Resources Affairs (“**GR 25/2021**”); and (c) the MEMR Regulation No. 11 of 2021 on the Implementation of Electricity Business, is still effective.

- (b) The MOI will issue another ministerial regulation, replacing MOI Reg 54/2012. Noting of the MOI’s rationale stated in the MOI Letter, based on Article 5 of MOI Reg 54/2021, aside from conventional thermal power plants (steam-fired, gas-fired, and gas steam-fired), new and renewable energy power plants currently governed under MOI Reg 54/2012 are limited to: (a) geothermal power plants; (b) hydro power plants; and (c) solar photovoltaic power plants.

We may expect the MOI to issue a more comprehensive ministerial regulation instead, covering all available types of power plants in Indonesia. In the event of such, we shall also see whether if, in line with the aim to stimulate foreign investment, further relaxation measures (e.g., a lower minimum TKDN threshold) will be put in place.

2. Shift in Authority?

In the MOI Letter, the MOI had stated that the substance of governance in MOI Reg 54/2012, is more well-suited for the MEMR. We shall see further whether there will be a shift in authority with respect to determination of TKDN requirements in the electricity sector.

However, we note that although GR 14/2012 and GR 25/2021 mandates the fulfillment of minimum TKDN requirements, both regulations only authorize the MEMR to guide and supervise the implementation of the fulfillment of TKDN requirements. Whereas, pursuant to Article 61 para. (5) of GR 29/2018, it is still within the MOI’s authority to determine minimum TKDN requirements for certain industries.

We will continue to follow the developments of this topic. Should you have any queries on this topic, please contact our consultants



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