Indonesia: Local content requirements for electricity infrastructure projects get a makeover

In brief

After several months of talks about new local content ("**TKDN**") requirements, the Ministry of Industry ("**MOI**") and the Ministry of Energy and Mineral Resources ("**MEMR**") have finally issued several instruments to regulate this matter:

1. MOI Regulation No. 33 of 2024 on the Revocation of MOI Regulation No. 54/M-IND/PER/3/2012 on the Guidelines for Utilization of Local Products for the Development of Electricity Infrastructure (as amended) ("**Past MOI Regulation**"), issued on 25 July 2024
2. MEMR Regulation No. 11 of 2024 on the Utilization of Local Products for Development of Electricity Infrastructure, issued on 31 July 2024 ("**MEMR 11/2024**")
3. MEMR Decree No. 191.K/EK.01/MEM/E/2024 on the Minimum Local Component Threshold for Combined Goods and Services in the Scope of Development Projects of Electricity Infrastructure, issued on 6 August 2024 ("**MEMR 191/2024**")

Before the revocation of Past MOI Regulation, TKDN requirements for electricity infrastructure projects (i.e., power plants, transmission grids, distribution networks and substations) were governed by the MOI.

With the issuance of MEMR 11/2024 (and its further implementing decree MEMR 191/2024), TKDN requirements for electricity infrastructure projects under the authority of the MEMR.

So what are the features of the new regime and the differences compared to the old regime?

1. The scope: only certain types of power plant projects are subject to TKDN requirements.

MEMR 11/2024 is clear that the TKDN requirement only applies to electricity infrastructure projects that are for **public use** (same as the old regime) – where the development is undertaken by one of the following:

1. A government institution, ministry, non-ministerial government institution, regional apparatus working unit, in their procurement, if the funds come from the state or regional budget, including onshore and offshore loans or grants
2. A state-owned company, any other company owned by the state, a regional-owned company, or a private company, in their procurement, where either one of the following conditions is present:
    a. The funds come from the state budget or regional budget.
    b. The work is conducted by way of cooperation between the central/regional government and a business entity.
    c. The project utilizes an energy resource controlled (*dikuasai*) by the state.

There are two conditions in criteria no. 2 above that are significant. The first is the reference to the cooperation between government and a business entity. This appears to refer to public-private-partnership (PPP) projects.

However, we cannot completely rule out the possibility that the MEMR would interpret the term 'cooperation' more broadly to cover any arrangement between the government and a business entity, not only PPP projects.

The second condition, which seems to be a significant departure from the Past MOI Regulation, is that power plant projects whose resources **are not controlled** by the state are not subject to TKDN requirements. There is no question that Indonesia's Constitution states that the earth, water and natural resources contained therein are controlled by the state. Law No. 30 of 2007 on Energy ("**Energy Law**") emphasizes that control by the state covers fossil fuel, geothermal, large-scale hydro, and nuclear, while new and other renewable energy resources are 'merely' **regulated** by the state (and not controlled). This may give rise to an interpretation that, for example, solar and wind power projects are not subject to the TKDN requirements under MEMR 11/2024 – at least based on the current Energy Law. Nevertheless, under the latest draft bill on energy which we have seen, it appears that wind, solar and other renewable energy source will be **controlled** by the state.

Separately, it may be worth noting that under Government Regulation No. 29 of 2018 on Industrial Utilization, the government appears to take another approach – claiming that various resources, including air, wind and waves are resources that are **controlled** by the state. The list of resources controlled by the state in this government regulation is also non-exhaustive. The inconsistency of regulations in the energy sector and industrial sector may lead to different interpretations as to whether the TKDN requirements under the new regime will apply to certain projects. Because of the novelty of the new local content regulations, it remains to be seen how the MEMR will interpret and implement these provisions.

Other projects not covered by the new TKDN requirements

Separately, as the scope of MEMR 11/2024 is electricity infrastructure projects for public interest, power plant projects for own use are not covered by MEMR 11/2024, and therefore, they should not be subject to TKDN requirements. This may earn a sigh of relief from businesses that plan to have their own power plant for private use or for those engage in corporate PPA businesses who, previously, faced some uncertainty as to the applicability of the TKDN requirements to their projects.

Additionally, where a project is funded by an offshore grant or loan, the TKDN requirements will not apply if the loan or grant agreement so provides, as long as both of the following conditions are met:

1. The grant or loan is for one particular project for the domestic market.
2. At least 50% of the funds are from a multilateral or bilateral creditor (whether a development bank or financial institution).

Specifically for loans, this exemption applies to a wide range of loan documents, i.e., government offshore loans, government forwarding offshore loans, and direct lending to business entities (whether with or without government security).

2. No more component-by-component requirement.

One of the cornerstones of the Past MOI Regulation was that there was a minimum local content requirement (as a percentage of the total project cost) for goods, for services, and for combinations of goods and services. **Particularly for solar power plants**, there was an additional layer of minimum requirements for various goods components (e.g., solar panels, batteries, cables) which differed depending on the type of solar power plant (i.e., spread-standalone, centralized-standalone, or centralized-connected).

Now all of these component-by-component and goods-by-goods requirements have been removed by MEMR 11/2024 and MEMR 191/2024. The new regime takes an overall approach to local content requirements, where there is no more distinction between components for goods, for services and for combinations of goods and services. Instead, there is only one level of local content that must be achieved for each type of power plant, which is **a combination of goods and services**.

This new approach consequently provides greater flexibility to project developers in allocating the various components (i.e., goods and services) as long as the total cumulative results of combined goods and services meet the limit prescribed for the project. We set out the new local content requirements in Annex 1. In this connection, the scope of goods and services that can be included in local content calculation for some types of power plants has

been adjusted from the Past MOI Regulation, with some new components being added and other components being removed.

Despite this new approach, the MEMR is still looking to ensure that certain products are procured domestically. MEMR 11/2024 sets out that procurement for the development of electricity infrastructure must be done using the Domestic Product Appreciation Book (*Buku Apresiasi Produk Dalam Negeri*), which sets out, (among other things) certain goods service providers that must be sourced domestically. In the oil and gas sector, the MEMR (through the Directorate General of Oil and Gas) already has this 'book', which is accessible on their website. Project developers will need to keep an eye on the version issued by the Directorate General of Electricity ("**DGE**") and Directorate of New and Renewable Energy ("**DGNRE**").

3. Past, present and near future projects: to relax or not to relax…?

MEMR 11/2024 provides that for hydro, geothermal, solar, steam, gas, gas and steam power plants, as well as transmission lines, and substations, which are either in the planning or the construction stages, or which have achieved commercial operation after 2021 but whose TKDN have not been verified, then the TKDN requirements under this regulation apply.

Other types of power plants (wind, biomass, biogas, waste and gas machine) which are in the planning, construction, or commercial operation stages, are not subject to this regulation. We believe that this difference in treatment is simply because under the old regime, there was no TKDN applicable for wind, biomass, biogas, waste, and gas machine power projects.

For solar projects whose PPAs are signed before 31 December 2024 with a targeted COD by 30 June 2026 in accordance with the RUPTL, MEMR 11/2024 offers further relaxations until 30 June 2025, provided all of the following conditions are met:

1. The list of electricity infrastructure development projects for PLTS is determined in a coordination meeting held by the coordinating ministry having jurisdiction over the energy sector.
2. The electricity infrastructure development project uses solar modules that are either (i) assembled in Indonesia or (ii) imported as a whole, by an industrial solar module company that is either (x) local or (y) offshore, that has an investment commitment to produce solar modules in Indonesia and to fulfil the local content requirements for solar modules in accordance with prevailing regulations. The commitment is to be shown with a statement letter issued by the industrial solar module company.
3. There is a commitment to complete the production of solar modules no later than 31 December 2025.

4. More instruments to come!

MEMR 11/2024 hints at more instruments to come – to be issued by the MEMR, the DGE or the DGNRE, regarding:

1. Preferential price treatment for the procurement process of goods or services for electricity infrastructure projects.
2. Specific TKDN requirement for electricity export infrastructure.
3. The Domestic Product Appreciation Book.

With the high anticipation of exporting electricity to neighboring countries and the ambitious target to develop much more renewable projects in Indonesia, it remains to be seen how the authorities will accommodate these goals while still supporting Indonesian goods and services.

DGE and DGNRE have also issued further decrees on the procedure for calculating the fulfillment of TKDN requirements for power plants, transmission networks and substations.

Annex 1

TKDN requirement under MEMR 191/2024

No.	Type of power plant	Cumulative Combined Goods and Services	Goods and Services Component
1.	Steam (PLTU)	• ≤ 600MW: 27.18% • > 600MW: 18.83%	Steam turbine, boiler, generator, electrical instrument and control, balance of plant and/or civil and steel structure, consultant service (feasibility study), integrated construction service (engineering, procurement, and construction), inspection service, test service, certification service and/or supporting services
2.	Gas (PLTG)	10.39%	Gas turbine, generator, electrical, instrument and control, balance of plant, and civil and steel structure, consultant service (feasibility study), integrated construction service (engineering, procurement, and construction), inspection service, test service, certification service and/or supporting services
3.	Gas and steam (PLTGU)	21.93%	Gas turbine, generator, heat recovery steam generator, steam turbine, electrical, instrument and control, balance of plant, and civil and steel structure, consultant service (feasibility study), integrated construction service (engineering, procurement, and construction), inspection service, test service, certification service and/or supporting services
4.	Gas machine (PLTMG)	23.96%	Gas engine, generator, fuel supply, electrical, instrument and control, balance of plant, and civil and steel structure, supporting material, consultant service (feasibility study), integrated construction service (engineering, procurement, and construction), inspection service, test service, certification service and/or supporting services
5.	Geothermal (PLTP)	• ≤ 60MW: 24% • > 60MW: 29% • Partial projects: 20%	Civil work, well drilling, fluid collection and reinjection system, generator, interconnection network, survey service, consultant service (feasibility study), FEED service, integrated construction service (engineering, procurement, and construction), inspection service, test service, certification service and/or supporting services
6.	Hydro (PLTA)	• ≤ 10MW: 45% • >10 – 50 MW: 35% • >50MW: 23%	Civil, metalwork, electro-mechanical, electrical, instrument and control, interconnection appliances/network, consultant service (feasibility study), integrated construction service (engineering, procurement, and construction), delivery service, and/or supporting services (including licensing, certification, test, inspection and/or other services)

No.	Type of power plant	Cumulative Combined Goods and Services	Goods and Services Component
7.	Solar (PLTS)	20%	Solar module, inverter, module support structure/mounting, cable and wiring, balance of system (including: battery, distribution panel, combiner box, transformer and others - adjusted to the offgrid or ongrid PLTS configuration), protection system, and interconnection equipment/network, consulting service (feasibility study, detailed engineering design, survey), construction service (engineering, procurement, and construction,), shipping service, and/or supporting services (including licensing, certification, testing, inspection and/or other services).
8.	Wind (PLTB)	15%	Civil, metalwork, electro-mechanical, electrical, instrument and control, balance of system (including: battery, distribution panel, transformer, and protection system, etc. - adjusted to the configuration of the wind farm), interconnection equipment/network, consulting service (feasibility study, detailed engineering design, survey), construction service (engineering, procurement, and construction), delivery service and/or supporting services (including licensing, certification, testing, inspection and/or other services).
9.	Biomass (PLTBm)	21%	• Direct materials and equipment: purchase price of direct materials or finished goods (boiler, genset, pressure vessel, pumps, and other machinery), procurement cost, delivery, import duties and taxes, loading and unloading, handling and transportation, insurance, receiving and inspection cost, and/or royalty; • Project management and engineering: labor, work facilities, consumable material cost, and/or project indirect cost (over head); • Work tools and work facilities: rental of equipment (crane, forklift), work tool, and/or buildings/land for work facilities; • Construction and fabrication costs: mobilization/demobilization, labor cost, consumables, and/or equipment cost; and/or • General services: insurance, license and patent, utilities, spare parts maintenance and repair, quality assurance, OHS and/or factory indirect costs (gas, diesel, lubricant, coolant, hydraulic oil).

No.	Type of power plant	Cumulative Combined Goods and Services	Goods and Services Component
10.	Biogas (PLTBg)	25.19%	• Direct materials and equipment: purchase price of direct materials or finished goods (boiler, generator, pressure vessel, pump, and other machinery), procurement costs, shipping, import duties and taxes, loading and unloading, handling and transportation, insurance, receiving and inspection costs, and/or royalties. • Project management and engineering: labor, work facilities, consumable material costs, and/or project indirect costs (over head); • Work tools and work facilities: rental of equipment (crane, forklift), work tools, and/or buildings/land for work facilities; • Construction and fabrication costs: mobilization/demobilization, labor cost, consumables, and/or equipment cost; and/or • General services: insurance, license and patent, utilities, maintenance and repair of spare parts, quality assurance, OHS and/or factory indirect costs (gas, diesel, lubricant, coolant, hydraulic oil)
11.	Waste (PLTSa)	16.53%	• Direct materials and equipment: purchase price of direct materials or finished goods (boiler, genset, pressure vessel, pump, and other machinery), procurement cost, freight, import duties and taxes, loading and unloading, handling and transportation, insurance, receiving and inspection cost, and/or royalty; • Project management and engineering: labor, work facilities, consumable material cost, and/or project indirect cost (over head); • Work tools and work facilities: rental of equipment (crane, forklift), work tool, and/or buildings/land for work facilities; • Construction and fabrication costs: mobilization/demobilization, labor cost, consumables, and/or equipment cost; and/or • General services: insurance, license and patent, utilities, maintenance and repair of spare parts, quality assurance, OHS and/or factory indirect costs (gas, diesel, lubricant, coolant, hydraulic oil).

No.	Type of power plant	Cumulative Combined Goods and Services		Goods and Services Component
12.	Transmission lines	• Above the ground, high voltage 150 kV:	60.71%	Direct materials (raw materials) and equipment (finished goods), project management and engineering, tools, construction and fabrication, and general services.
		• Above the ground, extra high voltage 275 kV:	65.65%	
		• Above the ground, extra high voltage 500 kV:	38.13%	
		• Ground, high voltage 150 kV:	56.40%	
13.	Substations	• Substation, high voltage 150 kV:	39.87%	
		• Substation, extra high voltage 275 kV:	24.79%	
		• Substation, extra high voltage 500 kV:	13.28%	
		• Gas insulated switchgear, high voltage 150 kV:	12.95%	
		• Gas insulated switchgear, extra high voltage 500 kV:	17.38%	

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