

## **Government exempts shipyards, railways and aircraft from VAT**

**Jakarta:** In addition to tax incentives in the form of a tax holiday and tax allowance in the Second Economic Package, the government will also provide incentives in the form of an exemption of Value Added Tax (VAT) relating to certain transport sectors.

Minister of Finance Bambang P.S. Brodjonegoro stated that the exemption has been stipulated in Government Regulation No. 69 of 2015 on the Import and Delivery of Transport Equipment and Transfer of Certain Taxable Services Related to Certain Means of Transportation that are free from VAT. "In essence, this regulation provides an incentive, i.e. VAT is not collected for some sectors of transportation, primarily shipyards, railways as well as aircraft, including spare parts," he explains.

The Minister believes that the regulation can reduce production costs for Indonesian vessels, such as fishing vessels, navy patrol boats, customs, and transportation. Thus, these ships can be produced by domestic manufacture at a more competitive cost.

"This was delivered in the first package, but we wish to emphasize that the PP was already issued, and this means that the industry has been able to benefit from it," the minister stated.

*source: <http://www.kemenkeu.go.id/en/Berita/government-exempt-vat-shipyard-railway-and-aircraft>*

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## **Indonesia policy aids shipbuilders**

**Jakarta:** A new Indonesian government economic policy package unveiled Sept. 29 includes tax incentives to lure investment and spur on growth of the country's shipbuilding industry. Government Regulation No. 69, Year 2015 exempts value-added tax on imported components for transportation industries, such as shipbuilding, trains and aircraft, said Finance Minister Bambang Brodjonegoro. The value-added tax will not be collected nor covered by the government.

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Shipbuilders have long sought the tax incentive to cut costs on shipbuilding components and help make their domestic vessels competitive against imported ones. The Head of the Indonesia Shipbuilding and Offshore Association Eddy Kurniawan Logam stated that thanks to the scrapping of VAT, the price of vessel components would decrease. He said about 60 percent of building costs for a new vessel go to buying components and materials, 20 percent to 30 percent to pay workers, and therefore shipbuilders could still have a profit margin of 10 percent to 20 percent.

*Source: <http://www.breakbulk.com/indonesia-policy-aids-shipbuilders/>*

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### **PLN should focus on power distribution**

Jakarta (ANTARA News) - The state electricity company PT PLN is expected to focus on managing the transmission and distribution of electricity to the public. As the second-largest state company by assets, PLN holds a monopoly on the distribution of electricity and is tasked with meeting the electricity needs of the Indonesian people. Bpk Jarman, the Energy and Mineral Resources Ministry's (ESDMs) director general for electricity and energy utilization, stated that PLN was expected to be a world-class electricity company taking into consideration its central role in addressing the nation's electricity transmission and distribution needs. "In the years to come, PLN should focus on dealing with the transmission and distribution of electricity to the public, while the generating process can later be implemented by the developers," Bpk Jarman remarked during a national congress on electric power here on Thursday.

He noted that in order to support this, the government has formulated ESDM Regulation No.1 of 2015 on "power wheeling," which aims to facilitate private developers in using existing networks, either privately owned or owned by PLN. In addition, Jarman noted that the government has also put into effect ESDM Regulation No.3 of 2015 on Benchmark Pricing that aims to accelerate the process of procurement of electricity through the mechanism of "Independent Power Producers" (IPP).

"The role of the private sector, through the IPP mechanism, is expected to meet national electricity needs, with a capacity of 25,000 MW out of the target of 35,000 MW, which was launched by President Joko Widodo's (Jokowi's) government," he noted.

The electricity crisis continues to loom over numerous parts of Indonesia. The diminishing supply has been attributed to the constant increase in electricity demand and in the delays encountered in the construction of power plants. Inaugurating the national congress on electric power, Vice President Jusuf Kalla pointed out that miscalculation was another reason for the electricity crisis. "The electricity crisis is taking place because we have so far made incorrect calculations and planning because we thought that electricity demand was aligned with economic growth," the vice president remarked. Kalla explained that if economic growth reaches six percent, electricity demand will increase by nine percent; and if the population increases by 1.5 percent, electricity demand will increase by 15 percent.

The vice president noted that the government should increase its power generation capacity by 10 thousand MW every three years to meet the country's electricity demand. "The target to add 10,000MW of power generation capacity every three to five years has yet to be met," Kalla noted. He pointed out that electricity cannot be replaced, as it is one of the three main pillars of infrastructure. Kalla noted that along with rapid technological advancements, electricity requirements also increase, and thus, supply should be maintained. "The more advanced a nation, the higher the electricity demands," the vice president affirmed.

Further, he stated that taking into account the country's growing population and economy, the national electricity reserve should be 30 percent of existing capacity. "Our ideal electricity reserve should be 30 percent. Now, we have 54,000 MW, so we must have at least 15,00 MW as reserves to prevent power outages," Jusuf Kalla noted. The current electricity reserve is only 10 percent, which has led to power outages in several areas.

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The vice president has recommended accelerating the construction of power projects, with a total generation capacity of 35,000 MW by PLN through the IPP mechanism that involves private players. "PLN can provide only about Rp400 to Rp500 trillion (about US\$ 30.4 billion-US\$ 38 billion) to build power plants with a total generation capacity of 35,00 MW. We need more private players to make electricity widely available," Kalla noted.

With the help of this funding, PLN is expected to build power plants with a total generation capacity of 10,000 MW, while the construction of a section to generate 25,000 MW will be given to the private sector through the IPP mechanism. The vice president also encouraged PLN to focus on transmission and distribution companies to supply electricity from power plants owned by IPP developers. To support the annual economic growth target of 6.5 percent, the government will develop a 35,000 capacity power plant program, which will be implemented within the next five years.

President Jokowi remarked that two targets have been outlined in Indonesia to tackle the power crisis in the next five years. The two targets are to build new power plants with a total capacity to generate 35,000 MW of electricity and to achieve a household electrification ratio of 100 percent by the end of 2019. Early this month, the president called ESDM Minister Sudirman Said to discuss the government's program to generate 35,000 MW of electricity. "The president had called me to discuss the electricity program with regard to the procurement of land and agreements," the ESDM minister remarked after a meeting with the president. He said President Jokowi is concerned about the implementation of the power projects with a total generation capacity of 35,000 MW plus the generation of an additional 7,900 MW in the next five years. "I reported to the president on the progress made in the One-Stop Integrated Service at the Capital Investment Coordinating Board (BKPM), but it must be supported through similar initiatives at provincial and district levels," he noted.

Sudirman revealed that he would tour the provinces and districts with the home affairs minister to spread awareness regarding the electricity policy launched by the central government.

*source: <http://www.antaraneews.com/en/news/98103/pln-should-focus-on-power-transmission-and-distribution>*



## New Reg seeks to kick start local shipbuilding industry

*Ahmad S. Djoyosugito, S.H., LL.M*

Government Regulation no. 69/2015 (“**GR 69/2015**”) has been issued in order to improve the competitiveness of the shipbuilding industry in Indonesia. There was a VAT exemption in the past in the form of an Exemption Letter (*Surat Keterangan Bebas* or **SKB**) but after 31 Dec 2010, the SKB was no longer issued. By the issuance of this regulation, the exemption automatically applies.

GR 69/2015 stipulates that VAT free status will be given to the importation of ships, river and lake transport, ferry transportation, fishing boats, harbor pilot boats, tugboats, barges, and spare parts as well as shipping and safety equipment which is imported and used by a National Shipping Company, National Fishing Company, National Port Services Provider Company and National River, Lake, and Ferry Transport Service Provider Company in accordance with their business activities.

The following is a translation of the Elucidation of GR 69/2015:

### **‘GENERAL**

*In order to encourage the development of national land, sea and air transport and to ensure the availability of adequate equipment for the Indonesian National Army and the Indonesian National Police who are tasked with protecting the territory of the Republic of Indonesia, both from external and internal threats and to implement the provisions of Article 16B paragraph (1) of Law No. 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods as amended by Act No. 42 of 2009, regarding Third Amendment of Law No. 8 of 1983 on Value Added Tax on Goods and Services and Sales Tax on Luxury Goods, a facility needs to be provided in terms of taxation, such as Value Added Tax (“VAT”) not being levied on the import and delivery of certain transportation equipment and the delivery of services related to certain taxable transport equipment, which is free of VAT.*

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*In addition, the provision of facilities to not collect VAT in order to improve the competitiveness of the industry and service providers in the country, given that VAT will not be collected, industries that supply Taxable Goods or Taxable Services may credit the input tax paid at the time of securing the input factor. The provision of facilities in the field of taxation is temporary, if business specific sectors are already independent, then a tax facility no longer needs to be granted.*

*Under these conditions, several provisions in Government Regulation No. 146 of 2000 on the Import and/or delivery of Specific Taxable Goods and/or Delivery of Certain Taxable Services Exempt from Value Added Tax, as amended by Government Regulation No. 38 Year 2003, regarding Amendment of Government Regulation No. 146 of 2000 on the import and/or Delivery of Specific Taxable Goods and/or Delivery of Certain Taxable Services Exempt from Value Added Tax in the Form of a Tax Facility, namely Exemption from the Imposition of Value Added Tax on the Import and Delivery of Specific Transport Equipment shall be revoked and declared invalid by this Government Regulation.*

*It is necessary to supervise the implementation of such facilities to be used in accordance with its purposes and objectives. If not, then there will be a penalty in accordance with the provisions of the regulations.'*



## **New Reg creates Power wheeling market**

*Reza Syarief, S.H., LL.M*

### **Introduction**

Electricity in Indonesia is predominantly provided by either the state electricity company, PLN, which provides electricity to consumers through the national grid, or through captive (or self-use) generation facilities. Electricity sold to consumers by PLN is generally either generated by facilities owned by PLN or purchased from IPPs. Geographic areas without access to the national grid may receive limited electricity through captive power generation facilities owned by cooperatives or private parties, as well as through other means (including, under limited circumstances, importation of electricity).

Law No. 30 of 2009 on Electricity (the “**2009 Electricity Law**”) provides existing and prospective participants in Indonesia’s power generation industry with a more comprehensive regulatory regime, thereby providing a prospective basis for facilitating a much needed increase in investment in power generation infrastructure. The 2009 Electricity Law also provides a division of business areas for the integrated electricity business, a regional tariff scheme applicable to certain business areas, utilization of electricity networks for telecommunications, multimedia, system informatics purposes as well as cross border power purchases.

The 2009 Electricity Law only sets out the broad regulatory structure and leaves out many of the details for later implementing regulations. Government Regulation No. 14 of 2012, as amended by No. 23 of 2014, on Power Supply Business (“**GR 14/2012**”), is one of various implementing government regulations stemming from the 2009 Electricity Law. It provides an open access scheme for transmission and distribution networks and calls for a ministerial regulation to set out further rules governing joint utilization of the networks. A new regulation was then issued in this respect.

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The following is a summary of Minister of Energy and Mineral Resources Regulation No. 1 of 2015 on Electric Power Supply Cooperation and Joint Utilization of Electric Power Network (“MEMR Regulation No. 1/2015”):

### **1. Cooperation by the holder of electric power supply license.**

A holder of an electric power supply license (“IUPTL”) for power generation is entitled and obliged to provide electric power within a certain defined business area designated in its IUPTL (“IUPTL Business Area”). However, such IUPTL holder may directly engage in certain kinds of electricity cooperation [as further noted in items 2 through 5 below, even though it may result ultimately in electric power being furnished beyond the IUPTL Business Area]. Such forms of cooperation do not require the IUPTL holder to obtain a new IUPTL.

### **2. Power Wheeling**

Unlike the electric power generation business, the electric power transmission business is not restricted by the IUPTL Business Area. An IUPTL holder permitted to engage in the power transmission business is obligated to provide other parties an opportunity to jointly utilize its own facilities in its electric power transmission network. The detailed scheme for joint utilization of power transmission networks shall be implemented in accordance with the transmission network’s capacity and regulations pertaining to electric power transmission networks.

### **3. Joint utilization of electric power distribution network**

The electric power distribution business entails the provision of electric power from a transmission system or power plant to the consumer. An IUPTL holder permitted to engage in such power distribution business and shall be obligated to provide other parties an opportunity to jointly utilize its own electric power distribution network. The detailed scheme for joint utilization of power distribution networks shall be implemented in accordance with the power distribution network’s capacity and regulations pertaining to electric power distribution.

#### **4. Captive power interconnection with electric power networks**

A captive power facility operated pursuant to an operating license (*Izin Operasi*) can be interconnected to an electric power network owned by the IUPTL holder and is subject to an interconnection charge approved by the Minister or Governor in accordance with their respective authority.

##### **Excess Power**

An IUPTL holder shall be able to purchase excess power from other IUPTL holders in order to strengthen local power supply systems. In relation thereto, the purchaser must obtain an approval to purchase such excess power supply from the Directorate General or Minister or Governor in accordance with its authority. Any Purchase of Excess Power Agreement existing before the enactment of MEMR Regulation No. 1/2015 shall remain valid until its termination.

##### **Analysis**

Power wheeling opens up a new channel for power production and delivery for both private and public systems. In the event a location lacks power generation facilities to supply area loads, other sources can now provide loads via transmission system extensions. A power producer must of course have the capacity to meet its contractual obligations under its Power Purchase Agreement (PPA) before it can supply excess power beyond the scope of the region it is currently supplying but if this is the case, 'wheeling' over existing lines can be carried out to deliver power to the secondary site. This excess power can be sold to the secondary user under a separate and independent contract on a cost per unit basis.

The wheeling arrangement must however be approved by the government, and the maximum five-day period which is given to the government to accept or reject an application for power wheeling is meant to avoid hold-ups and long processing delays. However, despite this good intention, we note that since there is no express punishment or sanction for not meeting the deadline, we query whether it will be of optimal effectiveness in practice.

In conclusion, MEMR Regulation 1/2015 potentially opens up new opportunities for players in the power sector and could free up existing underutilized load. MEMR Regulation No. 1/2015 is thus a positive piece of legislation, and power players should take note of any new opportunities and take them into account in the formulation of future business plans.