

GLOBAL RENEWABLE ENERGY Guide

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2017



GLOBAL
RENEWABLE
ENERGY
Guide

2017

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CONTENTS

1- AUSTRALIA, <i>White & Case LLP</i>	3
2- AZERBAIJAN, <i>Baker & McKenzie - CIS</i>	15
3- BRAZIL, <i>Machado, Meyer, Sendacz E Opice Advogados</i>	23
4- CHILE, <i>Larrain Y Asociados</i>	41
5- CZECH REPUBLIC, <i>White & Case (Europe) LLP, Prague</i>	49
6- DENMARK, <i>Bech-Bruun Law Firm P/S</i>	54
7- EGYPT, <i>Sharkawy & Sarhan Law Firm</i>	65
8- FINLAND, <i>Asianajotoimisto White & Case Oy</i>	73
9- GERMANY, <i>White & Case LLP, Duesseldorf</i>	86
10- HUNGARY, <i>Lakatos, Köves and Partners</i>	101
11- INDONESIA, <i>Ali Budiardjo, Nugroho, Reksodiputro</i>	109
12- IRELAND, <i>Arthur Cox</i>	119
13- ISRAEL, <i>Erdinast, Ben-Nathan, Toledano & Co. Advocates</i>	137
14- JAPAN, <i>White & Case LLP, Tokyo</i>	147
15- KAZAKHSTAN, <i>White & Case, Kazakhstan</i>	158
16- KYRGYZSTAN, <i>Kalikova & Associates</i>	164
17- LUXEMBOURG, <i>Arendt & Medernach SA</i>	171
18- MACEDONIA, <i>Kimova Law Office</i>	185
19- POLAND, <i>White & Case, Warszawa</i>	189
20- RUSSIA, <i>White & Case LLC, Moscow</i>	197

21- SOUTH AFRICA,	
<i>White & Case</i>	207
22- TURKEY,	
<i>Çakmak Avukatlık Ortaklığı</i>	217
23- UKRAINE,	
<i>Avellum</i>	230
24- UNITED ARAB EMIRATES,	
<i>White & Case, Abu Dhabi</i>	239
25- UNITED KINGDOM,	
<i>White & Case LLP, London</i>	245
26- UNITED STATES OF AMERICA,	
<i>White & Case LLP, Washington, DC</i>	273

FOREWORD

ÇAKMAK PUBLISHING is pleased to publish this 2017 edition of the *Global Renewable Energy Guide*, which has been published annually since 2010.

The *Global Renewable Energy Guide* is designed to provide an overview of applicable legislation and available incentives to renewable energy companies worldwide. It will aid investors, lenders and government agencies and their counsel in understanding and comparing different facets of renewable energy regulation in different jurisdictions around the world.

The publication maintains a Q&A format with a common questionnaire set by the editors and answered by leading practitioners from 26 jurisdictions around the world.

The following are notable observations from this 2017 edition of the *Guide* regarding the regulatory regime and available incentives for renewable energies in the 26 jurisdictions explored:

- Most of the countries, 21 out of 26, have an independent regulatory authority to supervise and regulate the electricity sector, including renewable energies, while the remaining 5 countries opt for regulation of the electricity sector by a Ministry.
- Most of the countries, 22 out of 26, provide for tax advantages for the generation of electricity from certain or all types of renewable energy sources.
- Purchase guarantees (feed-in tariffs) or similar support mechanisms are available in most of the countries, 20 out of 26.
- The ratio of ensuring a minimum price for the electricity generated by renewable energy companies is high as well (14 countries out of 26 countries).
- In 13 out of the 26 countries, priority for connection to and/or usage of the transmission and/or distribution system is provided for renewable energy companies.
- 11 out of the 26 countries provide for additional incentives for the domestic manufacturing of equipment and materials.

We gratefully acknowledge the contributions of all the authors of this publication, who have been selected for their recognized expertise in the field of renewable energy law, and thank them for making this *Guide* a reality.

We also gratefully acknowledge the support of **Gama Enerji A.Ş.**, **IC İctaş Enerji** and **Zorlu Enerji** for their support in the publication of this *Guide*.

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Courtney Kirkman Gücük
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Editors

Ankara, January 2017

INDONESIA



Ayik Candrawulan
Gunadi



Theodoor Bakker



Mahatma Hadhi

ALI BUDIARDJO, NUGROHO, REKSODIPUTRO

GENERAL

1. What are the nature and importance of renewable energy in your country?

Although Indonesia is known as a major fossil fuel producing country, the Minister of Energy and Mineral Resources (“MEMR”) of Indonesia is currently trying to boost the utilization of renewable energy in Indonesia. This is conducted by way of focusing on the utilization of various renewable energy resources for provision in electricity. This is also in line with the Law No. 30 of 2009 concerning Electricity (“**Electricity Law 2009**”), which states that a source of primary energy (whether domestic or offshore) must be utilized optimally to guarantee a sustainable provision of electricity, where in such utilization, the utilization of renewable energy resources must be prioritized.

However, challenges still exist in accelerating the development of renewable energy in Indonesia. Specifically, for the power sector, the following are the points of challenges:¹

- Grid integration of variable renewable energy;
- Lack of bankable off-takers (for off-grid areas), risk of inadequacy of system design, and operational issues due to the insufficient operation and maintenance of systems;
- Cost recovery for PT PLN (Persero) (Indonesia’s national electricity company);
- Project finance opportunities for renewable energy projects in Indonesia are limited as local banks do not allocate sufficient resources to this segment;
- Land acquisitions issues are common due to a lack of clarity regarding land ownership in many locations, while the process of land acquisitions is often costly and time consuming; and
- Technology specific challenges (i.e. solar, wind, etc.) include a lack of awareness of solutions, the need to build local capacity, lack of streamlined permitting and regulatory frameworks, and the absence of detailed resource assessments.

¹ Source: International Renewable Energy Agency: Renewable Energy Prospects in Indonesia (issued on March 2017).

Nonetheless, it is the Government's commitment to boost up the utilization of renewable energy as a source for electricity supply to meet the country's further electricity demand while reducing the greenhouse gas emission – this can be seen by the fact that the Government continuously issues new regulations and amendments to existing regulations in relation to utilization of renewable energy resources, where such act is implemented to make sure that the sector is being properly regulated. This is done in hopes to attract and trigger the acceleration of the development of the renewable energy power plant business, considering that now the Government has provided more clarity for the sector. To the present, there have been over 62 renewable energy-based power plants which are being developed under the regime of the new regulations.

2. What are the definition and coverage of renewable energy under the relevant legislation?

Law No. 30 of 2007 on Energy (“**Energy Law 2007**”) defines renewable energy resources as energy resources which are produced from sustainable energy resources if they are being managed well, including, among others, geothermal, wind, bioenergy, solar, streams and falls of water as well as movement and differences in the temperature of sea layers.

REGULATION

3. How is the renewable energy sector regulated? What are the principal laws and regulations?

The renewable energy sector is mainly regulated by the Energy Law. To implement the Energy Law, the Government of Indonesia has issued the Government Regulation No. 79 of 2014 on National Energy Policy (“**GR 79/2014**”).

Although not specifically implementing the renewable energy policy as described in the Energy Law, GR 79/2014 has set forth a number of policies regarding renewable energy. The renewable energy policy provided under the Energy Law and GR 79/2014 shall be further implemented by the relevant ministries, particularly the MEMR (via the Directorate General of New Renewable Energy and Energy Conservation).

4. What are the principal regulatory bodies in the renewable energy sector?

The MEMR has four Directorate Generals:

- (i) the Directorate General of Oil and Gas (*Direktorat Jenderal Minyak dan Gas Bumi*);
- (ii) the Directorate General of Electricity (*Dirjen Ketenagalistrikan*) (“**DGE**”);
- (iii) Directorate General of Mineral and Coal; and
- (iv) the Directorate General of New Renewable Energy and Energy Conservation (*Direktorat Jenderal Energi Baru, Terbarukan dan Konservasi Energi*) (“**DG EBTKE**”).

DG EBTKE is the authorized Directorate General for renewable energy matters. In particular for power generation using renewable energy resources, renewable energy policies are under the co-authority of DGE and DG EBTKE.

5. What are the main permits/licenses required for renewable energy projects?

In Indonesia, an extensive amount of licenses is required in order to implement renewable energy projects (especially for the provision of electricity), which consists of main and supporting permits/licenses.

The main licenses are as follows:

(a) *Electricity Supply Business License*

For the provision of electricity, in accordance with the Electricity Law, the license that will be issued to an independent power producer (“**IPP**”) is an Electricity Business License or locally known as *Izin Usaha Penyediaan Tenaga Listrik* (“**IUPTL**”). The procedure and requirements for obtaining an IUPTL is further regulated in GR 14/2012 and Regulation of the Minister of Energy and Mineral Resources No. 35 of 2013 concerning Procedure of Issuance of Electricity Business License, as amended with Regulation of the Minister of Energy and Mineral Resources No. 12 of 2016 concerning amendment to the Regulation of the Minister of Energy and Mineral Resources No. 35 of 2013 concerning Procedure of Issuance of Electricity Business License (“**MEMR Regulation 35/2013, as amended**”).

Prior to obtaining the IUPTL, an IPP is required to obtain a Temporary IUPTL or locally known as *IUPTL Sementara* (“**IUPTL-S**”). After the IPP has fulfilled the administrative and technical requirements as set out in the MEMR Regulation 35/2013, as amended, i.e. conducting a feasibility study and fulfilling funding ability, the IPP may then be eligible to obtain an IUPTL.

An IUPTL is issued by the following various government entities:

(i) The MEMR, for business entities which:

- business areas cover cross-provinces;
- are a State-Owned Enterprise; and
- sell electricity and/or rent their electric power grids to a holder of an electricity supply business license issued by the MEMR.

(ii) Governor, the head of province, for business entities which:

- business areas cover cross-regencies/cities or within one province; and
- sell electricity and/or rent their electric power grids to a holder of an electricity supply business license issued by the governor.

Save for IPPs, which are a foreign investment company, or locally known as *Penanaman Modal Asing* (PMA Company), the IUPTL will be issued by the Head of Investment Coordinating Board or *Badan Koordinasi Penanaman Modal* (“**BKPM**”) on behalf of the MEMR.

(b) *Environmental Licenses*

Pursuant to Regulation of Minister of Environmental of Republic of Indonesia Number 05 of 2012 regarding Type of Business and/or Activities that Mandatory to Own Environmental Impact Analysis, renewable energy based power plants with the following criteria are required to obtain an Environmental Impact Analysis (*Analisis Mengenai Dampak Lingkungan* or “**AMDAL**”):

- (i) Construction of a geothermal power plant with capacity equal to or more than 55 MW;
- (ii) Construction of a hydroelectric power plant with weir height of approximately 15 m, or capacity equal to or more than 50 MW;
- (iii) Construction of a waste power plant with methane harvesting process with capacity of or more than 30 MW; and
- (iv) Other renewable energy based power plant construction (i.e., wind power plant, solar power plant, biomass power plant,)

since such activities may have a significant impact on (i) chemical physical aspects, especially quality of air and water as well as ground water; and (ii) social, economic, and cultural aspects, especially upon land clearance and social disturbance.

Pursuant to the Environmental Law in conjunction with Governmental Regulation Number 27 of 2012 regarding Environmental Permit, any company which has already obtained an AMDAL or Environmental Management Efforts Report (*Upaya Pengelolaan Lingkungan* or “UKL”)/Environmental Monitoring Efforts Report (*Upaya Pemantauan Lingkungan* or “UPL”) must also submit an application to obtain an environmental permit, which is issued by the Minister of Environment, Governor, or Mayor/Regent. The granting of such environmental permit is based on either:

- (i) an environmental feasibility study carried out by an independent third party, which is approved by the AMDAL Assessment Commission, the Minister of Environment, the Governor or Head of Regent/Mayor, as appropriate; or
- (ii) a recommendation on the UKL and UPL issued by the appropriate government or regional government institution responsible for the environmental management and control of the applicable area.

6. Is there a category of “license-exempt generation”? If so, does it cover some types of renewable energy based generation?

No, there is not. In Indonesia, all types of power generation require licenses regardless of what energy is being used as the base of generation.

7. Has there been any reform related to renewable energy regulation since 2016? Do you expect any reform/change in the near future?

On 20 February 2017, President Jokowi issued the Presidential Regulation No. 14 of 2017 concerning the Amendment on Presidential Regulation No. 4 of 2016 concerning the Acceleration on Electricity Infrastructure Development. This new Presidential Regulation is aimed to actualize the Government’s goal to put forward the electricity infrastructure development in Indonesia through the implementation of the 35,000 MW program.

To support this purpose, since the beginning of 2017, the MEMR has issued several regulations which are critical for the implementation of electricity business in Indonesia. So far, 62 new regulations and decrees issued by the MEMR are in relation to the electricity and renewable energy sector, with the regulations concerning the power purchase agreement between PT PLN (Persero) and the IPP and regulations concerning tariffs and utilization of renewable energy and coal for electricity supply as the most highlighted regulations among those issued in 2017.

Several of the major new regulations in relation to electricity and renewable energy are as follows:

- (i) MEMR Regulation No. 10 of 2017 concerning Power Purchase Agreement (“MEMR Regulation No. 10 of 2017”);
- (ii) MEMR Regulation No. 50 of 2017 concerning Utilization of Renewable Energy for the Electricity Supply (“MEMR Regulation No. 50 of 2017”);
- (iii) MEMR Decree No. 1415 K/20/MEM/2017 concerning Approval of Electricity Supply Business Plan (“RUPTL”) by PT PLN (Persero) for the Years of 2017 – 2026;
- (iv) MEMR Regulation No. 24 of 2017 concerning Mechanism for the Determination of Primary Cost of Supply

- for Power Generation by PT PLN (“MEMR Regulation No. 24 of 2017”);
- (v) MEMR Decree No. 1404 K/20/MEM/2017 concerning Amount of Primary Cost of Supply for Power Generation by PT PLN (“MEMR Decree No. 1404 K/20/MEM/2017”);
- (vi) Government Regulation No. 7 of 2017 concerning Geothermal for Indirect Utilization (“GR No. 7/2017”);
- (vii) MEMR Regulation No. 37 of 2017 concerning Geothermal Working Area for Indirect Utilization; and
- (viii) MEMR Regulation No. 42/2017 concerning Supervision of Business Activities in the Sector of Energy and Mineral Resources on Electricity Sector (“MEMR Regulation No. 42/2017”).
- (e) in a pioneer industry;
- (f) that are located in a remote area, a less-developed area, a contiguous area, or another area deemed needy;
- (g) that keep the environment sustainable;
- (h) that involve research, development, and innovation activities;
- (i) that are made in partnership with micro, small and medium enterprises or cooperatives; or
- (j) in an industry that uses domestically-produced capital goods or machinery and equipment.

Investment facilities available to investors:

Given the government’s current ambition to boost up the utilization of renewable energy and supply of electricity, we are currently expecting further implementing regulations for this sector.

INCENTIVES

8. Are tax advantages available to renewable energy generation companies?

Generally, the Law No. 25 of 2007 regarding Investment Law provides foreign investment with investment facilities for companies:

- (a) that are labor intensive;
- (b) that fall under the category of highly prioritized investments;
- (c) in the infrastructure sector;
- (d) that involve technology transfers;

- (a) reduction of net income tax, depending on the total investment amount made within a specified period;
- (b) import duty exemption or relief for production of capital goods, machinery, or equipment not yet produced in Indonesia;
- (c) import duty exemption or relief on import duty for production of raw materials or components for a specified period upon fulfilment of specified requirements; Value Added Tax exemption or deferment for a specified period for importation or production of capital goods, machinery or equipment not yet produced in Indonesia;
- (d) accelerated depreciation or amortization; and
- (e) Land and Buildings Tax relief for specified business fields in specified regions, areas or zones.

Further, pursuant to the Minister of Finance Regulation No. 21/PMK.011/2010 regarding the Granting on Taxation and Customs Facilities for the Utilization Activity of

Renewable Energy, the utilization of renewable energy is subject to the following tax advantages and/or incentives:

- (a) Withholding tax incentives, such as:
 - discounted net revenue of 30% of the total Foreign Investment amount, to be paid in 6 years at 5% per year;
 - accelerated amortization and depreciation with certain calculation;
- (b) Value Added Tax (VAT) exemption on the importation of taxable goods (i.e. machinery, equipment);
- (c) Import duty exemption; and
- (d) Exemption from certain taxes (which are borne by the government under the State Budget Law and its implementing regulations).

9. Is there a purchase guarantee given by the relevant legislation for the electricity generated by renewable energy companies?

Yes. In accordance with MEMR Regulation No. 50 of 2017, within the framework of promoting the sustainable supply of electricity power, PT PLN (Persero) is obliged to purchase electricity power generated by renewable energy power plants. However, such utilization must be conducted in accordance with the National Energy Policy and the Electricity Supply Business Plan.

10. Is there a minimum price guarantee given by the relevant legislation for the electricity generated by renewable energy companies?

MEMR Regulation No. 50 of 2017 provides the following tariff pricing arrangements for the purchase of electricity from renewable energy power plants:

(i) Solar (Photovoltaics) Power Plants and Wind Power Plants

- (a) If the respective plant's Local Primary Unit Cost (*Besaran Biaya Pokok* or "BPP") is above the average of National BPP, the maximum tariff of electricity purchase price is 85% of the Local BPP; or
- (b) If the respective plant's Local BPP is equal to or below the average of National BPP, the electricity purchase price is based on the mutual agreement of the parties.

(ii) Hydropower Plants

- (a) in the event that the Local BPP is above the National BPP, the maximum tariff of electricity purchase is equal with the applicable Local BPP; or
- (b) in the event that the BPP applicable in Sumatera, Jawa and Bali Area or other Local BPP is equal to or below the National BPP, the price is based on the mutual agreement of the parties.

(iii) Biomass and Biogas Power Plants

The maximum tariff for Biomass/Biogas power plants:

- (a) 85% of the plant's Local BPP if the plant's Local BPP is above the average of National BPP; or
- (b) based on the mutual agreement of the parties if the plant's Local BPP is equal to or below the average of National BPP.

(iv) Waste-based Power Plants

- (a) A maximum of 100% of the plant's Local BPP if the plant's Local BPP is above the National BPP; or
- (b) based on the mutual agreement of the parties if the Local BPP of the plant concerned, which is located in Sumatera,

Java or Bali, is equal to or below the National BPP.

(v) *Geothermal Power Plants*

- (a) Maximum 100% of the plant's Local BPP if the plant's Local BPP is above the National BPP; or
- (b) based on the mutual agreement of the parties if the Local BPP of the plant concerned, which is located in Sumatra, Java or Bali, is equal to or below the National BPP.

The actual price of the electricity purchase must be approved by the MEMR.

11. Has the Paris Agreement under the United Nations Framework Convention on Climate Change been ratified? Is there a carbon market or carbon credits mechanism in your jurisdiction?

Indonesia has ratified the Paris Agreement by virtue of Law No. 16 of 2016 regarding Ratification of Paris Agreement to the United Nations Framework Convention on Climate Change. Indonesia has submitted its Intended Nationally Determined Contribution (“INDC”) related to renewable energy. The priority action of Indonesia is to reduce emissions by 26% (41% with international support) against the business as usual scenario by 2020. Under the leadership of President Joko Widodo, Indonesia has determined priority actions within the national Nawa Cita (Nine Priority Agendas), which includes protecting Indonesia's citizens, encouraging rural and regional development, and improving productivity and global competitiveness.

Furthermore, with respect to the adoption of the Paris Agreement, the Government of Indonesia has not established a carbon credit infrastructure as referred to by the Paris Agreement. However, the Government of Indonesia has implemented “carbon offset”

before the adoption of the Paris Agreement through a mechanism called Reducing Emissions from Deforestation and Forest Degradation (“REDD”). The REDD scheme is expected to enable polluting countries to offset their own emissions by buying carbon credits generated by forest protection and restoration projects, thereby meeting their domestic emission reduction targets without having to impose deep cuts in their own fossil fuel use.

The other policy enacted by the Government of Indonesia before the adoption of the Paris Agreement is the National Carbon Scheme (*Skema Karbon Nusantara* – “SKN”). SKN is a certification and registration mechanism on a voluntary basis for any activity to reduce green house gas emission.

12. Is there a carbon market or carbon credits mechanism in your jurisdiction?

Please refer to our explanation in Section 11 above.

13. Do renewable energy based power plants have priority for connection to the grid?

No, the renewable energy based power plants do not have priority for connection to the grid. In fact, in Indonesia, power plants generated by several types of renewable energy, such as solar (photovoltaic) and wind, are being used as supporting power plants, to supply electricity to the local area where the plant is located – it does not connect to the main grid.

14. Is there an incentive for domestic (local) manufacturing of equipment or materials used in the construction of renewable energy based power plants?

Yes, the use of equipment and material produced by local manufacturers in the construction of renewable energy based power plants are prioritized. This incentive is regulated under Presidential Regulation No. 4 of 2010 concerning Assignment to PT PLN (Persero) to

Accelerate the Development of Renewable Energy, Coal and Gas Power Plants, as amended with Presidential Regulation No. 194 of 2014.

Furthermore, under Minister of Industry Regulation No. 54/M-IND/PER/3/2012 as amended by Minister of Industry Regulation No. 05/M-IND/PER/2/2017 (“**MOI Regulation 54/2012**”), Hydropower, Geothermal and Solar Power Plants are also subject to the requirement of local content (locally known as *Tingkat Komponen Dalam Negeri* – “TKDN”), with different composition as follows:

(i) Hydropower Plant

(a) Installed capacity of up to 15 MW per unit:

- Minimum TKDN for goods is 64.20%;
- Minimum TKDN for service is 86.06; and
- Minimum TKDN for combination of goods and service is 70.76%.

(b) Installed capacity of 15 – 50 MW:

- Minimum TKDN for goods is 49.84%;
- Minimum TKDN for service is 55.54%; and
- Minimum TKDN for combination of goods and service is 51.60%.

(c) Installed capacity of 50 – 150 MW:

- Minimum TKDN for goods is 48.11%;
- Minimum TKDN for service is 51.10%; and
- Minimum TKDN for combination of goods and service is 49%.

(d) Installed capacity of more than 150 MW:

- Minimum TKDN for goods is 47.82%;
- Minimum TKDN for service is 46.98%; and
- Minimum TKDN for combination of goods and service is 47.60%.

(ii) Geothermal Power Plant

(a) Installed capacity of up to 5 MW per unit:

- Minimum TKDN for goods is 31.30%;
- Minimum TKDN for service is 89.18%; and
- Minimum TKDN for combination of goods and service is 42%.

(b) Installed capacity of 5 – 10 MW:

- Minimum TKDN for goods is 21%;
- Minimum TKDN for service is 82.30%; and
- Minimum TKDN for combination of goods and service is 40.45%.

(c) Installed capacity of 10 – 60 MW:

- Minimum TKDN for goods is 15.70%;
- Minimum TKDN for service is 74.10%; and
- Minimum TKDN for combination of goods and service is 33.24%.

(d) Installed capacity of more than 60 – 110 MW:

- Minimum TKDN for goods is 16.30%;
- Minimum TKDN for service is 60.10%; and

- Minimum TKDN for combination of goods and service is 29.21%.
- (e) Installed capacity of 60 – 110 MW:
- Minimum TKDN for goods is 16%;
 - Minimum TKDN for service is 58.40%; and
 - Minimum TKDN for combination of goods and service is 28.95%.

(iii) *Solar*

- (a) Installed capacity of 60 – 110 MW:
- Minimum TKDN for goods is 25.63%;
 - Minimum TKDN for service is 100%; and
 - Minimum TKDN for combination of goods and service is 43.85%.

The TKDN also must meet Indonesian electricity standardization and international standard i.e. International Organization for Standardization (ISO) or International Electro-Technical Commission (IEC).

15. What are the other incentives available to renewable energy generation companies?

Please refer to our explanation in Section 8 above.

STATISTICS

16. What is the percentage of electricity generated based on each type of renewable energy source in the total generation of electricity on a country-wide scale?

Based on RUPTL 2017 – 2026, up until November 2016, the realization of installed capacity of power plants and electricity production from renewable energy resources was as follows:

Realization of Installed Capacity of Renewable Energy Power Plants (in MW)	
Total	6,055
Hydro	4,607
Geothermal	1,338
Biomass	47
Biofuel	51
Solar	11
Other Renewable Energy	1

(Source: RUPTL 2017 – 2026)

Realization of Electricity Production from Renewable Energy Power Plants (in GWh)	
Total	28,972,385
Hydro	17,466,738
Geothermal	9,728,400
Biomass	537,882
Biodiesel/Biofuel	1,222,519
Solar	10,539
Other Renewable Energy	5,307

OTHER**17. Is there anything else you wish to add?**

The MEMR has recently enacted MEMR Regulation No. 48 of 2017. The highlighted provision in this regulation is concerning the transfer of shares, which is applicable for all types of power generation business and particularly for geothermal independent power producer (IPP):

- (a) Geothermal IPP may conduct share transfers on the Indonesian Stock Exchange after it has completed its exploration phase, subject to receiving approval from the Minister of Law and Human Rights of the Republic of Indonesia;
- (b) For transfer of shares conducted privately once the exploration phase is completed, Geothermal IPPs do not need to obtain prior approval from the MEMR. Geothermal must, however, notify the Minister of the transfer within 5 (five) business days from the date of providing notice to and/or obtaining approval from the Minister of Law and Human Rights of the Republic of Indonesia; and
- (c) any change of a member of the board of directors and/or the board of commissioners must be notified to MEMR within 5 (five) business days from the date of providing notice of the change to the Minister of Law and Human Rights of the Republic of Indonesia.

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