

# THE UTILIZATION OF DOMESTIC PRODUCTS IN UPSTREAM OIL AND NATURAL GAS BUSINESS ACTIVITIES

## (Regulation of the Minister of Energy and Mineral Resources Number 15 Year 2013 dated February 22,2013)

BY GRACE OF GOD THE ALMIGHTY  
THE MINISTER OF ENERGY AND MINERAL  
RESOURCES OF THE REPUBLIC OF INDONESIA,

Considering :

- a. in order to implement the provision of Article 3 letter d, Article 11 paragraph (3) letter o, Article 40 paragraph (4), and Article 42 letter h of Law Number 22 Year 2001 on Oil and Natural Gas, it is necessary to prioritize to the use of domestic products in every activity of the procurement of goods and/or service in usptream oil and natural gas business activities;
- b. in order to optimize the prioritization of the use of domestic products, it is necessary to regulate the utilization of domestic products in usptream oil and gas natural gas business activities;
- c. having regards to letters a and b, it is necessary to stipulate a regulation of the Minister of Energy and Mineral Resources on the Utilization of Domestic Goods in Upstream Oil and Natural Gas Business Activities;

In view of:

1. Law Number 22 Year 2001 on Oil and Natural Gas (Statute Book of the Republic of Indonesia Year 2001 Number 136, Supplement to Statute Book of the Republic of Indonesia 4152);
2. Law Number 22 Year 2007 on Investment (Statute Book of the Republic of Indonesia Year 2007 Number 67, Supplement to Statute Book of the Republic of Indonesia 4724);
3. Government Regulation Number 35 Year 2004 on Usptream Oil and Natural Gas Business Activities (Statute Book of the Republic of Indonesia Year 2004 Number 123, Supplement to Statute Book of the Republic of Indonesia Number 4435) as already amended twice and the latest by Government Regulation Number 55 Year 2009 (Statute Book of the Republic of Indonesia Year 2009 Number 128, Supplement to Statute Book of the Republic of Indonesia Number 5047);
4. Presidential Regulation Number 28 Year 2008 dated May 7,2008 on National Industry Policy;
5. Presidential Regulation Number 9 Year 2013 on the Execution of Upstream Oil and Natural Gas Business Activities (Statute Book of the Republic of Indonesia Year 2013 Number 24);

CHAPTER I

GENERAL

Article 1

Referred to in this ministerial regulation as:

6. Presidential Decree Number 59/P Year 2011 dated October 18, 2011;
7. Regulation of the Minister of Energy and Mineral Resources Number 037 Year 2006 dated June 6, 2006 on Procedures for Submitting Plan for the Import and Settlement of Goods Used for the Operation of Upstream Oil and Natural Gas Business Activities;
8. Regulation of the Minister of Energy and Mineral Resources Number 27 Year 2008 dated August 22, 2008 on Supporting Oil and Natural Gas Business Activities;
9. Regulation of the Minister of Energy and Mineral Resources Number 18 Year 2010 on Organization and Working Mechanism of the Ministry of Energy and Mineral Resources (State Gazette of the Republic of Indonesia Year 2010 Number 552);
10. Regulation of the Minister of Energy and Mineral Resources Number 09 Year 2013 on Organization and Working Mechanism of the Special Executive Working Unit of Upstream Oil and Natural Gas Business Activities (State Gazette of the Republic of Indonesia Year 2013 Number 194);

D E C I D E S :

To stipulate: THE REGULATION OF THE MINISTER OF ENERGY AND MINERAL RESOURCES ON THE UTILIZATION OF DOMESTIC PRODUCTS IN USPTREAM OIL AND NATURAL GAS BUSINESS ACTIVITIES

1. Upstream Oil and Natural Gas Business Activity shall be an business activity focused or relying on business activity of oil and natural gas exploration and exploitation.
2. Domestic product shall be goods and/or service, including design and engineering produced and worked by companies investing and producing in Indonesia, which are possible to use imported raw materials/components in the production or the work
3. Local Content hereinafter abbreviated to TKDN shall be the quantity of domestic components in goods, service and combination of goods and service, which is certified in percentage.
4. Contractor shall be business entity or permanent establishment stipulated to undertake exploration and exploitation in a working area on the basis of production sharing contract with the Special Executive Working-Unit of Upstream Oil and Natural Gas Business Activities.
5. Domestic Producer shall be business entity or individual having business activity established on the basis of Indonesian law and producing domestic products.
6. Supplier of goods and/or provider of service shall be a business entity or individual having capability of providing goods and/or service in the interest in

- accordance with the business line and qualification thereof.
7. The Special Executive Working Unit of Upstream Oil and Natural Gas Business Activities shall be a working unit executing the management of upstream oil and natural gas business activities under the fostering, coordination and supervision of the Minister of Energy and Mineral Resources.
  8. Letter of Capability of Supporting Oil and Natural Business hereinafter called SKUP Migas shall be a letter granted to company or individual having capability of producing domestic goods and/or service on the basis of result of study and evaluation of concrete capability, covering legal aspect, such as business and financial status, technical aspect such as production capability and management system, aspects of marketing network and after-sales service
  9. Domestic Product Appreciation Book hereinafter called APDN Book shall be a book containing list of goods, list of service providers and list of capability of domestic producers already securing SKUP Migas.
  10. Verification shall be an activity to match the accomplishment of TKDN by domestic producers and/or suppliers of goods and/or providers of service with the data obtained or collected from business activities of the domestic producers and/or suppliers of goods and/or providers of service.
  11. Work Plan and Budget shall be a plan of annual activity and budgetary expenditure of contractor in a working area.
  12. List of Procurement Plan shall be a list of the plan for the purchase of goods and services contained in the work plan and budget.
  13. Price Preference shall be an adjustment value or normalization of the price against bid price in the procurement of goods and/or service.
  14. Domestic Component in Goods shall be the use of raw materials, design and engineering containing substance of manufacturing, fabrication, assembly and finishing of work resulting from and executed in the country.
  15. Domestic Component in Service shall be the use of service up to the final delivery by utilizing manpower, including specialist, working appliance, including software and supporting facilities resulting from and executed in the country.
  16. Domestic Component in Goods and Service shall be the use of materials, design and engineering containing substance of manufacturing, fabrication, assembly and finishing as well as the use of service by utilizing manpower, including specialist, working appliance, including software, and supporting facility up to the final delivery resulting from and executed in the country.
  17. Factory overhead cost shall be indirect costs of manpower, machine/working appliance/facility and the whole other fabrication costs needed to produce an unit of product with the cost not chargeable directly to specified product
  18. Company overhead cost shall be costs related to

the marketing, administration and general affairs cost of the company.

19. Output Tax shall be value added tax payable, which shall be collected by taxable entrepreneurs delivering taxable goods, providing taxable service, exporting tangible taxable goods, intangible taxable goods and/or exporting taxable service
20. Domestic Company shall be state-owned business entity, regional administration-owned business entity, private business entity wherein over 50% (fifty percent) of the share is controlled by state-owned business entity or regional administration-owned business entity having voting right and established in accordance with legislation as well as working and domiciled in the territory of the Republic of Indonesia
21. National company shall be private business entity wherein over 50% (fifty percent) of the share is controlled by foreign company or foreign citizen and which is established in accordance with legislation as well as works and is domiciled in the territory of the Republic of Indonesia.
22. Foreign company shall be a business entity established and having legal entity outside the territory of the Republic of Indonesia and obliged to abide by the effective legislation in the Republic of Indonesia.
23. Directorate General shall be the Directorate General having task to formulate and implement technical policy and standardization in the field of oil

and natural gas.

24. Director General shall be the Director General having task to formulate and implement technical policy and standardization in the field of oil and natural gas.
25. Minister shall be the minister in charge of oil and natural gas affairs.

#### Article 2

The regulation of the utilization of domestic product shall be intended to:

- a. support and boost the growth of domestic products so as to be able to support upstream oil and natural gas business activities and contribute added value to economy, absorb manpower as well as have national, regional and international competitiveness;
- b. support and boost the growth of innovation/technology of domestic products;
- c. increase the use of domestic products in upstream oil and natural gas business activities by considering the principles of effectiveness and efficiency; and
- d. realize operational order in the enhancement of the use of domestic products in upstream oil and natural gas business activities.

#### CHAPTER II

#### DOMESTIC PRODUCT UTILIZATION POLICY

#### Part One

#### Target of TKDN

Article 3

- (1) In supporting the domestic product utilization policy, the target of TKDN in the upstream oil and natural gas business activities shall be set as contained in Attachment I, which constitutes an integral part of this ministerial regulation.
- (2) In order to achieve the target of TKDN as meant in paragraph (1), the Director General shall stipulate a roadmap of the accomplishment of target of TKDN in the upstream oil and natural gas business activities.

Article 4

- (1) Every contractor, domestic producer, and supplier of goods and/or provider of service procuring goods and/or service in upstream oil and natural gas business activities shall be obliged to use, maximize and empower domestic goods, service as well as engineering and design potentials fulfilling the quantity, quality, delivery time and price in accordance with the provision in the procurement of goods and/or service.
- (2) The procurement of goods and/or service shall be obliged to use APDN Book as a reference to stipulate strategy of the procurement as well as determine requirements and provisions on the procurement.
- (3) The APDN Book as meant in paragraph (2) shall be issued periodically by the Directorate General, which contains at least:
  - a. list of goods belong to the required, maxi-

mized and empowered category;

- b. list of service providers belonging to the prioritized, maximized and empowered category; and
  - c. list of capability of domestic producers of goods and/or providers of service already securing SKUP Migas.
- (4) Further provision on the APDN Book as meant in paragraph (3) shall be stipulated by the Director General.

Part Two

Task and Responsibility

Article 5

- (1) In a bid to prioritize to the use of domestic products, the Directorate General shall be obliged to :
  - a. examine and evaluate capability of domestic products in the framework of issuing SKUP Migas;
  - b. issue and renew APDN Book periodically;
  - c. qualify companies and individuals to undertake verification; and
  - d. supervise the utilization of domestic goods, service, technology and design and engineering capability.
- (2) If necessary, in order to ascertain that the production of goods and/or service is really executed by domestic producers, the Directorate General may witness the production of domestic goods and/or service ordered by contractors.

### Article 6

In a bid to prioritize to the use of domestic product, the Special Executive Working Unit of Ustream Oil and Natural Gas Business Activities shall be obliged to:

- a. stipulate the target of TKDN that contractors have to be accomplished in every work plan and budget and/or list of procurement plan;
- b. foster contractors to fulfill the accomplishment target of the use of domestic products mentioned in work plan and budget and/or list of procurement plan;
- c. provide information which may be ascertained by the public with regards to the plan for the procurement of domestic goods and/or service in the upstream oil and natural gas business activities; and
- d. coordinate contractors in a joint effort to increase the use of domestic goods and/or service.

### Article 7

In a bid to prioritize to the use of domestic products, contractors shall be obliged to:

- a. require maximally the production of goods and/or service in the country;
- b. stipulate technical specification of goods and/or service by referring to APDN Book;
- c. stipulate the target of TKDN that has to be accomplished in the procurement of goods and/or service;
- d. conduct verification in order to determine the ac-

complishment of TKDN in the implementation of the procurement contract of goods and/or service; and

- e. submit report on result of the verification of the accomplishment of TKDN to the Directorate General and the Special Executive Working Unit of Ustream Oil and Natural Gas Business Activities.

### Article 8

- (1) In a bid to prioritize to the use of domestic products, domestic producers and/or suppliers of goods and/or providers of service shall be obliged to:

- a. fulfill the quality, delivery time and price in accordance with the provision in the procurement contract of goods and service;
- b. fulfill commitment to the self-assessment TKDN of service stipulated in the procurement contract of goods and/or service;
- c. enhance TKDN of the produced goods and/or service, which is declared in the commitment to the plan for the enhancement of TKDN of goods and/or service; and
- d. submit report on the production capacity of goods and/or service to the Directorate General every 6 (six) months.

- (2) Besides the obligation as meant in paragraph (1), domestic producers shall be obliged to:

- a. have SKUP Migas, which remains valid; and
- b. undertake production process in the country;

c. fulfill TKDN of goods in accordance with the value mentioned in certificate of TKDN.

CHAPTER III  
PRICE PREFERENCE

Part One

TKDN-Based Price Preference

Article 9

- (1) In the framework of appreciating domestic product, price preference may be granted.
- (2) Price preference shall be granted if TKDN of goods reaches or exceeds 25% (twenty five percent) of the promise/commitment to the accomplishment of TKDN in the case of goods, or reaches or exceeds 30% (thirty percent) of the promise/commitment in the case of service.
- (3) In the procurement of goods or procurement of engineering, procurement, construction and installation service substance of domestically produced goods may be granted TKDN-based price preference maximally 15% (fifteen percent), counted proportionally on the basis of the accomplishment of TKDN adjusted to roadmap of the accomplishment of target of TKDN.
- (4) In the procurement of engineering, procurement, construction and installation service other service or consulting service, substance of domestic service shall be granted TKDN-based price preference maximally 7.5% (seven point five percent), counted proportionally on the basis of the accomplishment of TKDN adjusted to roadmap of the

accomplishment of target of TKDN.

Part Two

Corporate Status-based Price Preference

Article 10

In the procurement of goods, domestic producers having status of domestic company with the accomplishment of TKDN 25% (twenty five percent) or higher may be granted additional price preference maximally 2.5% (two point five percent), besides the TKDN-based price preference in accordance with the provision as meant in Article 9 paragraph (3).

CHAPTER IV

LOCAL CONTENT

Part One

TKDN of Goods

Article 11

- (1) TKDN of goods shall be counted on the basis of the cost of domestic components in goods, compared to the whole cost of product.
- (2) The whole cost of product as meant in paragraph (1) shall be counted as far as the location of work (factory / workshop) and constitute cost spent for the production of goods, covering:
  - a. direct component (material) cost;
  - b. direct manpower cost; and
  - c. factory overhead cost, excluding profit, company overhead cost and output tax in the framework of the delivery of goods.
- (3) The determination of the domestic component

cost in the goods as meant in paragraph (1) shall be based on criteria:

- a. in the case of direct component (material), based on country of origin;
- b. in the case of manpower, based on nationality; and
- c. in the case of working equipment/facility, based on ownership and country of origin.

(4) Procedure for the calculation of TKDN of goods shall follow the provision of legislation issued by the minister in charge of industrial affairs.

#### Article 12

The calculation of TKDN of the combination of several kinds of goods shall be based on the ratio of the sum of the multiplication of TKDN of each goods with the acquisition price of each goods to the acquisition price of the combination of goods.

#### Part Two

#### TKDN of Service

#### Article 13

(1) TKDN of service shall be calculated on the basis of the ratio of service cost of domestic component in service to the total cost of service.

(2) The total cost of service as meant in paragraph (1) shall be counted as far as the location of work (on site) and constitute cost spent for the production of service, covering:

- a. cost of component (material) which is used;
- b. manpower and consultant cost;

- c. cost of working equipment/facility; and
- d. general service cost, excluding profit, company overhead cost and output tax.

(3) The determination of cost of domestic component in the service as meant in paragraph (1) shall be based on criteria:

- a. in the case of material being used to help the provision of service, based on country of origin;
- b. in the case of manpower and consultant, based on nationality;
- c. in the case of working equipment/facility, based on ownership and country of origin; and
- d. in the case of general service cost, based on the criteria as meant in letter a, letter b, and letter c.

(4) The determination of domestic component of the working equipment/facility as meant in paragraph (3) letter c shall be based on the following provision:

- a. working equipment produced in the country and owned by domestic company or Indonesian citizen is valued as much as 100% (one hundred percent) of domestic component;
- b. working equipment produced in the country and owned by national company is valued as much as 75 % (seventy five percent) of the domestic component;