

ELECTRIC VEHICLE INDUSTRY INVESTMENT– SIGNIFICANT REGULATORY CHANGES¹²³⁴⁵

INTRODUCTION

The President recently issued a new regulation that is intended to encourage greater investment in the Indonesian electric vehicle industry. The new presidential regulation was followed shortly thereafter by a new Minister of Industry regulation.

Of particular interest are the changes made by the new Presidential regulation and the new Minister of Industry regulation in respect of (i) conversion of internal combustion motors to electric battery motors, (ii) domestic content requirements for electric vehicles and (iii) incentives being offered to parties investing in Indonesia’s electric vehicle industry.

In this article, the writer will review the main changes introduced by the new Presidential regulation and the new Minister of Industry regulation while, at the same time, considering whether or not these changes are likely to be sufficient to encourage greater investment in Indonesia’s electric vehicle industry.

BACKGROUND

The Government remains convinced that Indonesia has a big future in the electric vehicle (BEV) industry.

In addition to the obvious economic benefits associated with a vibrant local BEV industry, the Government has, for a number of years, recognized the importance of encouraging greater and more widespread use of BEVs in Indonesia as a means of helping to make clean energy, better air quality and environmental advancement more of a reality than it is currently for Indonesia’s vast population.

Given the above, the Government is engaged in an ongoing process to create the “right” regulatory environment for Indonesia’s nascent BEV industry.

On 12 August 2019, the President issued President Regulation No. 55 of 2019 re Acceleration of BEVs for Road Transport Program (**PR 55/2019**). PR 55/2019 was intended to serve as the legal basis for Indonesia’s BEV program (**BEV for Road Transport Program**) and to provide direction, foundation and legal certainty for the implementation of the BEV for Road Transport Program.

¹ Bill Sullivan, Senior Foreign Counsel with Christian Teo & Partners and Senior Adviser to Stephenson Harwood.

² Bill Sullivan is the author of “*Mining Law & Regulatory Practice in Indonesia – A Primary Reference Source*” (Wiley, New York & Singapore 2013), the first internationally published, comprehensive book on Indonesia’s 2009 Mining Law and its implementing regulations.

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The Minister of Industry (**MoI**) subsequently issued Regulation No. 6 of 2022 re the Specifications, Development Roadmap and Provisions for the Calculation of the Value of the Domestic Component Level of BEVs (**MoIR 6/2022**). MoIR 6/2022 set out a development “roadmap” for the BEV for Road Transport Program and dealt with a number of important technical issues including the domestic component (**KDN**) level or percentage applicable to BEVs (**TKDN**).

As Indonesia’s BEV industry remains very much a “work in progress” only at this time and must overcome many obstacles before it becomes a significant contributor to the Indonesian economy and environmental improvement, the Government has clearly decided that more needs to be done in terms of improving the regulatory environment for investment in the local BEV industry.

On 8 December 2023, the President issued President Regulation No. 79 of 2023 re Amendments to PR 55/2019 (**PR 79/2023**).

On 29 December 2023, the Minister of Industry (**MoI**) issued MoI Regulation No. 28 of 2023 re Amendments to MoIR 6/2022 (**MoIR 28/2023**).

ANALYSIS AND DISCUSSION

1. Overview of PR 79/2023 and MoIR 28/2023

PR 79/2023 seeks to further the implementation of the BEV for Road Transport Program by way of, among other things, (i) expanding the definition of BEVs to include BEVs that have been converted from internal combustion motors to electric battery motors, (ii) adjusting the timetable for TKDN implementation and (iii) strengthening the support, from and by the Central Government and the Regional Governments, for the BEV for Road Transport Program, through the provision of fiscal and non-fiscal incentives.

MoIR 28/2023, in turn, updates the (i) national BEV industry development roadmap and (ii) method of TKDN value assessment/calculation.

For the purpose of TKDN value assessment/calculation, MoIR 28/2023 distinguishes among BEV manufacturing, BEV assembly and BEV development.

PR 79/2023 and MoIR 28/2023 need to be read together in order to fully understand how the BEV for Road Transport Program is evolving from a regulatory perspective.

2. Main Changes Introduced by PR 79/2023 and MoIR 28/2023

2.1 **New Concepts/Definitions:** Two new concepts/definitions have been introduced to the BEV for Road Transport Program, being **Conversion Workshop** and **SPBKLU**.

A **Conversion Workshop** is a business entity operating in the vehicle workshop/vehicle assembly sector which has obtained a certificate as a Conversion Workshop issued by the minister in charge of government affairs in the transportation sector. **Conversion** means the process of changing the power system of motor vehicles from internal combustion motors to electric battery motors.

SPBKLUs (*Stasiun Penukaran Baterai Kendaraan Listrik Umum*) are **public** electric battery **swap** stations where depleted electric batteries for BEVs may be exchanged for already recharged batteries (Article 1 of PR 79/2023).

- 2.2 **Recognition of Conversion BEVs:** For the purpose of the BEV for Road Transport Program, BEVs may now be either newly manufactured/assembled BEVs or BEVs that are the result of Conversion carried out by a Conversion Workshop (Article 2(1a) of PR 79/2023).

The recognition of Conversion BEVs represents a significant expansion of the scope of the BEV for Road Transport Program and may well reflect a belated realization on the part of the Government that, in Indonesia, the cost of new BEVs could limit consumer interest in the same. Accordingly, if the use of BEVs is to become widespread in Indonesia, it is necessary to also allow for and encourage the conversion of vehicles with internal combustion motors to become BEVs. This is likely to be particularly important in the case of motorbikes given that (i) motorbikes are the most common form of road transport in Indonesia and (ii) Indonesia's motorbike owners typically have very limited financial resources.

Making Conversion BEVs part of the BEV for Road Transport Program may bring new investors into the local BEV industry because the conversion of vehicles with internal combustion motors to become BEVs opens up new opportunities for entrepreneurs and investors with access to different technologies. As this, however, is likely to be the most cost sensitive part of the local BEV market, it may well only be attractive to domestic entrepreneurs/investors, with low-cost bases of operation, rather than to foreign entrepreneurs/investors which typically have significantly higher cost bases of operation.

- 2.3 **Support for Development of SPBKLU**s: The scope of BEV industrial research, development and innovation has been expanded to include the development of "efficient" SPBKLUs as well as public electric battery charging facilities for BEV (**SPKLU**s) (*Stasiun Pengisian Kendaraan Listrik Umum*) (Article 7(3)(b) of PR 79/2023). Previously, only **SPKLU**s were mentioned in PR 55/2019.

Promoting the development of SPBKLUs, as well as SPKLUs, is another initiative of the Government aimed at maximizing the available charging options for users of BEVs so as to make the use of BEVs more convenient and, hence, more widespread.

Expanding the available charging options so as to include SPBKLUs, as well as SPKLUs, may also offer new investment opportunities for domestic and foreign entrepreneurs/investors because of the somewhat different business dynamics/logistics involved. As, however, SPKLUs, rather than SPBKLUs, are becoming ubiquitous internationally, it is questionable how significant the SPBKLU market is likely to become in Indonesia. Accordingly, this may well be only a niche opportunity in Indonesia without much appeal to large scale entrepreneurs/investors, whether domestic or foreign.

- 2.4 **Relaxation of TKDN Timeline** The timeline for TKDN compliance/implementation has been relaxed (Article 8(1) of PR 79/2023). The timeline relaxation, as between the old position under PR 55/2019 and the new position under PR 79/2023, may be summarized as follows:

| BEV Type | Applicable Timeframe | | Minimum TKDN |
|----------------------------------|----------------------------|----------------------------|--------------|
| | Old Position PR 55/2019 | New Position PR 79/2023 | |
| Two and/or three-wheeled BEVs | 2019 – 2023 | 2019 – 2026 | 40% |
| | 2024 – 2025 | 2027 – 2029 | 60% |
| | 2026 onwards | 2030 onwards | 80% |
| Four or more-wheeled BEVs | 2019 – 2021 | 2019 – 2021 | 35% |
| | 2022 – 2023 | 2022 – 2026 | 40% |
| | 2024 – 2029 | 2027 – 2029 | 60% |
| | 2030 onwards | 2030 onwards | 80% |

It is important to note that, while the timeframe for achieving minimum required TKDN has been relaxed somewhat, the sizes/values of the minimum required TKDN have **not** been changed at all **for BEV manufacturing and assembly**.

According to MoI, the TKDN timeline relaxation is intended to both (i) make BEV manufacture/assembly a more attractive option for foreign investors and (ii) increase competition in the domestic BEV market.

Given the compliance/cost problems that minimum TKDN requirements have given rise to in other manufacturing/assembly industries where Indonesia has sought to attract large scale foreign investment, it will be interesting to see if merely extending the TKDN timeline, rather than also reducing minimum required TKDN, is sufficient to attract significant additional foreign investment in local BEV manufacturing/assembly. The Government needs to bear in mind that various other countries, including in Southeast Asia, are also actively looking at the possibility of developing local BEV manufacturing/assembly capabilities. Accordingly, Indonesia will be competing with these other countries in attracting large scale foreign investment for their respective BEV manufacturing/assembly initiatives. While Indonesia unquestionably has certain sources of competitive advantage, including world class sources of copper, nickel and tin (as well as a rapidly growing domestic metal processing and refining industry), when it comes to developing a local BEV manufacturing/assembly capability, unrealistic TKDN requirements could result in foreign investors looking elsewhere to become involved in BEV manufacturing/assembly.

2.5 TKDN Exemption for Conversions: Conversions, as carried out by Conversion Workshops, are expressly exempted from the TKDN compliance obligation (Article 8(3) of PR 79/2023).

Providing a TKDN exemption for Conversions is a good idea. However, recent reports in the popular press about the practical problems associated with achieving a large volume of Conversions, any time soon and especially in the case of motorbikes, indicate that the relative lack of public interest in Conversions may be due to much more than TKDN. A report in The Jakarta Post on 30 January chronicles the frustrating experience of two researchers, Massita Ayu Cindy and Michael Suryaprawira, in arranging for the Conversion of their motorbike. More particularly, the subsidy program for motorbike Conversions is said to be unattractive to owners.

2.6 Recognition of New BEV Types: While there has been no change in the types of recognized two-wheeled BEVs, a number of new types of four wheeled or more BEVs have, for the first

time, being recognized by MoI (Article 2 of MoIR 28/2023). The changing types of four wheeled or more BEVs recognized by MoI are summarized in the following table:

| Type of BEV | Old Position MoIR 6/2022 | New Position MoIR 28/2023 |
|--|-----------------------------|------------------------------|
| Road tractors for semi-trailers | | X |
| Motorized vehicles for the transport of 10 or more persons (including the driver) | X | X |
| Motorized vehicles for the transport of persons (including station wagons and racing cars) | X | |
| Motorized vehicles for the transport of persons | | X |
| Motorized vehicles for the transport of goods | X | X |
| Motorized vehicles for special purposes, other than those primarily designed for the transport of persons or goods | | X |
| Chassis quipped with an electric motor as the only drive | X | X |

2.7 **New Methodology for TKDN Calculation/Determination:** New procedures for TKDN calculation/determination are set out in MoIR 28/2023 (Article 7 of MoIR 28/2023).

The changes in methodology, for TKDN calculation/determination, may be summarized as follows:

| KDN Aspect | | KDN Composition (% of Overall TKDN) | | | |
|---------------|-----------------------|--|-----------------|------------------------------|-----------------|
| | | Old Position MoIR 6/2022 | | New Position MoIR 28/2023 | |
| | | 2020 – 2023 | 2024 Onwards | 2020 – 2029 | 2030 Onwards |
| Manufacturing | Main Components | 50% | 58% | 50% | 60% |
| | Supporting Components | 10% | | 10% | |
| Assembly | | 20% | 12% | 30% | 20% |
| Development | | 20% | | 10% | |

2.8 **Restrictions on BEV CBU Imports:** The circumstances, in which **Completely Built Up (CBU)** BEV imports (**CBU Imports**) are allowed, have been made more restrictive such that now:

- (a) only certain companies are allowed to import CBU BEVs, being companies which (i) will establish local BEV manufacturing facilities, (ii) have invested in local BEV manufacturing facilities with a view to introducing new products to the Indonesian market and/or (iii) will increase BEV manufacturing capacity with a view to introducing new products to the Indonesian market;
- (b) prior Minister of Investment CBU Import facility approval is required;

- (c) the permitted level/quantity of CBU Imports will be determined having regard to the would-be importer’s “realization of” (past performance in respect of?) (i) BEV development, (ii) BEV investment and (iii) BEV production levels/increments; and
- (d) CBU imports are only allowed until the end of 2025 (Article 12 of PR 79/2023).

2.9 **Greater Availability of Incentives for BEV Industry Companies:** Fiscal and non-fiscal Incentives are now available for BEV industry companies that provide SPBKLUs as well as for BEV industry companies that provide SPKLUs (Article 17(3)(i) of PR 79/2023).

Fiscal and non-fiscal Incentives are also now available for (i) BEV Industry companies that procure CBU Imports and (ii) BEV industry companies that are able to accelerate/commit to accelerating the BEV domestic assembly process within the permitted CBU Import period and otherwise before the end of 2025 (Article 18 of PR 79/2023).

2.10 **Types of Available Incentives:** Extensive provision is made for the types of fiscal and non-fiscal incentives that are available to those BEV industry companies which either (i) build BEV manufacturing facilities utilizing CBU Imports or (ii) accelerate/commit to accelerating the BEV domestic assembly process within the permitted CBU Import period and otherwise before the end of 2025 (Article 19A of PR 79/2023).

The available facilities are summarized in the table below:

| Type of Incentive | | Companies Importing Completely Built Up (CBU) BEV | Companies Accelerating Domestic BEV Assembly |
|--|---|---|--|
| Import Duties – Reduction or Waiver | Importation of CBU BEV | x | |
| | Importation of BEV Produced Domestically | | x |
| | Importation of Machinery, Goods and Materials for Investment | | x |
| | Importation of Used Raw Materials and/or Auxiliary Materials for the Production Process | | x |
| Sales Tax on Luxury Goods – Reduction or Waiver | CBU BEV | x | |
| | BEV Produced Domestically | | x |
| Regional Tax – Reduction or Waiver | CBU BEV | x | |
| | Completely Knock Down (CKD) BEV Produced Domestically | | x |

2.11 **Provision of Electric Battery Charging Facilities:** SPBKLUs, as well as SPKLUs, are now recognized as being part of the electric battery charging infrastructure that may be made available for BEVs (Articles 22(2), 26(1) and 26(3) of PR79/2023).

2.12 **TKDN Values for Different Electric Battery Manufacturing Process Stages:** The TKDN sizes/values applicable to different stages of the electric battery manufacturing process are newly specified in MoIR 28/2023 (Article 12A of MoIR 28/2023). The applicable TKDN sizes/values may be summarized as follows:

| Battery Manufacturing Process Stage | TKDN Value (% of the Overall Battery Value) |
|--|--|
| Domestically produced battery packs and cells | 100% |
| Domestically produced battery packs and battery components (i.e. , housing, wiring harness and battery management system) | 75% |
| Domestically produced battery packs and battery components (i.e. , housing and wiring harness) | 50% |
| Domestically produced battery packs | 25% |

2.13 **Calculation of TKDN for BEVs:** How TKDN is to be calculated in the case of BEVs has changed, with MoIR 28/2023 now drawing a distinction between (i) 2 or 3 wheeled BEVs (Article 11 of MoIR 28/2023) and (ii) 4 or more wheeled BEVs (Article 10 of MoIR 28/2023).

The applicable TKDN calculations may be summarized as follows:

(a) 2 or 3 Wheeled BEVs

| Type of Component | | KDN Composition (% of the Overall TKDN Value) | | | |
|------------------------------|-----------------------------|--|-------------------|------------------------------|-------------------|
| | | Old Position MoIR 6/2022 | | New Position MoIR 28/2023 | |
| | | 2020 – 2023 | 2024 – Onwards | 2020 – 2029 | 2030 – Onwards |
| Main Components | Body and/or chassis | 10% | 11% | 5% | 5% |
| | Batteries | 30% | 35% | 40% | 50% |
| | Electric motor drive system | 10% | 12% | 5% | 5% |
| Supporting Components | Steering system | 2% | | 2% | |
| | Suspension | 2% | | 2% | |
| | Braking system | 2% | | 2% | |
| | Tires and transmissions | 2% | | 2% | |
| | Electronic systems | 2% | | 2% | |

(b) 4 or More Wheeled BEVs

| Type of Component | | KDN Composition (% of the Overall TKDN Value) | | | |
|--------------------------|-----------------------------|--|-----------------|------------------------------|-----------------|
| | | Old Position MoIR 6/2022 | | New Position MoIR 28/2023 | |
| | | 2020 – 2023 | 2024 Onwards | 2020 – 2029 | 2030 Onwards |
| Main Components | Body, cabin and/or chassis | 10% | 11% | 5% | 5% |
| | Batteries | 30% | 35% | 40% | 50% |
| | Electric motor drive system | 10% | 12% | 5% | 5% |
| Supporting Components | Steering system | 2% | | 2% | |
| | Suspension | 1% | | 1% | |
| | Braking System | 2% | | 2% | |
| | Tires and alloy wheels | 1% | | 1% | |
| | Seats and cable systems | 2% | | 2% | |
| | Electronic systems | 2% | | 2% | |

2.14 **TKDN for Development and Changing Significance of Investment Levels:** The minimum required TKDN for BEV **development** only (but **not** for BEV **manufacturing/assembly**) has been significantly reduced on a sliding scale related to the level of investment in BEV **development**, with higher levels of BEV **development** investment resulting in lower required minimum TKDN. How the level of BEV **development** investment impacts TKDN has been materially changed by MoIR 28/2023 (Article 25 of MoIR 28/2023). These TKDN changes are highlighted in the tables below:

(a) 2 or 3 Wheeled BEVs

| Development Investment Value | | TKDN Value | |
|--|--|-----------------------------|------------------------------|
| First 5 Years | 6 th Year Onwards | Old Position MoIR 6/2022 | New Position MoIR 28/2023 |
| > IDR50,000,000,000 | ≥ IDR5,000,000,000 | 20% | 10% |
| > IDR30,000,000,000 – IDR50,000,000,000 | ≥ IDR3,000,000,000 – IDR5,000,000,000 | 15% | 7.5% |
| > IDR10,000,000,000 – IDR30,000,000,000 | ≥ IDR2,000,000,000 – IDR3,000,000,000 | 10% | 5% |
| ≥ IDR1,000,000,000 – IDR10,000,000,000 | ≥ IDR2,000,000,000 | 5% | 2.5% |

(b) 4 or More Wheeled BEVs

| Development Investment Value | | TKDN Value | |
|--|---|-------------|--------------|
| First 5 Years | 6 th Year Onwards | MoIR 6/2022 | MoIR 28/2023 |
| > IDR250,000,000,000 | ≥ IDR10,000,000,000 | 20% | 10% |
| > IDR150,000,000,000 – IDR250,000,000,000 | ≥ IDR7,500,000,000 – IDR10,000,000,000 | 15% | 7.5% |
| > IDR100,000,000,000 – IDR150,000,000,000 | ≥ IDR5,000,000,000 – IDR7,500,000,000 | 10% | 5% |
| ≥ IDR50,000,000,000 – IDR100,000,000,000 | ≥ IDR2,500,000,000 – IDR5,000,000,000 | 5% | 2.5% |

Unfortunately, BEV **development** is confined to activities or investment in the fields of market research, product planning, design engineering, vehicle modeling (**i.e.**, prototyping) and vehicle certification (**i.e.**, licensing) (Article 1(8) of MoIR 28/2023). BEV development does **not** include the all-important areas of BEV **manufacturing and assembly**.

While any reduction in minimum required TKDN is to be welcomed, reducing the minimum required TKDN for BEV **development** only misses the point – the real problem with TKDN is, almost certainly, going to be in the areas of BEV **manufacturing and assembly**, **not** BEV **development**.

SUMMARY & CONCLUSIONS

At the same time as it pursues the potential economic benefits associated with Indonesia having a vibrant local BEV industry, the Government has a commitment to increasing energy efficiency, energy security and energy conservation in the local transportation industry in an endeavor to reduce greenhouse gas emissions.

The BEV industry represents an interesting tangency point between the pursuit of economic advancement for Indonesia on the one hand and reducing the adverse environmental impact for Indonesia of reliance upon fossil fuel-driven transportation on the other hand. Reconciling and advancing, at the same time, the realization of both these objectives is, self-evidently, a huge challenge for the Government.

The recent changes to the regulatory regime for the local BEV industry, introduced by PR79/2023 and MoIR 28/2023, may well improve the attractiveness of **certain** aspects of the local BEV industry for **some** potential investors, both domestic and foreign. It remains unclear, however, whether or not these changes go far enough to finally give Indonesia the “right” regulatory environment to make large scale, local BEV manufacturing/assembly a reality.

If reports in the popular press are to be believed, the Government needs to do far more to promote Conversions of motorbikes, including by way of overhauling the subsidy program.

Merely extending the timeline for TKDN implementation, in the case of BEV manufacturing/assembly, rather than also significantly reducing the size/value of minimum required TKDN (except for BEV development and depending on the level of investment), could be particularly problematic. A “golden” opportunity, to reduce minimum required TKDN in the case of BEV manufacture/assembly and thereby encourage much greater investment (particularly foreign investment) in BEV manufacture/assembly, has clearly been lost as a result. This may prove to be yet another case of the Government’s unthinking pursuit of nationalistic objectives, regardless of the associated cost, getting in the way of making significant economic and environmental advances, which advances would greatly benefit all Indonesians and certainly far more so than continuing to insist upon unrealistic minimum required TKDN for BEV manufacture/assembly is ever likely to do.

This article was written by Bill Sullivan, Senior Foreign Counsel with Christian Teo & Partners and Senior Adviser to Stephenson Harwood. Christian Teo & Partners is a Jakarta based, Indonesian law firm and a leader in Indonesian energy, infrastructure and mining law and regulatory practice. Christian Teo & Partners operates in close association with international law firm Stephenson Harwood which has eight offices across Asia, Europe, and the Middle East: Dubai, Hong Kong, London, Paris, Piraeus, Seoul, Shanghai, and Singapore.

Get in touch



Bill Sullivan

T: +62 21 5020 2789
M: +62 815 8506 0978
E: bsullivan@cteolaw.com



Christian Teo

T: +62 21 5020 2789
M: +62 818 124 747
E: cteo@cteolaw.com



Claudius Novabianto

T: +62 21 5020 2789
M: +62 818 0858 9235
E: cnbianto@cteolaw.com