TILBURG LAW SCHOOL

CHANGE OF CONTROL IN INDONESIAN PRODUCTION SHARING CONTRACT

A Research Study Presented By:

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CONTENTS

CONTENTS II
LIST OF FIGURES III
LIST OF TABLE III
ABSTRACT IV

CHAPTER 1 1
INTRODUCTION 1
BACKGROUND 1
RESEARCH QUESTION 4
OBJECTIVES 4
HYPOTHESIS 4
ORGANIZATION 5
ETHICAL CONDUCT 5

CHAPTER 2 6
INDONESIAN OIL AND GAS LAW 6
OVERVIEW WORLDWIDE OIL AND GAS CONTRACT 6
OVERVIEW INDONESIA OIL AND GAS REGULATION 8
UPSTREAM BUSINESS ACTIVITIES 10
PRODUCTION SHARING CONTRACT 17

CHAPTER 3 21
THE THEORETICAL FRAMEWORK AND ANALYSIS ON CHANGE OF CONTROL IN INDONESIAN PRODUCTION SHARING CONTRACT 21
LITERATURE REVIEW OF MERGER AND ACQUISITION IN OIL AND GAS INDUSTRY 21
INDONESIAN MERGER AND ACQUISITION REGULATIONS 26
IMPACT OF CHANGE OF CONTROL IN INDONESIAN PRODUCTION SHARING CONTRACT 32
THE 10% OF PARTICIPATING INTEREST 42

CHAPTER 4 44
CONCLUSION 44

REFERENCES 47

APPENDICES 50
**List of Figures**

Figure 1: Indonesian Oil and Gas Upstream Investment 2009-2013 2
Figure 2: Classification of Petroleum Fiscal System 6
Figure 3: Indonesian Production Sharing Contract 8
Figure 4: Historical event in Indonesian Oil and Gas Sector 8
Figure 5: Oil and Gas Merger & Acquisition Deal by Value and Count 50
Figure 6: Indonesian Oil Production and Consumption 50
Figure 7: Indonesian Natural Production and Consumption 51

**List of Table**

Table 1 Exploration Work Program and Budget 51
ABSTRACT

The study investigates the effect of change of control in Indonesian Production Sharing Contract. The change of control occurs because transfer of participating interest in a Working Area. There are two possibilities to transfer the participating interest in Indonesian Production Sharing Contract, first, through direct transferring of participating interest, also known as farm in – farm out. Second, the transferring of participating interest as result of company share acquisition that has participating interest in a Working Area.

The study is conduct though legal analysis by comparing Indonesian regulations that related to the transferring of participating interest. The result shows that there is a flaw in Indonesian regulations concerning to the transferring of participating interest as result of company share acquisition that has participating interest in a Working Area, which is not regulated. The participating interest gives certain economic value of the natural resources ownership to business entity or permanent establishments, which also shows the relation between the ownership of natural resources and participating interest. As for government, the transferring of participating interest will be affected the performance in a Working Area either as improvement or obstruction.

Future studies should employ the comprehensive analysis though economic analysis especially on the value of competition in Indonesian Upstream market by comparing the transferring participating interest transactions into the ownership of natural resources.

KEYWORD: Indonesian Oil and Gas, Participating Interest, Production Sharing Contract.
Chapter 1
INTRODUCTION

Background

Oil and Gas Industries are massive industry due to the characteristic of Oil and Gas activities, which are high capital, high advance technology and high risk. The Upstream Activities requires huge financial support. According The U.S Energy Information Administration (EIA), one barrel of crude oil and natural gas in U.S is cost $31.38 for on-shore and $51.60 for off-shore (EIA, 2009). Moreover, The Upstream cost depends on technical aspect, such as stage of upstream activities, advance level of technology, location of working area, and infrastructure, and also non-technical aspect such as fiscal, currency exchange rate, etc. The risk on Exploration and Exploitation are high due to the uncertainty of geological structure, reservoir seal and hydrocarbon charge. Moreover, the uncertainty of cost, probability of finding and producing economically viable reservoir, implementation of new technology, and fluctuation of oil price make the risk twice-higher compared to other industry.

Despite of the risk on the industry, Oil and Gas industry is still attractive for investors. According to Deloitte’s Oil & Gas Mergers and Acquisitions (M&A) report 2013, M&A deals value in 2013 totaled $205 billions, which declined 41 percent from M&A deal value in 2012 (see Appendix 1). The trend of M&A in Oil and Gas industry depends on various factors including crude oil price, natural gas price, economy improvement, demand of oil and gas, available capital, geopolitical upheavals etc. Nevertheless, M&A is strategic instrument for Oil and Gas companies to strengthen their technical and financial structures.

M&A requires change of control on companies, which is affect the Oil and Gas Contracts. For several types of Oil and Gas Contract, the change of control is just like other business matters on other industry. However, for Production Sharing Contract, the change of control might need approval from government due to sovereign affair.
Oil and Gas is an important sector for Indonesia Economic. In 2013, the total investment in upstream business activity is 19,342 million US$ (DG Migas, 2014). Moreover, The oil and gas revenue have been the primary resource to the State Income for non-tax revenue. It is about 26% of State Income Revenue in 2013 comes from energy and mineral resources sector, primarily from Oil and Gas revenue (DG Migas).

Figure. 1

<table>
<thead>
<tr>
<th>Year</th>
<th>Production</th>
<th>Development</th>
<th>Exploration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2009</td>
<td>6895.98</td>
<td>2880.92</td>
<td>1567.81</td>
</tr>
<tr>
<td>2010</td>
<td>7664.92</td>
<td>2709.46</td>
<td>2317.35</td>
</tr>
<tr>
<td>2011</td>
<td>9891.17</td>
<td>3380.35</td>
<td>3065.11</td>
</tr>
<tr>
<td>2012</td>
<td>11474.69</td>
<td>3563.31</td>
<td>2985.41</td>
</tr>
<tr>
<td>2013</td>
<td>12750.39</td>
<td>4590.57</td>
<td>2001.04</td>
</tr>
</tbody>
</table>

Sources: Directorate General of Oil and Gas, MoEMR, Indonesia

Indonesian Oil and Gas Contract, known as Production Sharing Contract (PSC), is different from other Oil and Gas Contract. There are three characteristics of Indonesian PSC. First, one company manages one Working Area. Separate body shall be established in every working area. Second, company is responsible for the entire exploration risk, while Government owns both resource and installation. The company earns entitlement from Oil and Gas production. Third, Cost Recovery, which means government shall recover all cost of production. Therefore, any work programmed and budget of the Exploration and Exploitation that will be taken, shall have approval from government. These characteristics show the sovereignty of natural resources, which is stated on Article 33 of Indonesian State Constitution.

In 2013, there are 244 of Working Areas, also known as “Block”, in Exploration stage and 127 of Working Areas in Exploitation stage (DG Migas, 2014). It means there are 302 companies those workings in Indonesia Upstream business due to the separate entity policy in the Working Areas provision. The objective of separate entity policy is related
to ring fencing principle, which relates to tax calculation, reporting, and cost recovery. Under the ring fencing principle, petroleum operation cost that incurred in one block or field cannot be recovered from another block or field.

However, there is not any limitation for a company to have subsidiaries. For example, after establishing Indonesian Law No. 22 year 2001 on Oil and Gas, Pertamina was required to establish subsidiaries. It has 18 subsidiaries at exploration stage and 8 of new subsidiaries at exploitation stage, a part from primary subsidiaries of Pertamina, PT. Pertamina EP (persero), which holds 69 blocks. Thus in total, Pertamina holds 87 working areas ((DG Migas, 2014).

In general, there is not any restriction on merger and acquisition in Oil and Gas. The company, who wants to merge or acquire with another company, shall comply to several regulation that governed merger and acquisition in Indonesia, whereas; Indonesian Law No. 40 year 2007 concerning Limited liability Companies (Company Law) along with its implementing regulation of Indonesian Government Regulation No. 55 year 2010 concerning Merger and Acquisition, Indonesian Law No. 5 year 1999 concerning the Prohibition of Monopoly and unfair Business Practice (Anti-Monopoly Law) and Indonesian Law No. 25 year 2007 concerning Capital Investment (Investment Law). The specific limitation about transferring right and obligation in Oil and Gas is regulated under Indonesian Law No. 22 year 2001 concerning Oil and Gas. Under Article 33 (4) Indonesian Law No. 22 year 2001 concerning Oil and Gas, company is not allowed to assign, deliver, or transfer the majority right and obligation of the company to non-affiliated within 3 year of exploration period. However, this specific limitation is referring to transfer the participating of interest in Working Area rather than transferring share in company.

Thus, regarding to Change of Control, there are two kind of Change of Control in Indonesian PSC, which are the change of control related to “share” of the company and the change of control related to participating of interest. The change of control related to share is the change of control that has connection to M&A activity. Meanwhile, change of control related to participating of interest is the change of control that has connection to change of interest in Working Area. Due to the Indonesian PSC characteristics, every change of control in Indonesian PSC shall have approval from government. However,
this situation has raised dilemma to government, while government tried to enforce the sovereignty, this actions might be slowed the upstream business.

The conditions above are interesting to be studied because Indonesian PSC is different from others Oil and Gas Contract. Therefore, in this paper, we are interested to study the effect of the change of control in Indonesia PSC to stakeholder and government, also it relation to market competitive in upstream industry in Indonesia

**Research Question**

The conditions mentioned above will produce questions:

1. What the effect of change of control in Production Sharing Contract to stakeholder and Government of Indonesia?
2. What the effect of change of control in production sharing contract in relations to the market competitive in upstream industry in Indonesia?

**Objectives**

The objectives of this paper are:

1. To understand whether the change of control have effect to Production Sharing Contract
2. To understand whether the change of control have effect to the market competitive in Upstream industry in Indonesia

**Hypothesis**

The hypothesis of this paper is as below:

There is an impact of the change of control in Indonesian PSC, however, it is also hypothesized that the impact is different for stakeholder and government of Indonesia, due to the differences of objective for both stakeholder and government as player in Indonesian Upstream business. Moreover, the activities of change of control also affect the market competitive in Upstream industry.
Organization

This paper is divided into four chapters. Chapter 1 is an introduction that contains background, research question, objectives, hypothesis, organization of paper, and ethical conduct. Chapter 2 is a review of Indonesian Production Sharing Contract, which includes a brief of Indonesian Regulation related to Production Sharing Contract. This chapter also provides a brief description about Oil and Gas Contract as general. Chapter 3 is a review of the theoretical framework and main analysis on change of control in Indonesia Production Sharing Control. Finally, the last Chapter 4 is conclusion.

Ethical Conduct

Hereby, author has realized that this paper might have a bias opinion, due to, first, the author’s background as a legal advisor in Directorate General of Oil and Gas, Ministry of Energy and Mineral Resource, who is involved in the Upstream Industry. Therefore, author will strive to be independent and neutral by providing the impartial theory and opinions regarding to the subject. Second, some of the data that author uses are confidential and belong to the State. Thus, author will provide data, which are allowed to be used under Indonesia Law, and for confidential and restricted used will be stated as secretly subject.
Chapter 2

INDONESIAN OIL AND GAS LAW

Overview Worldwide Oil and Gas Contract
The type of agreement between host Government and companies concerning the exploration and exploitation of oil and gas depend on two key issues, which are how profits are divided between Government and Participating companies and how costs are to be treated. These issues create two types of fiscal arrangement that commonly use in oil and gas industry, which are Concession system and Contractual system.

Figure 2
Classification of Petroleum Fiscal Systems

Under Concession System, also known as Royalty and Taxes System, the agreement between host Government and Companies is formed on license agreement. The classical concession has been characterized by four feature: (1) the development rights are granted to foreign companies, which covers vast areas and sometimes even an entire country; (2)

Sources:
Daniel Johnston, Internacional Petroleum Fiscal Systems and Production Sharing Contracts
contracts are signed for long period of time; (3) the foreign contractor has complete control over schedule and manner in which mineral reserves are developed; (4) host government has hardly any rights apart from the right to receive a payment based on production (K. Bindemann, 1999). In modern Concession system, the contractor is still granted an exclusive right to explore, develop, and export petroleum, but the contract period becomes shorter. The contractor has to comply with work obligations and pay higher royalties and bonus. Based on ownership of Mineral right, Concession System is differentiated into two types: American type, where Mineral right belong to individual who possesses the land above where hydrocarbon located, and Non American type, where the ownership of Mineral is belong to respective Government.

In Service Contract, the company is contracted to perform exploration and exploitation service, while host government provides capital and technological know-how. The Government has greater control over the exploration and exploitation of its resource. Thus, the company does not have share in the revenue produced but receives a payment for performing such service. (Michael Likosky, 2009). Service contract is differentiated into pure service contract and risk service contract, depends on who bears the exploration risks. In pure service contract, Government bears the risks of exploration. In contrary, company bears the risks in Risk Service Contract.

Production Sharing Contract, also known as Production Sharing Agreement, was first used in mid 1960s in Indonesia. Indonesian Government introduced Production Sharing Contract in response to increasing criticism and hostility toward the existing concession system (K. Bindemann, 1999). In Production Sharing Contract, the ownership of the natural resources rests in the state, but at the same time permits the companies to manage and operate the development of the oil field (Jenik Radon-Covering Oil, 2005). The company bears all risks of exploration and it receives share of petroleum revenue. Under Indonesian type of Production Sharing Contract, all cost in exploration and exploitation will be recovered, if such oil and gas field is commercial to be development. In contrary, Under Peruvian Production Sharing Contract, the company bears all risk of exploration and exploitation but it receives greater share of petroleum revenue than Indonesian Production Sharing Contract type.
Overview Indonesia Oil and Gas Regulation

Since the first oil discovery in North Sumatera in 1885, Oil and Gas sector has been significant and strategic industry for Indonesia’s economic.

Moreover, Indonesia has been active as player in the international oil and gas industry. Indonesia has proven oil reserves of 3.7 thousand million barrels, approximately 1.1% of...
world oil production, and 103.3 trillion cubic feet of natural gas reserves, approximately
2.1% of world natural gas production (BP, 2013- ). In late 2004, Indonesia became net
oil importer due to declining oil production and increasing domestic consumption. The
mature of Oil fields and a lot of field still on the exploration stage are caused the decline
of Oil production. In addition, Indonesian economy still depends on crude oil for
industry and domestic used. In meantime, most of Indonesian gas production is
exported as Liquid Natural Gas (LNG) to Japan, South Korean, Taiwan, China, and
USA. In 2007, Government set out new policy to replace crude oil used to gas for both
Industry and domestic used, in order to reduce crude oil consumption. The realization of
LNG production in 2013 is about 888,403,742 MMBTU and 84,818,590 MMBTU for
export and domestic used respectively (DG Migas, 2014-54).

On 23 November 2001, Government established a new legislation, namely Indonesian
Law Number 22 year 2001 Oil and Gas, to replace Indonesia Law No.44 year 1960. Main
change in the new legislation is Pertamina, which state owned company, does not have
control on the oil and gas contract in Indonesia as regulated in law No.44 year 1960
anymore. The responsibility of controlling oil and gas activities are reassigned to
government under Directorate General of Oil and Gas, Ministry of Energy and Mineral
Resources (MoEMR), and newly established body, BP Migas for upstream business
activities and BPH Migas for Downstream business activities. However, under
Indonesian Constitutional Court’s Judgment No. 36 year 2012, BP Migas is disbanded
and MoEMR is fully mandate and responsible for controlling and maintaining oil and gas
activities, particularly in Upstream business activities.

The general overviews of Indonesian Law Number 22 year 2001 Oil and Gas are set out
below:
1) The objective of Law No.22/2001 (Article 3) is to ensure that Indonesia’s oil and
gas activities, by:
   a) Guarantee effective, efficient, highly competitive and sustainable exploration
      and exploitation;
   b) Assure accountable processing, transport, storage and commercial businesses
      through fair and transparent business competition;
c) Guarantee the efficient and effective supply of oil and gas as a source of energy and for domestic needs;
d) Promote national capacity;
e) Increase state income; and
f) Enhance public welfare and prosperity equitably as well as maintaining the conservation of the environment.

2) The mining right
   Oil and gas contains within Indonesia’s mining jurisdiction is controlled by Government as the holder of mining concession (Article 4).

3) Oil and Gas Activities
   Law No.22/2001 differentiates Oil and Gas activities between upstream business activities and downstream business activities. Upstream business activities compose of exploration and exploitation and downstream business activities consist of processing, transport, storage and commerce (Article 6).

4) License of Oil and Gas Activities
   The upstream business activities are controlled through “Joint Cooperation Contracts” (which are Production Sharing Contract “PSCs”) and downstream activities are controlled by business licenses (Article 7).

5) Limitation of Parties
   Upstream and downstream may be accomplish by state-owned, regional administration-owned companies, cooperative, small-scale business or private-business entities. As Permanent establishment, which is branches of foreign incorporated enterprises, is only allowed to conducting the Upstream business activities (Article 9).

Upstream Business Activities.
Other than Indonesian Law Number 22 year 2001 Oil and Gas, there are several legislations regarding Upstream business activities as an implementing regulation, such as Indonesian Government Regulation No.35 year 2004 concerning Upstream business activities, Indonesian Government Regulation No.79 year 2010 concerning Cost Recovery and Income tax in upstream industry. Also, Minister of Energy and Mineral Resources establish several legislations in the upstream business activities, including Ministry of Energy and Mineral Resources Regulation (MoEMR Regulation) No. 35 year
The upstream business activities shall be conducted in Indonesian region known as “working area”. Directorate General of Oil and Gas, MoEMR (DG Migas) is planned and formalized the working area with in consultation with relevant local government authorities. A working area can be offered to every business entity or Permanent Enterprises through either public procurement or direct offers.

The majority of new working areas are awarded through public procurement. The DG Migas will announce the available of working areas. Business entity and Permanent Enterprises may register as a public procurement participant by obtaining the official bid information packages and purchase an official data packages for particular block or working area as favored. After that, participants have to submit the completed bid document, which consist of:

1) Application form,
2) Work program & budget,
3) Technical report & montage,
4) Financial report,
5) A statement regarding bonuses,
6) All consortium agreement (if any),
7) Production sharing contract draft,
8) A statement agreeing to the PSC draft,
9) Copy of notarized deed/articles of establishment,
10) A compliance statement and etc.

The bids are evaluated by considering of work program, technical and financial capability, and degree of risk and efficiency.

In a direct offer, Business entity or Permanent Enterprises may propose a new Working Area through Joint Study. The company shall submit the complete document which consist of:

1) The boundary of proposed Area;
2) Geology overview of proposed Area;
3) A Company profile including financial report, letter of covert from a Indonesian prime bank, and list of Oil and Gas expertise;
4) A statement regarding collateral of joint study;
5) Joint Study Planning and Schedule;

Once Joint Study approved, the company shall conduct the joint study through geological survey, geophysical survey or geochemistry survey during 8 months and its extendable for maximum 4 months. The company bears all risk and cost during the joint study. The result of Joint study is evaluated by considering technical and economical feature. Any data from joint study is belong to the government, thus company shall deliver all data from joint study. If the proposed Area is eligible as Working Area, the proposed area is announced in tendering process as direct offered. Business entity or Permanent Enterprises who performs a technical assessment through joint study will receive the right to match the highest bidder of the tender round.

Once the Bid’s winner is awarded, the bid’s winner or Contractor will sign Production Sharing Contract with Government. Production Sharing Contract is the most common form of Joint Cooperation Contract that is used in upstream business activities. Other forms of Joint Cooperation Contract are a service contract, Joint Operation Agreement, Enhanced Oil Recovery Contracts and Technical Assistance Contract, which rarely have been used.

Article 6 and Article 11 of Indonesian Law Number 22 year 2001 Oil and Gas regulate the primary requirement that shall contain on the Join Cooperation Contract, which are 1) Ownership of Oil and Gas remains with the government until the delivery point; 2) Ultimate operational control remains Government; and 3) All capital and risks are borne by the Contractor. Also, the Joint Cooperation Contract shall contain provision that stipulate as following: 1) State revenue terms; 2) Work areas and their reversion; 3) Work program; 4) Expenditure commitments; 5) Transfer of ownership of production results of oil and gas; 6) Period and conditions of the extension of the contract;
7) Settlement of any disputes;
8) Domestic supply obligations;
9) Post-mining operation obligations;
10) Work place safety and security;
11) Environmental management;
12) Transfer of right and obligation;
13) Reporting requirement;
14) Plans for the development of field;
15) Prioritization of the use of domestic goods and services;
16) Development of local communities; and
17) Priority on the use of Indonesian manpower.

The maximum validation of Joint Cooperation Contract is 30 years from date of approval and may be extended for maximum 20 years. This period is divided into exploration period for maximum 10 years, which 6 years and may extended for 4 years, and exploitation period for 20 years. If there is no commercial oil and gas discoveries in the exploration period, the Joint Cooperation Contract is automatically terminated.

In exploration period, the Contractor shall execute the work program that has been approved by Government as stated in Production Sharing Contract. Once Oil and Gas discoveries, the contractor shall submit the first or an initial Plan of Development (POD) to be approved by Minister of Energy and Mineral Resources. POD represents development planning on oil and gas field in an integrated and optimal plan for production of hydrocarbon reserves considering technical, economical and environmental aspects (PwC, 2001-95). Through POD, Government will assess whether the field is commercial to produce.

Once the first initial of POD is approved, the Contractor is allowed to produce oil and gas, this also the beginning of exploitation stage. Any process, transport, and storage that contractor has built are belong to government. Thus, under approval and supervision from government, the contractor may share the existing storage or process or transport with agreement between contractors. Also, when the initial POD is approved, Contractor has obligation to offer 10% of its participating interest to Regional Enterprise.
Participating Interest is related to the proportion of interest in Working Area. Its means the undivided rights, interest, and obligation of Contractor, which stated on Production Sharing Contract. At early stage of public procurement process, Company may register as solo participant or consortium participant. The consortium participant shall address its proportion of interest either on the public procurement document or on the PSC once it is awarded.

In general terms, Contractor is allowed to transfer any right and obligation regarding either Participating Interest or share to others company. However, under Article 33 of Government Regulation No. 35 year 2004 regulated that transferring all or part of right and obligation due to participating interest shall obtaining approval from MoEMR. Also, the contractor is not allowed to transfer in majority to another non-affiliated party within the first 3 years during the Exploration Stage. In addition, the Contractor also has obligation to offer 10% of its Participating Interest to Regional Enterprise as stated above. This obligation is only occurred on one occasion after first POD is approved. The contractor will announced and offered the 10% of its participating Interest to Regional Enterprise. After 60 days of announcement, the regional enterprise is not conveyed any statement of interest, the 10% of Participating Interest is offered to National Company. Whether the Regional Enterprise or National Company is taking the offer or not, the obligation of 10% Participating Interest has considering accomplished once the contractor offering the 10% of Participating Interest.

The other obligation in Exploitation stage is Domestic market obligation. The Contractor shall give up to maximum 25% of its portion after split of petroleum and natural gas production to meet the domestic need (see figure 4).

Furthermore, any oil and gas that produce is split between Government and Contractor. The split of petroleum is 85/15 of oil and 60/40 of gas for Government and Contractor respectively. Other than Equity share, contractor also receives recovery of Petroleum operation cost.

The primary concept of the Indonesia’s Production Sharing Contract is “cost recovery”, means that once the oil and gas is produced at stage of Exploitation, the Contractor will
receive a share of production to recover the operating costs, which are current-year operating costs from a particular field with Plant of Development approval, Depreciation of capital costs, and Un-recouped operating and depreciation costs from previous years. On the other hand, if production does not proceed, all costs are unrecoverable. This means that the contractor bears all risk and cost of exploration until commencement of commercial production.

In general, Government will recover the cost. However, not all petroleum operation cost can be recoverable. In 2010, Government set out a new rule concerning the recoverable cost of petroleum operation cost. Under Article 13 of Government Regulation No. 79 year 2001, there are 24 items of Petroleum operation cost that treated as non-recoverable, as following;

1) Employee personal expenses such as personal Income Taxes;
2) Employee incentives such as for a long-Term Incentive Plan (LTIP);
3) Cost of employing expatriates who have not complied with the Expatriate Manpower Utilization Plan;
4) Legal consultancy fees not relating to PSC operations;
5) Tax consultancy fees;
6) Marketing costs resulting from “deliberate” mistakes;
7) Public relations costs;
8) Environmental and community development cost during exploitation stage;
9) Management costs and allowance for site abandonment and restoration funds;
10) Technical training costs for expatriates;
11) Merger and acquisition costs;
12) Interest expenses on loans for petroleum operations;
13) Third party income taxes;
14) Costs exceeding the approved authorizations financial expenditure by more than 10% without proper explanation;
15) Surplus material costs purchased due to bad planning;
16) Costs incurred due to negligently operating “placed into service” facilities;
17) Transaction with affiliated parties which cause losses to the state;
18) Administrative sanctions such as interest, fine, surcharges and criminal sanction;
19) Depreciation on assets not belonging to the government;
20) Bonuses paid to the Government;
21) Cost incurred prior to the signing of the relevant cooperation contract;
22) Interest recovery incentives;
23) Commercial audit costs;
24) Granted property.

Furthermore, any good and equipment purchased by Contactor become property of Government. The planning of good and equipment for petroleum operation shall be formulated on Work Program & Budget, which approved by Government. Any surplus of good and equipment that is purchased due to miss planning is not recoverable for Cost Recovery. The same concepts are also applied on land title; Contractor does not owned the land on Working Areas. The right to working areas are “right to use” and do not cover land surface right. However, Contractor can acquire the land from owners by offering the settlement.

Regarding the post operation of Upstream Industry, the contractor shall allocate fund for site restoration and abandonment. The fund shall be done since the commencement of Exploration stage that stated in Work Program and Budget. Thus, after completion their work, the contractor shall clearing, cleaning and restoring sites using such fund.

In addition, Article 31 of Indonesian Law No. 22 year 2001 also regulated about state revenue in Upstream business activity. The contractor shall state revenue to government, which divided into taxes and non-taxes. The taxes are consisting of indirect taxes, regional taxes, and regional levies. Indirect Taxes include VAT, customs duty, land and building tax, regional taxes and regional levies. Those taxes are stated as cost recoverable. However, custom duty and import taxes are exempted if it related to the import of goods that used on exploration and exploitation activities. Regarding to Income tax, Indonesian Government Regulation No. 79 year 2010 is regulated about the prevailing income tax rate, which prevailing from time to time, for Indonesian Production Sharing Contract that signed after Indonesian Government Regulation No. 79 year 2010 was promulgated. For Indonesian Production Sharing Contract before that Regulation was promulgated, the Income tax rate is which prevailed when Production Sharing was signed.

Further, there is requirement for uniformity treatment between cost recovery and tax deduction that set out in Indonesian Government Regulation No. 79 year 2010. To
satisfy uniformity, Contractor should spend on income production activities, satisfy the arms’ length principle for it related party transaction, consistent with good business and engineering practices, and in relevant with Work Program and Budget that has been approved.

Moreover, Indonesian Government Regulation No. 79 year 2010 also regulated about the transferring of participating interest taxes, as follow:

a. During the exploration stage, if the transferring of participating interest is for “non-risk sharing” purposes, a final tax of 5% on gross proceeds will be levied. However the transferring of participating interest will be exempted if it is undertaken for “risk sharing” purposes and met following criteria:
   1) Less than the entire interest is transferred;
   2) The interest has been held for more than three years;
   3) Exploration activities have been conducted; and
   4) The transfer is not intended to generate a gain.

b. During the exploitation stage, a 7% final tax in gross proceeds is due except for a transfer to a “national company” as stipulated in Production Sharing Contract.

Production Sharing Contract

Production Sharing Contract has been the most common type of joint cooperation contracts used in Indonesia. Since it introduced, Production Sharing Contract has evolved through five generation. The original PSC was introduced in 1960 in response to criticism of concession system. The seconds generation of PSC issued after 1976 that removed the earlier cost recovery cap of 40% of revenue and confirmed an after tax oil equity split of 85/15 for Government and Contractor respectively. The third generation issued at the late 1980’s that introduced the First Tranche Petroleum (FTP) and offered incentives for frontier, marginal and deep-sea areas. The fourth generation issued in 1994, the government introduced 65/35 after-tax split on oil for Eastern Provinces of Indonesia as incentives. The fifth generation has been introduced since 2008 that remark by the limitation of cost recovery items due to promulgated the MoEMR Regulation No. 22 year 2008 regarding the unrecoverable cost (PwC, 2011).
Other than commercial issued, one of the differences between later generation and earlier generation of PSC is the party of the Contract. Under the Indonesian Law No. 44 year 1960, Pertamina, State Owned Enterprises, was assigned to sign the PSC with Contractor as representative of Government. Hereby, Pertamina was assigned to control and manage the upstream activities though PSC. Indonesian Law No. 22 year 2001 on Oil and Gas revoked this directive. Pertamina does not have control in Upstream activities as assigned under Indonesian Law No. 44 year 1960. Instead, it gains different special privilege in Upstream Activities under Indonesian Law No. 22 year 2001 on Oil and Gas. Under Indonesian Law No. 22 year 2001, BP MIGAS, the new executing agency, was mandated to take over the control and management of Upstream activities through PSC including mandate to sign the PSC. However, in 2012, BP Migas was dissolved due to Constitution Court Verdict No. 36 year 2012. The control and management of Upstream Industries though PSC are back to MoEMR.

Overall, PSC provisions are mainly contains the implementation of all regulations that related to upstream industries. The terms of PSC is as following:

1) Terms and Commercial of Contract Area Section:
   As stated the contract period, the obligation on Exploration stage, the procedure to determine the commerciality of Petroleum and natural gas discoveries (POD procedure), the procedure of the limited commercial contract area due to unitization, which happen because the petroleum is straddles to other contract area, and the procedure of subsequent petroleum discovery.

2) Relinquishment of Areas Section:
   This chapter contains the obligation to relinquish 10 % of the original total working area on the end of initial 3 year of exploration stage. Also, The obligation to relinquish additional portion of working in order to make the area remain thereafter shall not be excess of 20% of the original total Working Area.

3) Work Program and Budget Section:
   This chapter contains the work program that shall be carried out by Contractor in conducting exploration operations pursuant to the term as state in Figure. - (see appendix ) during 6 years of exploration periods.

4) Rights and Obligations of the Parties Section:
   This sections regulated the Contractor right and obligation such as following:
a) Provide necessary fund and purchase or lease all equipment, supplies and materials that required as pursuant to Work Program;
b) Provide all technical aid, including foreign personnel that required for the performance of Work Program;
c) Be responsible for preparation and execution of the Work Program, also conducting Petroleum Operation that implement the occupational health, safety & environmental protection standard;
d) Submit and maintain regular report including its operational, technical, safety and financial aspect;
e) Conduct an environmental baseline assessment and take any necessary precautions for protection of ecological system. Also, shall prevent extensive pollution of the area;
f) Contractor has right to sell, assign, transfer, convey of all or any part of its share of participating interest to any affiliated companies or non-affiliated companies upon prior written consents of Government. However, Contractor shall not transfer in majority of it participating interest to non-affiliated during first 3 year of exploration stage;
g) Have the right to use and access all data and information of geological, geophysical, drilling, well and production held by Government. Any cost incurred in obtaining such data and information shall be provided by contractor and shall be included in operating cost;
h) Contractor shall submit to government copies of all such original geological, geophysical, drilling, well and production data has resulting from petroleum operation that conducted in working area.
i) The obligation toward the supply of the domestic market and it procedure;
j) Contractor shall be responsible to conduct community development programs to the community surrounding and/or adjacent to working area;
k) Comply to all applicable laws of Republic of Indonesia including tax law and environmental law;

5) Recovery of Operating Costs and Handling of Production Section:
This section contains provisions about the procedure to obtain the operating cost, how to handling the crude oil and natural gas, the entitlement of contractor, and First Tranche Petroleum.

6) Valuation of Crude Oil and Natural Gas Section:
This section contains provision about the procedure of marketing the crude oil and natural gas. A general term of valuation of crude oil is all crude oil that is sold shall be valued at the Net Realized Price FOB Indonesia. Meanwhile, all natural gas that is sold to third parties shall be valued based on contract sales price.

7) Bonus and Assistance Section:
The contractor shall make several payment of bonus as following:
   a) Signature bonus; and
   b) Production bonus if Petroleum production reached 25 Million Barrels of Oil Equivalent (MMBOE), 50 MMBOE and 75 MMBOE.

The amount of both signature bonus and production bonus are negotiable.

8) Payment Section:
This section contains provisions about method of payment, which occurs among parties including currency.

9) Title to Equipment section:
This section stated that all equipment purchased by Contractor pursuant to the Work Program become property of Indonesia;

10) Consultation and Arbitration Section:
This section contain provision about the procedure if any disputes that arises between parties. A general term is if any disputes that arise shall be settled amicably. If such dispute cannot be settled amicably, the dispute will settle through arbitration procedural. The choice of forum of arbitration is negotiable.

11) Termination section:
This section contains provision about the condition of termination of this contract. If contractor does not perform, as it require on this Contract, the government shall have right to terminate contract. On several condition, the termination of contract may occur as the automatically without Performance Deficiency Notice.

12) Books, Accounts and Audits Section:
This section contains the provision about the accounting procedure and audit regarding petroleum operation including operating cost and sale of petroleum.

13) Participation Section:
This section contains the provision about procedure of the offering 10% of participating interest to regional enterprises;
Chapter 3

The Theoretical Framework and Analysis on Change of Control in Indonesian Production Sharing Contract

Literature Review of Merger and Acquisition in Oil and Gas Industry

Merger and acquisition is an alternative way for company to grow. Although the Merger and Acquisition has high risk but it is still the most favorable option to obtain natural resources, especially for Oil and Gas in other country through cross-border merger and acquisition.

A particular activity is called a merger when corporation come together to combine and share their resources to achieve common objectives. In merger, both firms combine to form a third entity and the owners of both the combining firms remains as joint owners of the new entity (Trivedi, Desai & Joshi, 2013).

An acquisition could be explained as event where a company takes a controlling ownership interest in other firm, a legal subsidiary of another firm, or selected assets of another firm. This may involve the purchase of another firm’s assets or stock (Trivedi, Desai & Joshi, 2013).

The rational motivation to explain why managers engage in Merger & Acquisition, which are first, managers desire to improve firm value by creating synergies and efficiencies form merging resources. Seconds, it is that manager engage in takeovers because they benefit themselves as agent at the likely expense of decreasing shareholder value. Thirds, manager are motivated to acquire other companies because they can take advantage of high stock price to buy other companies relatively cheaply (Alex Ng & Han Donker, 2013).
Meanwhile, the rationales theorize for Merger & Acquisition in the Oil industry is that oil companies may make a risk-free profit by purchasing a target for its reserves. This analysis is come from the deal between Conoco and Marathon Oil, where they show that when tax deduction such as depreciation can be increased, it is possible for the acquire to gain at the government’s expense (Alex Ng & Han Donker, 2013). Other theory, it is that the instability in oil prices and response to basic change forces such as technological advances, globalization and freer trade, privatization and deregulation, industry instability, pressures for economies of scale, scope and complementarities, rising stock prices, low interest rates, strong economic growth are triggers for Merger & Acquisition in oil and gas industry (J. Fred Weston, 1999).

On the other hand, several studies show that the oil price fluctuation have different reaction to the stock market. Arouri and Nguyen (2010) in their research on Oil prices, Stock markets and portfolio investment in Europe shows the strong significant linkages between oil price and stock market for most European sectors. Similarly, on Park and Ratti’s research shows that oil price increases have a negative impact on stock return in the United State and 12 European Countries, whereas stock market in Norway, an oil-exporting country, respond positively (Arouri & Nguyen, 2010).

Moreover, on Arouri and Nguyen’s study inclusion stated that first, the oil price changes as a factor of risk provide better forecasts of stock return. Seconds, the inclusion of oil into portfolio of stock significantly improves its risk-return characteristics and a sector-based portfolio investment strategy considering the asymmetric responses of some industries to oil price shock leads to greater improvement of the Sharpe ratio. Therefore, the instability of oil prices may trigger of Merger and Acquisition, but it not the primary or strong factor for Merger and Acquisition motivation in oil and gas industry.

As result of Merger and Acquires, it is that the acquirer reduces operational risk, increases production and appreciates assets. “An increase in production signifies that firm has exercised its options so that risk is reduced and return should be reduced as well” (Alex Ng & Han Donker, 2013).

Moreover, Natural resources also affect the Merger and Acquisition; the natural resources of a company are increasingly valuable. This is played out in the market for
corporate control in the oil industry because of higher demand for such reserves from acquirers and the limited reserves form the supply of targets. (Alex Ng&Han Donker, 2013). However, The result of Oil and Gas reverses and takeover activity in Canadian Oil & Gas industry from 1990 to 2008 study by Alex Ng and Han Donker, shows that energy reserves have influence Merger and Acquisition activity and value, but in a negative relationship, which means that the lower the reserves, the higher is the takeover value. On that study also shows that energy prices affect takeovers because of the commodity price-driven motivation. The energy prices seem to drive takeover but not vice versa. Moreover, it shows that there is different affect of takeover on crude oil and natural gas prices. The oil and natural gas shown to cause takeover deals, while takeover deals cause gas prices.

Another study about effect of Merger and Acquisition in Gulf Mexico, implicit that the possibility of the company who participating in Merger and Acquisition become large enough to exercise market power. However, the effect of Merger and Acquisition will not change the quantitative measures of the competitiveness of the industry or market (Costal Marine Institute, 2003).

The reasons why the energy prices affect takeover activity, which are first, high-energy prices influence the directions of national and regional economies. It is related to supply and demand of Oil and Gas commodities. Seconds, high-energy price related to energy producing assets are in short supply, thus more valuable. Thirds, high-energy prices greatly enhance cash flow to these firms, making them into richer cash flow firms. (Alex Ng&Han Donker, 2013).

Other trends that Merger and Acquisition occurs between energy industries. For example, the most interesting trends of Merger and Acquisition in Energy Industry are the convergence between gas and electricity business. The main reason of the merging between gas and electricity business in United State, which are as following (Stefano Verde, 2008):

a. Ongoing deregulation of the gas and electricity markets:
   The unbundling of energy business facilitated the link between gas supply and electricity chains.

b. Upstream link of gas and electricity generation:
Advances in technologies allowed a broader use of natural gas as source for generating electric power.

c. Downstream opportunities to avoid useless costs duplication:

Following the deregulation of retail activities, an increasing number of utilities linked their gas and electricity marketing activities in order to a bundle of services to consumers.

Moreover, Stefano Verde also describe general discussion of reasons for national, cross-border, horizontal and vertical merger in energy industry, as following:

a. National merger within same sector and horizontal
   1) Defensive role against foreign hostile takeover
   2) Move towards a renationalization of the activities
   3) Creation of an entity with sufficient bargaining power to agree favorable terms with strong European supplier and competitors

b. National merger between sector and vertical
   1) Restore some cost saving resulting form the integration of different steps of the supply chain
   2) National Gas + electricity companies = creation of the national energy champions

c. Cross-Border merger within same sector and horizontal
   1) Expansion of geographic scope of activities of each operator
   2) Strategy to gain important weight at European level before liberalization is fully implemented

d. Cross-border merger between sector and vertical
   1) Electricity companies securing gas supply the gas-fired plants they own
   2) Securing “captive” gas demand, in order to fully respect take or pay clauses and reserved imported capacity by merging gas and electricity activities.

Meanwhile in Europe, the bundling and merger in energy industry trend occurs due to a bigger presence in the European Market and by lowering the risks of being taken over by competitor. In addition, this merger also occurs as the protection policies to support the national state owned or national company (Stefano Verder, 2008).
In 2006 European Commission approve inter-industry merger Dong/Elsam/EnergiE2, which refers to the integration between the Danish gas incumbent and Danish companies active in the electricity sector, and in 2008, European commission also approve merger between Gaz de France/Suez. In economic literature, bundling refers to the practice of selling two or more goods at a unique price. The main effects of bundling are price discrimination and dominant in competition environment (Granier&Podesta, 2010). The result of Granier and Podesta (2010) research on the impact of bundling on merger Energy market, which focus on electricity and natural gas markets that in horizontally differentiated market, shows that although competition effect of merger involving firms from two independent market are non-existent with an independent pricing, competition effect appears if the merger allows product bundling. They’re also stated that bundling strategies have negative effect on social welfare, although potential efficiency could gains following a merger (Granier&Podesta, 2010).

In the same way, verde (2007) states the merger between energy market especially in electricity and gas market, may also result in anticompetitive outcomes (i.e foreclosure of upstream/downstream markets, increasing market concentration, etc). In spite of such disadvantage, the mergers in energy market also have benefit effect as following ((Stefano Verder, 2007):

a. Investments in infrastructure are hindered by uncertainty and risks prevailing in the markets, and so energy companies prefer to use their returns to carry out new acquisitions.

b. The liberalization process focused on vertical separation of the supply chain and now energy companies find it profitable to reintegrate vertically, in order to substitute imperfect contracts with internal hierarchy.

c. Electricity undertakings need to secure their gas supply as their generation mix is more and more based on natural gas. Similarly, gas companies need to dispose of strong link with downstream electricity market, as they have to secure their captive demand.

d. Electricity and gas retail activities can exhibit scope economies and better quality services to the final consumers.
**Indonesian Merger and Acquisition Regulations**

Generally, the legal basis for Merger and Acquisition in oil and gas industry in Indonesia is referring to Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices. An oil company who want to merge or acquirer has to comply with the Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices, along with its implementing regulations, which is the same procedure with others industry.

Under Article 28 of Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices states that company or entrepreneur is prohibited from conducting merger, consolidation, and acquisitions of share that may result in monopoly or unfair business practices. The criteria for the prohibited merger are set out separately in a government regulation. Moreover, Article 29 of Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices set an obligation of notification for company or entrepreneur who merges or acquirer if the result in combined assets, sales, or both exceeds certain threshold.

Furthermore, there are several transactions that are exempted from provisions of the Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices, as following (Article 50):

a. Actions and/or contracts with the intention to implement the existing law;

b. Contract related to intellectual property rights such as license, patent, trade brand, copy right, industrial product design, integrated electronic series, and trade secrets, and contract related to franchise; or

c. Contract on technical standardization of product of goods and/or services which do not restrict and/or hamper competition; or

d. Contract for a distribution purposes which do not stipulate to resupply of goods and/or services with the price lower than the price agreed upon in the contract; or

e. Contracts of research cooperation for the purposes of promoting or improving the living standards of the people in general; or

f. International contracts which have been ratified by the Government of Republic of Indonesia; or
g. Contracts and/or action intended for export which do not distract domestic need and/or market supply; or
h. Business entity categorized as engaging in small scale business; or
i. Cooperative business activities serving specifically only its members.

A violation of Article 28 of the Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices, business entities may charges following possible sanction:

a. Criminal fine of a minimum Rp. 25,000,000,00 and maximum at Rp. 100,000,000,000; and/or
b. Cancellation of the merger, consolidation or acquisition; and/or
c. Revocation of business permit.

In addition, the Indonesian Competition Law No 5 year 1999 mandates the Commission for Supervision of Business Competition (KPPU) to carry out and supervise the enforcement of merger and acquisition activity.

Furthermore, the implementation about The criteria for prohibited merger and acquisition and the threshold for notification, which stated in Article 28 and 29 of the Indonesian Competition Law No 5 year 1999, is regulated by Indonesian Government Regulation No. 57 year 2010 concerning Mergers, Consolidation and Acquisition of Share that May Result in Monopoly or Unfair Business Competition Practices.

Article 2 of Indonesian Government Regulation No. 57 year 2010 set out criteria for prohibited merger, which such companies is allegedly performed, first, Prohibited Contract/Agreement, which including oligopoly, price fixing, division of territory, boycott, cartels, trusts, oligopsony, vertical integration, etc. Second, Prohibited Activity, which including monopoly, monopsony, market share, conspiracy. Thirds, dominant position, which mean the companies have no significant competitors in the market or companies have highest position in the market in terms of financial capacity, the ability to access on the supply or sale, as well as the ability to adjust supply.

Moreover, the notification threshold for merger and acquisition differentiate between banking and non-banking sector, as following:
a. Banking Sector, the total combined assets in Indonesia is more than 20 trillion rupiah, while

b. Non-Banking sector, the total combined assets in Indonesia is more than 2.5 trillion rupiah and/or the total combined sales turnover in Indonesia more than 5 trillion rupiah.

Therefore, any consolidation or merger, and acquisition by one or more companies, directly or indirectly, of the shares of another company resulting in change or transfer of control with the value of transaction (combined assets) is more than 2.5 million rupiah or the value combined sales turnover in Indonesia is more than 5 trillion rupiah, shall be notified to KPPU. Failing to submit the notification of merger consolidation or acquisition (post-merger notification), the companies may be sanctioned with an administrative fine of 1 billion rupiah for each day delay.

In April 213, KKPU promulgated new Regulation No. 2 year 2013 as the third change of KPPU regulation No. 13 year 2010 concerning Guidance on the Implementation of Mergers, Consolidations and Acquisition which May Result in Monopolistic Practices and Unhealthy Business Competition (KPPU Regulation No. 2 year 2013). This regulation stated the guideline for merger, consolidation and acquisition as implementation provisions from Indonesian Competition Law No 5 year 1999 and Indonesian Government Regulation No.57 year 2010, as it summary below:

a. Scope of merger and acquisition notification:

Merger is defined as a legal action undertaken by one or more business entity in order to merge with another existing undertaking or company, resulting the assets and liabilities of merging business entity being transferred to the merged business entity and the other merging business entity then being dissolved. Further, acquisition of share refers to legal action by an business entity to acquire all or most of the shares of a company which may result in a change of control of the acquired company.

Also, the scope of merger and acquisition apply to transaction between company and its majority shareholder, when the company increased its ownership stake in a company so that the company becomes the controller, then the addition of such shareholding shall be notified to the KPPU.
KPPU Regulation No. 2 year 2013 is defined the “Control” that will exist as result of merger and acquisition, where companies holds more than 50% of the shares or voting rights in another business entity, or hold 50% or less of the shares or voting rights, but has the ability to influence and determine the management policy of business entity and/or influence and determine the management of business entity.

b. The exemption of Merger and Acquisition Notification
The Merger and Acquisition Notification provision is not applicable for transaction between affiliated companies. The affiliated companies are defined as; first, the relationship between the companies, either directly or indirectly, controls or is controlled by the company. Second, the relationship between two companies are controlled, directly or indirectly by the same party.

c. The timeline of Notification
The parties of merger shall collectively notify KPPU, or, in case of acquisition, the acquirer is obliged to notify KPPU within 30 days after the date such merger or acquisition has become legally effective.

d. Assessment of Notification
The assessment of notification will be done after merger or acquisition has occurred (post-merger assessment). However, the assessment also may be done in prior the merger or acquisition process by requesting the consultation to KPPU.

1) Pre-Merger Assessment/Consultation Assessment:
The Pre-merger assessment is conducted with following:

   a) Preliminary assessment:
Preliminary assessment is conducted within 30 day after KPPU received the consultation request from parties. In this stage, KPPU will assess the market concentration level before and after merger calculated by using the Hirschman-Herfindahl Index (HHI) spectrum for horizontal transaction and the existence of market dominance for vertical transaction. If in the result of assessment indicates HHI is below 1800, or above 1800 but with a change of less than 150, or there is no indication of dominant position, KPPU will issue “no indication” opinion. On the
other hand, if the result of assessment indicates HHI is above 1800 with change of more than 150 or there is indication of dominant position, the assessment will continue to comprehensive assessment.

b) Comprehensive assessment:
Comprehensive assessment will be conducted within 60 day after the end of preliminary assessment. In this stage, KPPU will gather information from related parties such as competitor, consumer, government, etc.

After completing the full consultation stage, KPPU shall issue one of the following opinions:

- “No Indication”
- “Indication”
- “No Indication”-with certain advice and/or guidance which must satisfied by parties in order to completing the transaction.

2) Post Merger Assessment
If merger and acquisition transaction has not made through the consultation process, KPPU will assess within 90 day the transaction. The assessment will be based on the consideration of following matters:

a) Market concentration;
Herdindahl-Hirschman Index (HHI) model is used to test the market concentration. The threshold of HHI model for merger and acquisition for is below 1800. If the HHI result shows below 1800, it indicates that such merger and acquisition will not change the existing market structure and low possibility of monopoly because the average HHI value for Indonesian Industry is 2000.

b) Barriers to entry
The barriers to entry will be assessed through, first, absolute barrier such as Government regulation, Government licenses, and Intellectual property right. Second, Structural barrier including supply and demand, network effect, economic scale, consumer switching cost, etc. Third, profit strategic barrier including first mover advantage, tying and bundling, etc.

c) Potential anti-competitive behavior;
The potential anti-competitive behavior is defined as as following categories:

1.1 Unilateral Effect,
Merger and Acquisition may result the dominant business entity. Thus, business entity may abuse such dominant position in order to gain benefit from other business entity or consumer.

1.2 Coordinated Effect,
In case merger and acquisition does not result a dominant business entity, there is still possibility to create the collusive action. The strong business entities are coordinated, directly or indirectly, which it will create the anti-competitive actions among others.

1.3 Market Foreclosure
Vertical merger and acquisition may create the barrier for competitor either in upstream and downstream markets that it impact to the level of competition in such market. Thus, the vertical merger and acquisition may change the market structure.

d) Efficiency achievement;
The parties shall provide information about the efficiency that will gain through such merger or acquisition. This information of efficiency shall clearly stresses by using the variable cost, marginal cost or fixed cost.

e) Insolvency.
In case the reason of merger or acquisition is to avoid the bankruptcy of business entity, KPPU will assess the best value for consumer as an effect of such condition whether the business entity is out or remain in the market.

As result of this assessment, KPPU will issue an opinion with respect the merger or acquisition transaction, which either there is an indication or monopolistic practices or unhealthy business competition, or there is no indication of monopolistic practices or unhealthy business competition.

e. Offshore merger or acquisition
This regulation also applies for merger or acquisition, which occurs outside of Indonesian jurisdiction but has impact to Indonesian Market (offshore merger or acquisition). The criteria of offshore merger that fall to this regulation, as following:
1) The transaction is undertaken outside the territory of Indonesian;
2) The transaction will have a direct impact on the Indonesian market, in that:
   a) All parties undertaking the transaction operate directly or indirectly through a company which they control in Indonesia; or
   b) One party has operational transaction in Indonesia and the other party has sales into Indonesia.
3) The merger satisfies the asset or sales turnover thresholds; and
4) The transaction is between non-affiliated companies.

**Impact of Change of Control In Indonesian Production Sharing Contract.**

The Change of Control in Indonesian production sharing contract is can be made through following process:

a. Merge or acquirer through share purchasing of company who has participating interest in a Working Area or “indirect change of Interest in a Working Area”;

b. Acquire the participating interest in such a Working Area or “direct change of Interest in a Working Area”.

In practice, the Indirect Changes of Interest in Working Area through merge or acquire share of Oil and Gas Company who has participating interest in a working area shall be comply with merger and acquisition regulation with has been mentioned above. However, is merger and acquisition in Indonesian upstream Industry relevant with the objective of Indonesian merger and acquisition law, which to prevent monopoly and unhealthy business competition activity?

The hypothesis to that question is that Indonesian Upstream Industry is different or unique compare to other industry due to the ownership of natural resources and characteristic of Indonesian upstream market. Therefore, it does not have any significant impact of merger and acquire Oil and Company in Indonesian Upstream industry to Oil and Gas competition in Indonesian market.

Under Indonesian Law No. 22 year 2001, Article 6.2.a states that the government holds the ownership of natural resources up until delivery point, also known as Point of
Export in Production Sharing Contract. The objective of this provision is a statement of sovereignty over natural resources especially over Oil and Gas sector. This means the Oil and Gas as produce from exploration and exploitation process are belong to the Government until in delivery point where Contractor and Government have to split the Oil and Gas entitlement as stated in Production Sharing Contract. In Production Sharing Contract, point of export is defined as the point of delivery, which is the outlet flange of the loading arm after final sales meter at the delivery terminal, or some other mutually agreed points by the Parties. At the point of delivery the Contractor can claim their entitlement of Oil and Gas base on its participating interest in a Working Area. Therefore, it implicit shows relation participating interest, the ownership of natural resources, and sovereignty of natural resources. The participating interest shows the amount of the in-kind Oil and Gas that Contractor received at point of delivery, thus the ownership of natural resources is transferred from government to Contractor through Production Sharing Contract as legal basis for such transferring. However, this transfer of ownership of natural resources is valid at the point of delivery. Therefore, in many countries which used Production Sharing Contract, transfer of Participating interest, which also known as “farm-out” and “farm-in” of interest, needs an approval from government. The participating interest is not mean that company automatically have the ownership of natural resources.

Furthermore, the Indonesian Law No. 22 year 2001 on Oil and Gas is divided Oil and Gas market into Upstream and Downstream Market. The Upstream market is related to exploration and exploitation of Oil and Gas, which it is related to competition to natural resources. The competition in Indonesian Upstream market is described as open market because the companies, both national company and foreign company, are allowed to participate in public procurement of Working Area. The public procurement of Working Area is the fairly process where the companies can compete to entitlement or interest in working area. Moreover, all activities in exploration and exploitation stages are monitoring by government through Work Program & Budget due to Cost Recovery principle on Indonesian Production Sharing Contract.

In contrast, the Downstream Market is in relation with commercial business activities up to the final consumers. The commercial business activities are including: first, processing activities, which includes the activities to purify, obtain parts, increase the quality, and
added value of petroleum and/or natural gas. Second, transporting activities, which include the activities to move petroleum, natural gas and/or their processed products from the working area or storage and processing places, also it includes the transport of natural gas through transmission and distribution pipeline. Third, storage activities, which include the activities to receive, collect, store and release petroleum and/or natural gas. Forth, sales activities, which include the activities to purchase, sell, export and import petroleum, natural gas and/or their processed product, including commerce of natural gas through pipeline. However, if the activities of processing, transporting, storage and sales of Oil and Gas are continuation of exploration and exploitation, the downstream regulations do not apply to such activities. Therefore, it can be stated that downstream market is the actual market because the downstream business activities are more have impact to the final consumers.

In addition, only national companies or the business entity, which established under Indonesian Law, is allowed to participate in downstream market. The companies who want to operate business in downstream market shall have license from government for each storage business, processing business, transport business, or commercial/sales business.

Furthermore, under Indonesian Law No. 22 year 2001 about Oil and Gas is regulated about the single business entity for each working area for upstream business activity, which mean the company has to establish subsidiaries. The objective of this provision is related to “ring-fencing” where the separation of operational cost due to Cost Recovery. Further, this single business entity provision creates the possibility of potential market for both participating interest of Working Area and Share purchasing of Company or Subsidiaries companies.

The company who lost or late to participate in public procurement of a Working Area may has another chance to obtain some interest in such a Working area by acquire participating interest of other company in such Working Area or acquire company share who has participating interest in such Working Area. Both methods are allowed by Indonesian regulation. Moreover, through acquire the participating interest, company has possibility to lower the risk in exploration period, which most of the transferring of participating interest happen in exploitation stage that the Oil and Gas are proven. Also,
there is a “barter” effect of the acquiring the participating interest, which means the company is used their participating interest in a Working Area as change of participating interest or share of other company either in other Working Area in Indonesia or in Oil and Gas field in other Country.

The requirement for transferring of participating interest in a Working Area is regulated under Article 33 of Indonesian Law No. 22 year 2001, which states the Contractor shall not assign or transfer their interest within the first three (3) year of exploration period. This provision is only applied for transferring participating interest of a working area, thus, the transfer of participating interest because acquirer of Contractor share in such a Working Area is not implicit regulated but in practice is allowed.

Furthermore, other specific provision for transfer of participating interest is regulated in Indonesian Production Sharing Contract as implementation of regulation and rule for Contractor to comply. There is two regime of Indonesian Production Sharing Contract concerning the provision of transferring of participating interest, which is Indonesian Production Sharing Contract before 2008 regime and Indonesian Production Sharing Contract after 2008. The difference of both regimes is related to transfer of Participating Interest that creates the Change of Control in such Production Sharing Contract. In The Indonesian Production Sharing Contract that is signed before 2008, does not regulates the change of control.

Change of control is defined in Indonesian Production Sharing Contract as any direct or indirect change of Control of Participating Interest Holder (whether through merger, sale of shares or other equity interest, or otherwise) through a single transaction or series of related transaction in which the Participating Interest is the only substantive asset involved in such series of related transactions.

Further, Control in Indonesia Production Sharing Contract means ownership directly or indirectly of at least 50% of (a) the voting stock, if the company is a corporation issuing stock, or (b) the controlling rights or interest, if the other entity is not a corporation issuing stock.

Under Section Right and Obligation of Indonesian Production Sharing Contract, the transferring of participating interest is regulated, as following:
“… have the right to sell, assign, transfer, convey or otherwise dispose of all or any part of its share of Participating Interest under this CONTRACT to any affiliated companies upon the prior written consent of GOI through SKKMigas, which consent shall not be unreasonably withheld, provided that any assignee to whom such Participating Interest is assigned under any provision of this CONTRACT shall not hold any Participating Interest in any other Production Sharing Contract or any other form of Cooperation Contract at any given time (Article 5.2.7)”.

“… have the right to sell, assign, transfer, convey or otherwise dispose of all or any part of its share of Participating Interest under this CONTRACT to any non-Affiliated companies upon the prior written consent of GOI through SKKMigas, which consent shall not be unreasonably withheld, provided that any assignee to whom such Participating Interest is assigned under any provision of this CONTRACT shall not hold Participating Interest in any other Production Sharing Contract or any other form of Cooperation Contract at any given time; and provided further that during the first three (3) Contract years, Contractor shall remain a majority holder (greater than 50%) of the Participating Interest and shall hold the operatorship of this CONTRACT (Article 5.2.8)”.

“… undertake to notify and obtain the approval of GOI through SKKMigas prior to any proposed direct or indirect change of contract, which approval shall not be unreasonably withheld provided that CONTRACTOR shall continue to meet the qualifications as CONTRACTOR and to be fully liable in executing Petroleum Operations and the approved Work Program and Budget of Operating Costs under this CONTRACT (Article 5.2.9)”.

“… any change of operatorship or change of control shall be executed without making any major modification of any existing standard, method, system, technology which may result in any material additional costs and expenses. CONTRACTOR shall not recover such material additional-costs and/or expenses, unless CONTRACTOR can demonstrate that any change proposed by CONTRACTOR shall improve efficiency and effectiveness and reduce
In summary, the main points of transferring participating interest in Indonesian Production Sharing Contract (Production Sharing Contract which signed after 2008) are, *first*, generally, Contractor is allowed to transfer the participating interest to either affiliated company or non-affiliated company. *Second*, during the first three years of exploration period, Contractor is not allowed to transfer the participating interest to non-affiliated. Further, Contractor shall have majority of interest and hold the operatorship in such Working Area. *Third*, the change of control because transferring majority of Participating Interest shall not modify or change any Work Program & Budget that have been proved by Government. *Forth*, Contractor shall notify Government in relation to any change of participating interest. *Fifth*, the party who wants to acquire the participating interest shall not have any participating interest in other Working Area. This is consistent with the single entity provision; thus, the party who receives the transferring of participating interest has to establish the new business entity.

The requirements above is apply for transferring the participating interest in working area and it is not including the transfer of participating interest because merger or acquisition of share purchasing of it company. So, how about the participating interest because merge or acquire company share that has participating interest in a working area? In practice, this transaction is allowed, although there is no specific regulations that regulated this transaction. As generally, the Oil and Gas Company who want to acquire the business entity that has participating interest, shall comply with merger and acquisition regulation, which is not sufficient meet the objective of such regulation. The most acquisition transaction in Upstream market is by acquire of the subsidiaries of Oil and Gas Company who has participating interest in a working area. Thus, the company who acquire does not have to establish a new legal business entity for such a working area.

The several cases below shows an example of both direct transfer of participating interest and the transferring of participating interest because acquire of company share that has participating in such Working Area;
Case 1: Acquisition of Anadarko Ambalat Limited, Anadarko Bukat Limited and Anadarko Indonesia Nunukan Company (PERTAMINA, 2013):

In 2012, PT. Pertamina Hulu Energy, which subsidiary of PT. PERTAMINA (PERSERO) had agreement with Anadarko Offshore Holding Company LLC to acquirer several Anadarko subsidiary in Indonesia, which are Anadarko Ambalat Limited, Anadarko Bukat Limited dan Anadarko Indonesia Nunukan Company in Total value for third transaction are US$55,226,000. Anadarko Ambalat Limited holds a 33.75% participating interest in the Ambalat Production Sharing Contract. Anadarko Bukat Limited holds a 33.75% participating interest in the Bukat Production Sharing Contract and Anadarko Nunukan Company holds a 35% participating interest in the Nunukan Production Sharing Contract. In March 2013, both parties notify KPPU regarding such acquisition transaction as compliance to KPPU Regulation No. 2 year 2013. Through case No. A11013 for acquisition of Anadarko Bukat Ltd, Case No. A11113 for acquisition of Anadarko Ambalat Ltd, and Case No. A11213 for acquisition of Anadarko Nunukan Company, KPPU had issue “No Indication” as result of assessment of such Acquisition on May 2013 (KPPU, 2013). Thus, PT. Pertamina Hulu Energy as indirectly hold participating interest in Ambalat Working Area, Nunukan Working Area and Bukat Working Area, which are 33.75%, 35% and 33.75% respectively.

Case 2: Addition of PT. Pertamina Hulu Energy ONWJ’S 5.0295% participating interest in Offshore Northwest Java Block.

In May 2013, PT. Pertamina Hulu Energy ONWJ acquired a 5.0295% participating interest in Offshore Northwest Java Working Area that held by Talisman Resources ONWJ Ltd. Through this acquisition, PT. Pertamina Hulu Energy is the majority in Offshore Northwest Java Working Area by hold 58.2795% of participating interest. The remaining participating interest of Offshore Nortswest Java Working area is 36.7205% of participating interest hold by Energy Mega Persada ONWJ Ltd and 5% of participating interest hold by Risco Energy ONWJ Ltd. (PERTAMINA, 2013)

Case 3: Share Acquisition of Natuna 2 B.V
On December 2013, PT. Pertamina Hulu Energy Oil and Gas and PTTEP Netherlands Holding Cooperatie U.A acquired 23% participating interest in Natuna Sea Block A through the acquisition of 100% shares in Natuna 2 B.V from Hess (Luxembourg) Exploration and Production Holding S.A R.L. Thus, PT Pertamina Hulu Energy Oil and Gas hold 50% share of Natuna 2 B.V and remaining 50% share is hold by PTTEP Netherlands Holding Cooperatie U.A. (PERTAMINA, 2013)

Case 4: Acquisition Participating Interest in East Bula Working Area.

In 2010, Government has approved the acquisition of participating interest in East Bula Working Area. Repsol Exploration East Bula BV, which subsidiary of Repsol Exploration SA, acquire 45% of participating interest from Black Gold East Bula LLC and Niko Resources (East Bula) Limited. The remains of Participating interest is Black Gold East Bula LLC hold 30% of participating interest and Niko Resources (East Bula) Limited hold 25% of participating interest. The operatorship of this working area still holds by Black Gold East Bula LLC. Before the Acquisition, the composition of participating interest in East Bula Working Area was Black Gold East Bula LLC hold 50% of participating interest and Niko Resources (East Bula) Limited hold 50% of participating interest. (Niko, 2011).

The case No. 4 above shows that the transfer of participating interest by owning the share of it company have effect to the majority of participating interest in East Bula Working Area. East Bula Working Area was signed between Government and Contractors, which Black Gold East Bula LLC and Niko Resources (East Bula) Limited, effective on November 2009. It means that East Bula Production Sharing Contract is under 2008’s Indonesian Production Sharing Contract regime, which is applied the change of control provision and operatorship provision, and the limitation of first Three year of exploration period provision. Further, in December 2009, Niko Resources Ltd, through wholly owned subsidiary Nikko Resource (Cyprus) Limited, acquired all outstanding share of Black Gold Energy LLC, which has many participating interest in Indonesian Working Area, including in East Bula Working Area. Therefore, government has approved the transferring of participating interest because Both Black Gold East Bula LLC and Niko Resources (East Bula) Limited are subsidiaries of Niko Resources.
LTD, and the Combination of both participating interest is still hold majority or participating interest in East Bula Working Area. Although, as it seem that Repsol has hold majority of participating interest in East Bula Working Area, which hold 45% of participating interest, the combination of Black Gold East Bula LLC and Niko Resources (East Bula) Limited gains majority of participating interest in East Bula Working Area, which hold 55% of participating interest.

The transferring of participating interest through acquire a company share that has participating interest in a working area is purely Business to Business transaction with less controlling from government. Therefore, it difficult to analysis the competition in Indonesia upstream market through this point.

Under Indonesian Law No. 22 year 2001, the transfer of participating interest as result of acquirer of share is not regulated, only the direct transfer of participating interest that regulated, which exempted for first three year of the exploration. The objective of such limitation is the Contractor shall focus on conducting the exploration according to Work Program and Budget as state in Production Sharing Contract. Similarity to Indonesian Law No.22 year 2001, Production Sharing Contract also stated the obligation to notify applies only for direct transfer of participating interest. The objective of this notification is related to petroleum operation rather than economic value. Transfer of participating interest may change the operatorship in such Working Area. Operator in petroleum operation means the company who responsible for the exploration, development and production of Oil and Gas. The operator of Working Area is also responsible as intermediary between Government and Contractors. Under the 2008 Indonesian Production Sharing Contract regime, the company who designated as operator is the company who hold majority of participating interest in such Working Area. While, in Indonesian Production Sharing Contract before 2008, the operator is pointed base on mutual agreement among participating interest holders in such Working Area.

Furthermore, the transferring or participating interest through acquire of company share shall comply with Indonesian merger and acquisition regulation. However, the Indonesian merger and acquisition regulations give blind spot in such regulations. The Indonesian merger and acquisition regulations are applied for Indonesian business entity, or the merger and acquisition that involving Indonesian business entity as party or the
result of such merger and acquisition transaction have direct impact to Indonesia market. However, Upstream Market is an open market where Indonesian business entity and Permanent establishment are allowed to participant in Upstream business activity. On the other hand, the Indonesian merger and acquisition regulations only apply if, first, the one or both parties are Indonesian Business Entity. Second, the results of such merger and acquisition transaction have direct impact to Indonesian market criteria also have a bias meaning. As state above that Indonesian Oil and Gas market is divided Upstream and Downstream market. The upstream business activity is have not give a significant impact to Indonesian market compare to downstream business activity. If the sales of Oil and Gas are set as standard of this direct impact criteria, most of Contractors Oil entitlements are exported. Meanwhile, if it sales in domestic market, the price depends on Business-to-Business negotiation on the base on Indonesian Crude Price, which is set by Indonesian Government. For sale of Gas entitlement, the sale of Gas is already determined at the beginning of first of Plant Development that has been approved. It means the government involved in determining the gas price and allocation for both export and domestic used. Therefore, these criteria are not applied for merger and acquisition of share between permanent establishments.

Moreover, the transferring of participating interest either direct transferring of participating interest or the transferring of participating interest as result acquire of company share have implicit relation to ownership of natural resources. Participating interest is the real asset or portfolio for company in Indonesian Production Sharing Contract due to single business entity provision and cost recovery principle, which mean all assets of company in working area such as pipeline, storage, refinery, etc., are belong to government.

Although some research shows that merger and acquisition in Oil and Gas Industry does not affected the competitiveness in upstream market, knowing the real ownership of single business entity, which has participating interest in a Working Area, could give advantages for government as consideration on evaluation of participant in the next public procurement of Working Area. Therefore, the notification of both direct transferring of participating interest and the transferring of participating interest as result of company share’s acquisition for either business entity or permanent establishment.
The 10% of Participating Interest

In addition to the right of contractor to transfer its interest as stated in Section Right and of Indonesian Production Sharing Contract, there is also mandatory obligation to transfer 10% of Contractor interest, as known as 10% of Participating Interest or Indonesian Participant Interest, to Regional Enterprises. This provision as stated as following:

“…at the time the first Plan of Development is approved by GOI, CONTRACTOR shall have obligation to offer a ten percent (10%) Participating Interest under this CONTRACT (hereinafter called “Indonesian Participant Interest”) to local government owned company to be designated by local government with which the Contract Area is located, or Indonesian National Company to be designated by the Minister. The existence of ten percent (10%) Participating Interest to be offered to local government owned company or Indonesian national company mentioned above shall be notified by CONTRACTOR to local government or to the Minister referred to above through SKKMigas (Article 16.1).”

“…in the event of acceptance by local government owned company or Indonesian national company of Contractor's offer, the local government owned company or Indonesian national company, as the case may be, shall be deemed to have acquired the undivided interest on the date of CONTRACTOR’s notification to local government owned company or Indonesian national company. Local government owned company or Indonesian national company, as the case may be, shall not sell, assign, transfer, convey or otherwise dispose of all or any part of the Indonesian Participant Interest during the first three (3) years as from the effective date of the participation on farm-in agreement entered into by CONTRACTOR and local government owned company or Indonesian national company. (Article 16.7)”

“… For the acquisition of ten percent (10%) Participating Interest in this CONTRACT, local government owned company or Indonesian national
company as applicable, shall reimburse CONTRACTOR an amount equal to ten (10%) of the sum of Operating Costs which CONTRACTOR has incurred for and on behalf of its activities in the Contract Area up to the date of CONTRACTOR’s notification to local government owned company or Indonesian national company mentioned in Sub-sections 16.3 and 16.5 of this section, and ten percent (10%) of the awarded compensation and equipment and or services as respectively mentioned in Sub-section 8.1 and 8.3 of section VIII, hereof” (Article 16.8).

The objective of 10% of participating interest is encouraged national company especially for Local government owned enterprise to take participation in Upstream business industry. Therefore, this acquisition of 10% to Local government owned enterprise is not subject to Indonesian merger and acquisition regulations.
Chapter 4

Conclusion

The aim of this study is to examine the effect of transferring of participating interest to contractor and government, also it relations to competitiveness in Indonesian Upstream Market. The main motivation of merger and acquisition in Oil and Gas Industry is the possibility to access natural resources. This motivation is contrast with traditional managerial motivation for merger and acquisition, which value-creating synergies or market expands.

The potential competition in Indonesian Upstream Market regarding the accessibility of natural resources is occurred in public procurement of a Working Area stage and the transferring of Participating Interest stage. In public procurement of a Working Area stage, Business Entity or Permanent Establishments may participate as solo participant or as consortium participant. The participants are evaluated through the bid that the participant proposed. The bid winner is evaluated by considering of work program, technical and financial capability, and degree of risk and efficiency.

On the other hand, the competitiveness in the transferring of participating interest occurs either in exploration or exploitation period of Indonesian Production Sharing Contract. Participating Interest is related to the proportion of interest in Working Area. It means the undivided rights, interest and obligation of Contractor including the proportion of entitlement of natural resources, which stated on Production Sharing Contract.

The participating interest in a working area is transferred by two methods, which through the direct acquisition of participating interest or acquires the share of company that has a participating interest in a working area. The direct acquisition of participating interest in a working area, as also known “farm in” or “farm out”, is regulated in either in Indonesian Law No. 22 year 2001 or in Indonesian Production Sharing Contract. The only exemption is that Contractor is not allowed to transfer it participating interest as majority to non-affiliated within the first three year of exploration period and still hold the
operatorship. On the contrary, the transferring of participating interest because acquisition of company’s share that has participating interest in a Working Area is not implicit regulated but in practice, it allowed. In general, merger and acquisition in Indonesia fall into merger and acquisition regulations including Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices, Indonesian Government Regulation No. 57 year 2010 concerning Mergers, Consolidation and Acquisition of Share that May Result in Monopoly or Unfair Business Competition Practices and Regulation No. 2 year 2013 as the third change of KPPU regulation No. 13 year 2010 concerning Guidance on the Implementation of Mergers, Consolidations and Acquisition which May Result in Monopolistic Practices and Unhealthy Business Competition.

However, there is a flaw in those regulations. The notification of merger and acquisition is only apply if, first, the one or both parties are Indonesian Business Entity. Second, the results of such merger and acquisition transaction have direct impact to Indonesian market criteria. In contrast, Business entity and Permanent Establishments are allowed to participate in Upstream Business activity. Moreover, the second’s criteria also have a bias meaning because there is no significant impact in sale of the Contractor’s entitlement to Indonesian Market. Therefore, those merger and acquisition regulation does not apply for transferring of participating interest occurs due to acquisition of company share transaction among permanent establishments.

The Participating interest is the only a portfolio or asset for business entity or permanent establishment that participate in Indonesian Upstream business activity. Due to Cost recovery principle in Indonesian Production Sharing Contract, all Petroleum operation cost are recovered by government, thus, all asset occurs during exploration and exploitation period are belong to government including data, refinery, pipeline, storage, etc. the participating interest is also can be interpreted as the portion of the oil and gas entitlement that business entity or permanent establishment owned.

On the other hand, the transferring of participating interest gives a bias situation to government. Through the transferring the transferring of participating interest, the government receives benefit from such as new financial support and advance technologies into that working area, taxes payment, etc.. However, the transferring of
participating interest also may hinder the exploration or exploitation activities in a working area due to financial or manpower or technology reason. This happen because the business entity or permanent establishment that hold majority of participating interest and the operatorship, also it holds a lot of participating interest in other working areas.

Therefore, the transferring of participating interest either though direct farm in- farm out or through acquisition of company’s share, need to be notified or even an approval from government because it will impact to the suitability of exploration or exploitation activities in a working area.

Lastly, although this study shows the relation between the transferring of participating interest and competition in Indonesian Upstream market in legal perspective, author concluded that this study still not complete. It still need comprehensive analysis from economic perspective especially on the value of competition in Indonesian Upstream market by comparing the transferring participating interest transactions into the ownership of natural resources.
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**Indonesian Regulations**

Indonesian Law No. 22 year 2001 concerning Oil and Gas

Indonesian Law No. 5 year 1999 concerning The Prohibition of Monopoly and Unfair Business Competition Practices

Indonesian Government Regulation No.35 year 2004 concerning Upstream Business Activities
Government Regulation No. 57 year 2010 concerning Mergers, Consolidation and Acquisition of Share that May Result in Monopoly or Unfair Business Competition Practices

Indonesian Government Regulation No.79 year 2010 concerning Cost Recovery And Income Tax In Upstream Industry.

KPPU Regulation No. 2 year 2013 concerning the third change of KPPU regulation No. 13 year 2010 concerning Guidance on the Implementation of Mergers.

Ministry of Energy and Mineral Resources Regulation (MoEMR Regulation) No. 35 year 2008 concerning the Public Procurement Procedure of Working Areas.
Appendices

Figure 5.

![Graph showing Oil & Gas M&A deals by value and count.](source)

Note: M&A activity examined in this report represents mergers and acquisitions involving oil and gas companies between the first quarter 2011 and the second quarter 2013 with values greater than $10 million, including transactions with no disclosures on reserves and/or production. Our analysis has excluded several transactions between affiliated companies to provide a more accurate picture of M&A activity in the sector. Deloitte’s methodology takes a deeper look into the M&A transaction data.

Source: PLS Inc. and Derrick Petroleum Services Global M&A Database

Figure 6

Indonesian Oil Production and Consumption

![Graph showing Indonesian oil production and consumption from 2002 to 2012.](source)

- Thousand barrels daily

Sources: BP Statistical Review of World Energy June 2013
Indonesia’s Natural Gas Production and Consumption

*Figure. 7*

Indonesia’s Natural Gas Production and Consumption

*Figure. 7*

*Figure. 7*

Tabel. 1

Exploration Work Program and Budget

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<tr>
<th>CONTRACT YEARS</th>
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*Billion cubic metres
Sources BP Statistical Review of World Energy June 2013
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