

Indonesian Import License Regulations

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The Indonesian Minister of Trade (“MOT”) issued two new regulations on import licenses in 2015 that took effect on January 1, 2016.

The first is MOT Regulation No. 70/M-DAG/PER/9/2015 dated September 28, 2015 regarding Importer Identification Number (“API”) (“MOT Reg 70/2015”). This revokes MOT Regulation No. 27/M-DAG/PER/5/2012 dated May 1, 2012 regarding Provisions on API as lastly amended by MOT Regulation No. 84/M-DAG/PER/12/2012 dated December 27, 2012 (together “MOT Reg 27/2012”).

The significant changes under MOT Reg 70/2015 are as follows:

1. Import of goods under API-U

MOT Reg 70/2015 deletes the provision that only goods within the same section of the Goods Classification System can be imported under a General Importer Identification Number (“API-U”). Under the previous provision, if importers intended to import goods from more than one section of the Goods Classification System, the importer was required to import such goods from an overseas company with a special relationship with the importer, or the importer had to be a business entity partially or entirely owned by the state.

MOT Reg 70/2015 does not limit the importation of goods from within various sections of the Goods Classification System, so long as the goods are in line with the Trading Business License of the company holding the API-U. Therefore, the new API-U format no longer sets out information on the sections of goods.

2. Import of complementary goods and goods for test market purposes

MOT Reg 27/2015 no longer recognizes the Importer Producer designation. This caused concern among companies holding a Producer Importer Identification Number (“API-P”), particularly manufacturing companies that import finished products as complementary goods and for test market purposes, because the deletion of the provisions on Importer Producer meant them no longer being able to import finished products for trading purposes. Importer Producer designations issued under MOT Reg 27/2012 remain in effect until their expiration. API-U and API-P issued under MOT Reg 27/2012 remain in effect and must be adjusted to the provisions of MOT Reg 70/2015 by June 30, 2016.

The issue of the importation of complementary goods and goods for test market purposes was addressed with the issuance of MOT Regulation No. 118/M-DAG/PER/12/2015 dated December 23, 2015 regarding Provisions on the Importation of Complementary Goods and Goods for Test Market Purposes and After-Sales Service (“MOT Reg 118/2015”).

MOT Reg 118/2015 allows companies with an API-P to import manufactured goods (*barang manufaktur*) insofar as such goods are needed to develop their business and investment. The imported manufactured goods may be traded and/or transferred to other

parties. MOT Reg 118/2015 adopts the provisions on the designation of Importer Producer under MOT Reg 27/2012, with the addition of goods for after-sales service. Imported manufactured goods may not be used in the production process and may only be used as (a) complementary goods, (b) for test market purposes and/or (c) for after-sales service.

Below is a summary of the main provisions of MOT Reg 118/2015:

1. Import of Complementary Goods

Complementary goods means manufactured goods imported by a company holding an API-P for the purpose of completing its product line, originating from and produced by an overseas company that has a special relationship with the company holding the API-P.

The criteria for importing manufactured goods as complementary goods are:

- a. such goods must be in new condition;
- b. such goods cannot be manufactured by the company holding the API-P;
- c. the importation of the goods is in accordance with the business license in the field of industry or similar type of business license possessed by the company holding the API-P; and
- d. the imported goods are produced by a company overseas having a special relationship with the company holding the API-P.

Special relationship is defined as a relationship between the company holding the API-P and the company overseas, whereby either party has the ability to control the other party or has a significant impact on the other party in accordance with applicable accounting standards.

The special relationship can be in the form of:

- (i) contractual agreement to share control over an economic activity;
- (ii) share ownership;
- (iii) articles of association;
- (iv) agency/distributor agreement;
- (v) loan agreement; or
- (vi) supplier agreement.

2. Import of Goods for Test Market Purposes

Goods for test market purposes are manufactured goods that are imported and cannot be produced by the company holding the API-P, in order to gauge market reaction and for the development of the company's business within a certain period of time.

The criteria for importing goods for test market purposes are as follows:

- a. such goods must be in new condition;
- b. such goods cannot be manufactured by the company holding the API-P; and
- c. importation of the goods is in accordance with the business license in the field of industry or other similar type of business license owned by the company holding the API-P.

The importation of goods for test market purposes shall be conducted within a certain amount and period of time as stipulated by the supervising technical ministry.

3. Import of Goods for After-Sales Service

Goods for after-sales service means manufactured goods imported by a company holding an API-P to guarantee the availability of spare parts, replacement products and substitute products related to the company's main products.

Below are the criteria for importing goods for after-sales service:

- a. such goods must be in new condition;
- b. such goods cannot be manufactured by the company holding the API-P or their availability within the country is still limited; and
- c. importation of the goods is in accordance with the business license in the field of industry or other similar type of business license owned by the company holding the API-P.

4. Importation Approval

To import manufactured goods as complementary goods, for test market purposes and/or for after-sales service, the company holding the API-P must obtain an Importation Approval (*Persetujuan Impor*) from the MOT through the Director General of Foreign Trade ("Director General") by submitting an application electronically through <http://inatrade.kemendag.go.id>, accompanied by the following supporting documents:

- (i) a copy of business license in the field of industry or other similar type of business license owned by the company holding the API-P issued by the relevant authority;
- (ii) a copy of the API-P;
- (iii) evidence of special relationship with the company overseas, specifically for the import of complementary goods; and
- (iv) recommendation from the supervising technical ministry, such as the Ministry of Industry.

Based on the above, before applying for an Importation Approval from the MOT, a company holding an API-P must first apply for a recommendation from the supervising technical ministry.

The Director General will issue the Importation Approval within five working days as of receipt of the complete and correct documents. The validity period of the Importation Approval will be in line with the validity period set out in the recommendation issued by the supervising technical ministry.

5. Periodical Report

A company holding an API-P that has obtained Importation Approval must submit a quarterly report to the MOT, whether or not it has realized its importation activities, through <http://inatrade.kemendag.go.id> at the latest on the 15th day of the first month of the next quarter. The Director General may revoke the Importation Approval if a

company fails to comply with this reporting obligation for two times. Upon such revocation, the company may only re-apply for a new Importation Approval one year as of the date of the Importation Approval revocation. Importers must pay close heed to this reporting obligation because the MOT is quite strict in applying the sanction of license revocation.

6. Designation of Importer Producer

Importer Producer designations issued based on MOT Reg 27/2012 and which were due to expire before June 30, 2016 shall now remain in effect until June 30, 2016.

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