# REGULATION OF THE MINISTER OF TRADE
# No. 63/M-DAG/PER/12/2009

## CONCERNING
## PROVISIONS ON THE IMPORT OF CAPITAL GOODS WHICH IS NOT NEW

## BY THE GRACE OF GOD ALMIGHTY
## THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA,

### Considering:

- a. that the as yet un-conductive overall condition of the Indonesian economics had led to the weak purchasing power of several industries especially in the procurement of capital goods, it is needed to make effort to provide capital goods the industries can afford to;
- b. that based on consideration as described in paragraph a and taking into account the effective period for the import of un-new capital goods as stipulated in Regulation of the Minister of Trade No. 57/M-DAG/PER/12/2008 will expire on December 31, 2009, it is needed to continue the policy to import un-new capital goods;
- c. that based on consideration as described in paragraph a and b, it is necessary to stipulate the Regulation of the Minister of Trade;

### In view of:

- 1. Trade Law of 1934 (Statute Book No. 86/1934);
- 2. Law No. 3/1982 concerning Compulsory Registration of Companies (Statute Book No. 7/1982, Supplement to Statute Book No. 3214);
- 3. Law No. 5/1984 concerning Industry (Statute Book No. 22/1984, Supplement to Statute Book No. 3274);
- 4. Law No. 10/1995 concerning Customs (Statute Book No. 75/1995, Supplement to Statute Book No. 3612, that is amended by Law No. 17/2006 (Statute Book No. 93/2006, Supplement to Statute Book No. 4661);
- 5. Law No. 36/2000 concerning Stipulation of Government Regulation in lieu of Law No. 1/2000 concerning Free Trade Zones and Free Ports into Law (Statute Book No. 251/2000, Supplement to Statute Book No. 4053) that is amended by Law No. 44/2007 (Statute Book No. 130/2007, Supplement to Statute Book No. 4775);
- 6. Law No. 25/2007 concerning Investment (Statute Book No. 67/2007, Supplement to Statute Book No. 4724);
- 7. Law No. 39/2008 concerning State Ministry (Statute Book No. 166/2008, Supplement to Statute Book No. 4916);

- 8. Government Regulation No. 17/1986 concerning Authority to Regulate, Nurture and Develop Industries (Statute Book No. 23/1986, Supplement to Statute Book No. 3330);
- 9. Government Regulation No. 13/1995 concerning Industrial Business Permit (Statute Book No. 25/1995, Supplement to Statute Book No. 3596);
- 10. Presidential Decision No. 260/1967 concerning Affirmation of Tasks and Responsibilities of the Minister of Trade in the Field of Foreign Trade;
- 11. Presidential Decree No. 84/P/2009 concerning the Formation of Second United Indonesia Cabinet;
- 12. Presidential Regulation No. 9/2005 concerning the Position, Task, Function, Organizational Structure and Work Mechanism of Ministries of the Republic of Indonesia that is several times amended the latest by Presidential Regulation No 20 of 2008;
- 13. Presidential Regulation No. 10/2005 concerning the Organizational Unit and Task of First Echelon Officials at the Ministries of the Republic of Indonesia that is amended several times the latest by Presidential Regulation No. 50/2008;
- 14. Decision of the Minister of Finance No. 291/KMK.05/1997 concerning Bonded Zones that is amended several times the latest by Regulation of the Minister of Finance No. 101/PMK.04/2005;
- 15. Regulation of the Minister of Trade No. 01/M-DAG/PER/3/2005 concerning the Organizational Structure and Work Mechanism of the Trade Ministry that is amended several times the latest by Regulation of the Minister of Trade No. 24/M-DAG/PER/6/2009;
- 16. Regulation of the Minister of Trade No. 31/M-DAG/PER/7/2007 concerning Importer's Identification Number (API);
- 17. Regulation of the Minister of Trade No. 12/M-DAG/PER/3/2009 concerning the Delegation of Authority to Issue Permits in the Field of Foreign Trade to the Batam Free Trade Zone and Free Port Management Board, the Bintan Free Trade Zone and Free Port Management Board, and the Karimun Free Trade Zone and Free Port Management Board;
- 18. Regulation of the Minister of Trade No. 54/M-DAG/PER/10/2009 concerning General Provisions in the Import;

# HAS DECIDED:

## To stipulate:

REGULATION OF THE MINISTER OF TRADE CONCERNING PROVISIONS ON THE IMPORT OF CAPITAL GOODS WHICH IS NOT NEW.

## Article 1

In this Regulation:

- 1. "Un-new capital goods" refers to goods that are still worth using or for reconditioning, remanufacturing/re-functioning and are not scraps.
- 2. "Direct user company" refers to a company that has secured a business permit to import un-new capital goods to meet the need of its production process or the need of its own consumption for other purpose than production process.
- 3. "Reconditioning company" refers to a company that has secured a reconditioning industry permit to process un-new capital goods into finished products to meet exports or orders from domestic consumers.
- 4. "Remanufacturing company" refers to a company that has secured a remanufacturing industry permit to process un-new capital goods into finished products to meet exports or orders from

domestic consumers.

- 5. "Industrial Permit or other business permit" refers to permit issued by the authority agency to an industry/company to carry out business activities according to the law and regulation.
- 6. "Surveyor" refers to a survey company that has the authority to conduct technical verification or trace of imported goods.
- 7. "PDKB" refers to a company in a bonded zone.
- 8. "DPIL" refers to other Indonesian customs area.
- 9. "KB" refers to bonded zone.
- 10. "Director General" refers to the Director General of Foreign Trade.
- 11. "Minister" refers to the minister whose tasks and responsibilities cover the trade sector.

## Article 2

(1) Un-new capital goods can only be imported by:

- a. direct user companies;
- b. reconditioning companies; and/or
- c. remanufacturing companies.

(2) The un-new capital goods can be imported by companies as described in paragraph (1) cover headings contained in Attachment I which is an integral part of this Regulation of the Minister.

(3) Applications filed by the direct user companies as described in paragraph (1) a. that can import un-new capital goods shall be accompanied by:

- a. a photocopy of business permit issued by the authorized agency to the companies to carry out business activities according to the law and regulation;
- b. a photocopy of the importer's identification number(API); and
- c. a photocopy of taxpayer code number (NPWP).

(4) Applications filed by the reconditioning companies or remanufacturing companies as described in paragraph (1) b. and c. that can import un-new capital goods, shall be accompanied by:

- a. a photocopy of reconditioning or remanufacturing industry permit issued by the authorized agency to the industrial companies according to the Law and regulation;
- b. a photocopy of the importer's identification, number (API);
- c. a photocopy of taxpayer code number (NPWP);
- d. a photocopy of surveyor report on the technical feasibility of restoration and repair services, including machines, instruments and after sale services;
- e. a recommendation from the Industry Ministry; and
- f. for domestic needs, the applications must be accompanied by evidence of request from the user company.

(5) The applications as described in paragraph (3) and paragraph (4) shall be filled in writing to the Director of Imports.

## Article 3

(1) Any import of un-new capital goods as described in Article 2 paragraph (2) shall secure a prior import approval from the Director of Imports by enclosing the requirements as described in Article 2 paragraph (3) and paragraph (4).

(2) The Director of Imports shall issue an import approval in 5 (five) working days after receiving the application as described in Article 2 paragraph (5).

## Article 4

(1) The Import of un-new capital goods that has secured an import approval as described in Article 3 paragraph (1) shall be subject to prior technical inspection by the surveyor.

(2) The technical inspections as described in paragraph (1) shall be conducted in the country of origin by the surveyor appointed by the Minister.

(3) The technical inspection as described in paragraph (1) covers:

- a. use worthiness of un-new capital goods;
- b. technical specifications covering the headings of un-new capital goods; and
- c. volume and value of un-new capital goods.

(4) The results of technical inspection conducted by the surveyor as described in paragraph (3) shall be put in the certificate of inspection stating:

- a. the un-new capital goods are still worth using or re-functioning;
- b. the un-new capital goods are not scraps; and
- c. volume, value and technical specifications.

(5) The certificate of inspection as described in paragraph (3) shall be attached as a customs complementary document in customs settlement in import.

(6) The surveyor shall collect fees from the importer on the technical inspection as described in paragraph (1).

## Article 5

(1) In order to be named as an executor of the technical inspection of imported un-new capital goods as described in Article 4 paragraph (2), the surveyor shall meet the following qualifications:

- a. holding a survey service permit (SIUJS);
- b. having experience as a surveyor for a minimum of 5 (five) years; and
- c. having a branch, representative or affiliate abroad.

(2) The surveyor named as an executor of the technical inspection of imported un-new capital goods shall convey a quarterly report on the technical inspection of imported un-new capital goods.

(3) The report as described in paragraph (2) shall be conveyed to the Director General in this case the Director of Imports no later than the 15th in the following period.

## Article 6

(1) The un-new capital goods as described in Article 2 paragraph (2) belonging to the headings of 88 and 89 contained in Attachment I to this Regulation of the Minister are excepted from the technical inspection as described in Article 4.

(2) Provisions on and procedures of deciding use worthiness and technical specifications of un-new capital goods belonging to the heading 88 and 89 and procedures of conducting the inspection as described in paragraph (1) shall be stipulated by the Minister of Transportation based on the law and regulation and procedures applicable to civil aircraft and ships.

## Article 7

(1) The importer as described in Article 2 paragraph (1) that has secured approval to import un-new capital goods shall convey a quarterly report of realization to the Director of Imports, Directorate General of Foreign Trade, not later than the 15th of the ensuing month from monthly realization of imports.

(2) The model of report of realization as described in paragraph (1) is contained in Attachment II that is an integral part of this Regulation of the Minister.

## Article 8

(1) In an effort to develop exports and investment including the relocation of industries, the development of infrastructure, and the purpose of exports, approval to import un-new capital goods excluding from Attachment I to this Regulation of the Minister may be issued by the Director General of Foreign Trade on behalf of the Minister:

(2) The import approval as described in paragraph (1) can be processed after it has met the requirements as described in Article 2 paragraph (3) and paragraph (4) and received a recommendation/technical consideration from the Industry Ministry.

## Article 9

(1) Un-new capital goods imported by PDKB and used for more than 2 (two) years can be transferred to other company in DPIL.

(2) The transfer of goods as described in paragraph (1) shall be subject to prior technical inspection by the surveyor regarding the use worthiness and technical specifications of the un-new capital goods in the KB location and does not require import approval and the release of goods shall accord with the law and regulation.

(3) The transfer of goods as described in paragraph (2) shall be done by means of an official report signed by the head of KB office and the head of the local customs and excise service office with a copy addressed to the Director General.

(4) If the results of technical inspection as described in paragraph (2) do not meet provisions in Article 4 paragraph (4) a. and b., the release of goods as described in paragraph (1) shall be based on the law and regulation on the import of non toxic and hazardous materials (non B3).

## Article 10

(1) The companies as described in Article 2 paragraph (1) that violate this Regulation of the Minister shall be subject to sanction as follows:

- a. having their importer's identification number (API) revoked; and/or
- b. being sentenced to jail according to the law.

(2) The surveyors that do not meet the obligation as referred to in Article 5 paragraph (2) shall have their status revoked as the executor of technical inspection of imported un-new capital goods.

## Article 11

(1) Import approvals issued based on Regulation of the Minister of Trade No. 57/M-DAG/PER/12/2008 concerning Provisions on the Import of Un-new Capital Goods shall remain valid until their validity period expires.

(2) If goods imported based on the import approval as described in paragraph (1) have not been delivered until the import approvals expire, the import can be conducted until February 28, 2010 on condition they have been inspected by the surveyor before December 31, 2009, evident from the certificate of inspection.

(3) Provisions on the issuance of approvals to import un-new capital goods delegated to BP Zone BBK as laid down in Regulation of the Minister of Trade No. 12/M-DAG/PER/3/2009, shall remain valid and the implementation shall refer to this Regulation of the Minister.

## Article 12

The appointment of surveyors that have been discharged based on Decree of the Industry and Minister of Trade No. 492/MPP/Kep/8/2004 on the Appointment of Surveyors as the Executor of Surveys on the Import of Un-new Capital Goods shall remain valid for a period of 30 (thirty) days after the stipulation date of this Regulation of the Minister.

## Article 13

This Regulation of the Minister shall come into force as from January 1, 2010 and expire on December 31, 2010.

For public cognizance, this Regulation of the Minister shall be published by placing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on December 22, 2009
THE MINISTER OF TRADE
signed,
MARI ELKA PANGESTU

---