

MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

**REGULATION OF THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA
NO. 59/M-DAG/PER/9/2012**

REGARDING

**AMENDMENT TO REGULATION OF THE MINISTER OF TRADE
NUMBER 27/M-DAG/PER/5/2012 REGARDING
PROVISIONS ON IMPORTER IDENTIFICATION NUMBER (API)**

WITH THE BLESSING OF THE ONE ALMIGHTY GOD

MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

Considering : a. whereas in order to provide business certainty and improve the effectiveness of the implementation of the provisions on the Importer Identification Number (API), as well as to conform with the provisions of Minister of Finance Regulation Number 76/PMK.011/2012 regarding Amendment to Minister of Finance Regulation Number 176/PMK.011/2009 regarding the Import Duty Exemption for the Importation of Machineries as well as Goods and Materials for the Establishment or Expansion of Industry in the Framework of Capital Investment, it is necessary to amend the provisions of Minister of Trade Regulation Number 27/M-DAG/PER/5/2012 regarding Provisions on Importer Identification Number (API);

b. whereas based on the consideration as intended in point a, it is necessary to stipulate a Minister of Trade regulation;

In view of: 1. Bedrijfsreglementerings Ordonnantie 1934 (Staatsblad of 1938 Number 86);

2. Law Number 3 of 1982 regarding Mandatory Company Register (State Gazette of the Republic of Indonesia of 1982 Number 7, Supplement to State Gazette of the Republic of Indonesia Number 3214);

3. Law Number 5 of 1984 regarding Industry (State Gazette of the Republic of Indonesia of 1984 Number 22, Supplement to State Gazette of the Republic of Indonesia Number 3274);

4. Law Number 7 of 1994 regarding Ratification of Agreement on the Establishment of the World Trade Organization (State Gazette of the Republic of Indonesia of 1994 Number 57, Supplement to State Gazette of the Republic of Indonesia Number 3564);
5. Law Number 10 of 1995 regarding Customs (State Gazette of the Republic of Indonesia of 1995 Number 75 Supplement to State Gazette of the Republic of Indonesia Number 3612) as amended by Law Number 17 of 2006 (State Gazette of the Republic of Indonesia of 2006 Number 93, Supplement to State Gazette of the Republic of Indonesia Number 4661);
6. Law Number 5 of 1999 regarding Prohibition on Monopoly Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia of 1999 Number 33, Supplement to State Gazette of the Republic of Indonesia Number 3817);
7. Law Number 36 of 2000 regarding the stipulation of Government Regulation in Lieu of Law Number 1 of 2000 regarding Free Trade Area and Free Port Facility to become Law (State Gazette of the Republic of Indonesia of 2000 Number 251, Supplement to State Gazette of the Republic of Indonesia Number 4053) as amended by Law Number 44 of 2007 (State Gazette of the Republic of Indonesia of 2007 Number 130, Supplement to State Gazette of the Republic of Indonesia Number 4775);
8. Law Number 32 of 2004 regarding Regional Administration (State Gazette of the Republic of Indonesia of 2004 Number 125, Supplement to State Gazette of the Republic of Indonesia Number 4437) as amended several times, lastly by Law Number 12 of 2008 (State Gazette of the Republic of Indonesia of 2008 Number 59, Supplement to State Gazette of the Republic of Indonesia Number 4844);
9. Law Number 25 of 2007 regarding Capital Investment (State Gazette of the Republic of Indonesia of 2007 Number 67, Supplement to State Gazette of the Republic of Indonesia Number 4724);
10. Law Number 40 of 2007 regarding Limited Liability Companies (State Gazette of the Republic of Indonesia of 2007 Number 106, Supplement to State Gazette of the Republic of Indonesia Number 4756);

11. Law Number 39 of 2008 regarding State Ministries (State Gazette of the Republic of Indonesia of 2008 Number 166, Supplement to State Gazette of the Republic of Indonesia Number 4916);
12. Government Regulation Number 38 of 2007 regarding the Distribution of Governance Affairs among the Government, the Provincial Government, and the Regency/City Government (State Gazette of the Republic of Indonesia Number 82 of 2007, Supplement to the State Gazette of the Republic of Indonesia Number 4737);
13. Government Regulation Number 46 of 2007 regarding Free Trade Area and Free Port Facility of Batam (State Gazette of the Republic of Indonesia of 2007 Number 107, Supplement to the State Gazette of the Republic of Indonesia Number 4757);
14. Government Regulation Number 47 of 2007 regarding Free Trade Area and Free Port Facility of Bintan (State Gazette of the Republic of Indonesia of 2007 Number 108, Supplement to the State Gazette of the Republic of Indonesia Number 4758);
15. Government Regulation Number 48 of 2007 regarding Free Trade Area and Free Port Facility of Karimun (State Gazette of the Republic of Indonesia of 2007 Number 109, Supplement to the State Gazette of the Republic of Indonesia Number 4759);
16. Presidential Decree Number 260 of 1967 regarding Confirmation on the Duty and Responsibility of the Minister of Trade in the Field of Foreign Trade;
17. Presidential Regulation Number 27 of 2009 regarding One Stop Integrated Service in the Investment Field;
18. Presidential Decree Number 84/P of 2009 regarding the Formation of the United Indonesia Cabinet II as amended by Presidential Decree Number 59/P of 2011;
19. Presidential Regulation Number 47 of 2009 regarding the Formation and Organization of Ministries Organization as amended several times, lastly by Presidential Regulation Number 91 of 2011;

20. Presidential Regulation Number 24 of 2010 regarding the Capacity, Duty, and Function of the State Ministries and Organizational Structure, Duty, and Function of Echelon I of the State Ministries as amended several times, lastly by Presidential Regulation Number 92 of 2011;
21. Minister of Trade Regulation Number 28/M-DAG/PER/6/2009 regarding Provisions on Export and Import Licensing Services by Electronic System through INATRADE in the Framework of Indonesia National Single Window;
22. Minister of Trade Regulation Number 54/M-DAG/PER/10/2009 regarding General Provisions in the Field of Import;
23. Minister of Finance Regulation Number 176/PMK.011/2009 regarding the Import Duty Exemption for the Importation of Machineries as well as Goods and Materials for the Establishment and Expansion of Industry in the Framework of Capital Investment as amended by Minister of Finance Regulation Number 76/PMK.011/2012;
24. Minister of Trade Regulation Number 31/M-DAG/PER/7/2010 regarding Organization and Operation of the Ministry of Trade;
25. Minister of Trade Regulation Number 188/PMK.04/2010 regarding Import of Goods Carried by Passengers, Crew of Carrier, Border Crossing and Delivery Goods;
26. Minister of Trade Regulation Number 213/PMK.011/2011 regarding Stipulation of Goods Classification System and Imposition of Import Duty Tariff on Imported Goods;
27. Minister of Trade Regulation Number 27/M-DAG/PER/5/2012 regarding Provisions on Importer Identification Number (API);

HAS DECIDED:

To Stipulate: **MINISTER OF TRADE REGULATION REGARDING AMENDMENT TO MINISTER OF TRADE REGULATION NUMBER 27/M-DAG/PER/5/2012 REGARDING PROVISIONS ON IMPORTER IDENTIFICATION NUMBER (API).**

Article I

Several provisions of Minister of Trade Regulation No. 27/M-DAG/PER/5/2012 regarding Provisions on Importer Identification Number (API) shall be amended as follows:

1. The provision of Article 1, point 6 shall be amended, hence Article 1 in its entirety shall read as follows:

Article 1

In this Ministerial Regulation what is intended by:

1. Importation shall be an activity of importing goods into the Indonesian customs area.
2. Importer Identification Number, hereinafter abbreviated as API, shall be identification as an importer.
3. Importer shall be an individual or a business entity in the form of a legal entity or a non-legal entity that conducts importation.
4. Market Test shall be activities to sell certain industrial goods imported by Producers, which are not able to be produced by the Producers themselves, for the purpose of obtaining the market reaction and to be used for developing business activity.
5. Complementary Goods shall be certain industrial goods, relating to the industrial business licenses, imported by the importer producer originating from and produced by a company overseas which has a special relationship with the importer.
6. Special relationship shall be a relationship between a company holding an API and a company located overseas whereby one party has the capability to control another party or has significant influence upon another party in accordance with applicable accounting standards.
7. Capital Investment shall be any form of capital investment activities by both domestic and foreign investors to do business within the territory of the Republic of Indonesia.

8. Domestic Capital Investment shall be capital investment activities to do business within the territory of the Republic of Indonesia carried out by domestic investors by using domestic capital.
 9. Foreign Capital Investment shall be capital investment activities to do business within the territory of the Republic of Indonesia carried out by foreign investors, both through a wholly foreign capital investment and through a joint venture with a domestic investor.
 10. The Central Government, hereinafter referred to as the Government, shall be the President of the Republic of Indonesia holding the governance power of the state of the Republic of Indonesia as intended under the 1945 Constitution of the Republic of Indonesia.
 11. Minister shall be the minister organizing government affairs in the field of trade.
 12. Director General shall be a Director General of Foreign Trade of the Ministry of Trade.
 13. Provincial Service Office shall be a service office whose duty and responsibility are in the field of trade in a province.
 14. Regency/City Service Office shall be a service office whose duty and responsibility are in the field of trade in a regency/city.
 15. Free Trade Area and Free Port Facility Council hereinafter referred to as the Council shall be the Free Trade Area and Free Port Facility Council of Batam, Bintan and Karimun.
 16. Free Trade Area and Free Port Facility Management Agency, hereinafter referred to as the Management Agency shall be the Free Trade Area and Free Port Facility Management Agency of Batam, Bintan and Karimun.
2. The provision of Article 4 shall be amended to read as follows:

Article 4

- (1) API-U as intended in Article 3, point a shall be granted only to companies importing certain goods for trading purposes.

- (2) Importation of certain goods as intended in paragraph (1) shall apply only to groups/ types of goods included in 1 (one) section as specified under the Goods Classification System based on the prevailing laws and regulations.
 - (3) Companies holding an API-U may import groups/types of goods included in more than 1 (one) section in the event that:
 - a. the companies holding the API-U import goods originating from companies overseas having a Special Relationship with the relevant companies holding the API-U; or
 - b. the companies holding the API-U are business entities whose capital is entirely or partially owned by the state.
 - (4) Groups/types of goods as intended in paragraph (2) and paragraph (3) are specified in the API-U granted to each company.
 - (5) The section within the Goods Classification System as intended in paragraph (2) and paragraph (3) is set forth in Annex I that constitutes an integral and inseparable part of this Ministerial Regulation.
 - (6) Special Relationship as intended in paragraph (3) may be obtained through:
 - a. contractual agreement for sharing control of an economic activity;
 - b. share ownership;
 - c. articles of association;
 - d. agency/distributor agreement;
 - e. loan agreement; or
 - f. supplier agreement.
3. Between Article 5 and Article 6, 1 (one) article is inserted, namely Article 5A, to read as follows:

Article 5A

In the event that the imported goods as intended in Article 5 constitute goods granted the facility of an import duty exemption and have been used for their own purposes within at least 2 (two) years as of the date of the import declaration, the relevant goods may be transferred to other parties.

4. The provision of Article 9 shall be amended to read as follows:

Article 9

- (1) Certain industrial goods imported as complementary goods as intended in Article 6, paragraph (3) must meet the following criteria:
 - a. they are 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; and
 - b. they originate from a company overseas having a Special Relationship with the company holding the API-P.
- (2) Special Relationship as intended in paragraph (1) may be obtained through:
 - a. contractual agreement for sharing control of an economic activity;
 - b. share ownership;
 - c. articles of association;
 - d. agency/distributor agreement;
 - e. loan agreement; or
 - f. supplier agreement.

5. The provision of Article 11 shall be amended to read as follows:

Article 11

- (1) In order to obtain a stipulation as an Importer Producer as intended in Article 10, a company holding the API-P must submit an application in writing to the Minister, represented by the Director General, by enclosing the following documents:
 - a. a copy of the business license in the field of industry or other similar type of business license issued by the competent agency;
 - b. a copy of the Company Registration Certificate (TDP);
 - c. a copy of the Taxpayer Registration Number (NPWP);
 - d. a copy of the API-P;
 - e. a recommendation from the technical supervising agency at the central government level which contains, among others, the amount, type, and Tariff Post/HS of certain industrial goods in accordance with the purpose/objective of the allocation of goods, port of loading and port of destination as well as the importation period; and

- f. A statement letter regarding the willingness to conduct re-export, if the certain industrial goods to be imported are not in line with the goods stipulated by the Importer Producer, the cost of which shall be borne by the concerned importer.
 - (2) The Director General, for and on behalf of the Minister, shall issue the stipulation as Importer Producer no later than 5 (five) working days as of receipt of a complete and correct application.
 - (3) Stipulation as an Importer Producer shall be valid for a certain period of time in accordance with the recommendation from the technical supervising agency at the central government level.
6. The provision of Article 18, paragraph (1) and paragraph (3) shall be amended to read as follows:

Article 18

- (1) The Minister shall delegate the authority to issue an API-U and API-P as intended in Article 3 to the Head of the BKPM for capital investment companies whose business license issuing authority is the Government.
 - (2) The Head of the BKPM may delegate the authority as intended in paragraph (1) to echelon 1 in-charge-of capital investment service and/or echelon 2 in-charge-of licensing service at the BKPM.
 - (3) The API-U and API-P issued by the Head of the BKPM as intended in paragraph (1) or by echelon 1 or echelon 2 as intended in paragraph (2) shall be signed for and on behalf of the Minister.
7. The provision of Article 20 shall be amended to read as follows:

Article 20

- (1) The Minister shall delegate the authority to issue API-U and API-P as intended in Article 3 to the Head of the Provincial Service Office.
- (2) The issuance of an API-U and API-P as intended in paragraph (1) shall be only for companies other than domestic capital investment companies whose business license issuing authority is the Government as intended in Article 18,

paragraph (1) and companies other than the business entities or contractors as intended in Article 19, paragraph (1).

- (3) The API-U and API-P issued by the Head of the Provincial Service Office as intended in paragraph (1) shall be signed for and on behalf of the Minister.

8. The provisions of Article 22 shall be amended to read as follows:

Article 22

- (1) Companies in the field of capital investment intending to submit an application for obtaining an API-U and API-P as intended in Article 3 must fill out the form as set forth in Annex II that constitutes an integral and inseparable part of this Ministerial Regulation to the Head of the BKPM, by enclosing the following documents:
- a. a copy of the Company's Notarial Deed of Establishment and its amendments as well as its approval from the Ministry of Law and Human Rights;
 - b. a copy of the valid certificate of domicile of the company's head office from the local sub-district or a copy of the lease agreement of the place of business;
 - c. a copy of the Taxpayer Registration Number (NPWP) in accordance with its domicile;
 - d. a copy of the Company Registration Certificate (TDP);
 - e. a copy of the Capital Investment Registration or Capital Investment Principle License or business license in the field of industry or any other similar type of business license issued by the Head of the BKPM, for API-P;
 - f. a copy of the business license in the field of trade importation issued by the Head of the BKPM, for an API-U;
 - g. a copy of the Manpower Utilization Permit (IMTA), particularly for expatriates signing the API;
 - h. a reference from the Foreign Exchange Bank, for API-U;

- i. a copy of the Identification Card (KTP) or Passport of the API signatory, namely the Board of Directors and proxies of the Board of Directors;
 - j. the latest photographs of the Company's Directors and their proxies with a red background, size 3 x 4 cm, 2 copies for each person; and
 - k. companies holding an API-U importing groups/types of goods included in more than 1 (one) section as specified under the Goods Classification System based on the prevailing laws and regulations must enclose:
 - 1. a statement letter signed on a duty stamp by the API-U holder stating that it has a Special Relationship with the company overseas; and
 - 2. evidence of a Special Relationship legalized by the Trade Attaché or diplomatic official/consular/representative of the Republic of Indonesia overseas where the company overseas having the Special Relationship is domiciled.
- (2) Business entities or contractors in the field of energy, oil and gas, minerals as well as other natural resource management undertaking business activities based on cooperation contracts with the Government of the Republic of Indonesia intending to submit an application for obtaining an API-P as intended in Article 3 point b, must fill out the form as set forth in Annex III that constitutes an integral and inseparable part of this Ministerial Regulation to the Director General in this case to the Director of Import, by enclosing the following documents:
- a. a copy of the Cooperation Contract with the Government or the Executive Board established by the Government to control the business activities in the field of energy, oil and gas, minerals as well as other natural resource management;
 - b. an original recommendation from the Government or Executive Board as intended in point a;
 - c. a copy of the Taxpayer Registration Number (NPWP) of the business entity or contractor;

- d. the latest photographs of each personnel in-charge-of the contractor's Cooperation Contract with a red background, size 3 x 4 cm, 2 copies for each person; and
 - e. a copy of the identification/passport of each personnel above.
- (3) Companies as categorized in Article 20 paragraph (2) intending to submit an application for obtaining an API-U, must fill out the form as set forth in Annex IV, that constitutes an integral and inseparable part of this Ministerial Regulation, to the Head of the Provincial Service Office copied to the Head of the Regency/City Service Office, by enclosing the following documents:
- a. a copy of the Company's Notarial Deed of Establishment and its amendments;
 - b. a copy of the valid certificate of domicile of the company's head office from the local sub-district or a copy of the lease agreement of the place of business with the management or the owner of the building;
 - c. a copy of the business license in the field of trade issued by the Head of the One-Stop Integrated Service-Implementing Agency in the Investment Field in the Province/Regency/City or Trade Business License (SIUP) or any other similar type of business license issued by the technical agency/institution which has authority in the field of trade;
 - d. a copy of the Company Registration Certificate (TDP);
 - e. a copy of the Taxpayer Registration Number (NPWP) of the Company or individual and the Company's Person-in- Charge;
 - f. a reference from a Foreign Exchange Bank;
 - g. a copy of the Identification Card (KTP) or Passport of the API signatory, namely the Board of Directors and proxies of the Board of Directors;
 - h. the latest photographs of the Company's Management or Board of Directors with a red background, size 3 x 4 cm, 2 copies for each person; and

- i. companies holding an API-U importing groups/types of goods included in more than 1 (one) section as specified under the Goods Classification System based on the prevailing laws and regulations must enclose:
 1. a statement letter signed on a duty stamp by the API-U holder stating that it has a Special Relationship with the company overseas; and
 2. evidence of a Special Relationship legalized by the Trade Attaché or diplomatic official/consular/representative of the Republic of Indonesia overseas where the company overseas having the Special Relationship is domiciled.
- (4) Companies as categorized in Article 20 paragraph (2) intending to submit an application for obtaining an API-P, must fill out the form as set forth in Annex V, that constitutes an integral and inseparable part of this Ministerial Regulation, to the Head of the Provincial Service Office copied to the Head of the Regency/City Service Office, by enclosing the following documents:
- a. a copy of the Company's Notarial Deed of Establishment and its amendments;
 - b. a copy of the valid certificate of domicile of the company's head office from the local sub-district or a copy of the lease agreement of the place of business;
 - c. a copy of the Capital Investment Registration or Capital Investment Principal License or business license in the field of industry or any other similar type of business license issued by the Head of the One-Stop Integrated Service-Implementing Agency in the Investment Field in the Province/Regency/City or by the competent technical agency/institution;
 - d. a copy of the Taxpayer Registration Number (NPWP) of the Company or individual and the company's person-in-charge in accordance with their domicile;
 - e. a copy of the Company Registration Certificate (TDP);
 - f. a copy of the Identification Card (KTP) or Passport of the API signatory, namely the Board of Directors and proxies of the Board of Directors; and

- (5) The Head of the BKPM, the Director General, the Head of Provincial Service Office, and the Head of the Management Agency shall submit periodical reports on recapitulation of the import realization of each company holding an API-U and API-P once every 3 (three) months to the Minister.
10. Article 33 shall be deleted.
11. The provision of Article 34 shall be amended to read as follows:

Article 34

A company holding an API or an importer involved in the importation of goods without an API shall be fully responsible for the implementation of its importation in accordance with the provisions of all laws and regulations.

12. Between Article 34 and Article 35, 1 (one) article is inserted, namely Article 34A to read as follows:

Article 34A

- (1) In order to monitor and evaluate the importation policy, the Directorate General of Foreign Trade of the Ministry of Trade must supervise the importation conducted by companies holding an API-U or API-P.
- (2) The supervision as intended in paragraph (1) shall be conducted by means of a compliance assessment (*post audit*) regarding:
- a. actual import realization report;
 - b. conformity between the imported goods and the data set forth in API documents and their allocation; and
 - c. compliance with the laws and regulations in the field of importation.
- (3) The compliance assessment (post audit) as intended in paragraph (2) shall be conducted periodically and at any time.
- (4) The compliance assessment (post audit) as intended in paragraph (2) shall be conducted in coordination with the API-issuing agency and the Directorate General of Customs and Excise of the Ministry of Finance.
- (5) For the purpose of compliance assessment (post audit) as intended in paragraph (2), the Director General may form an API Integrated Supervisory Team.

13. Between Article 41 and Article 42, 1 (one) article is inserted, namely Article 41A to read as follows:

Article 41 A

- (1) In the event that a One Stop Integrated Service-Implementing Agency has been established in the Provincial Regional Government, the Minister may delegate the issuance of API-U and API-P as intended in Article 20 paragraph (2) to the Head of One Stop Integrated Service-Implementing Agency.
- (2) The issuance of API-U and API-P as intended in paragraph (1) shall be signed for and on behalf of the Minister.
- (3) The API-U and API-P application, changes to API-U and API-P data as intended in paragraph (1) and import realization report shall be submitted to the Head One Stop Integrated Service-Implementing Agency.
- (4) Imposition of sanction for violation of the provision in this Ministerial Regulation shall be in the form of suspension, re-activation, and revocation of API-U and API-P as intended in paragraph (1) and shall be performed by the Head of One Stop Integrated Service-Implementing Agency for and on behalf of the Minister.
- (5) The Head of One Stop Integrated Service-Implementing Agency shall convey the notification letter on suspension, re-activation, and revocation of API-U and API-P as intended in paragraph (4) to the respective company copied to the Director of Import, Director General of Customs and Excise, Head of Regency/City Service Office where the company is domiciled.

Article II

This Ministerial Regulation shall become effective as of the date of its stipulation.

For public cognizance, to order the enactment of this Ministerial Regulation by its placement in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta
On September 21, 2012

MINISTER OF TRADE
OF THE REPUBLIC OF INDONESIA,

Signed

GITA IRAWAN WIRJAWAN

Issued as a true copy
Secretariat General of the Ministry of Trade
Head of Legal Bureau,

Signed an chopped

LASMININGSIH

