



Package of Economic Policies, vol. 2

by Sandra Indriani



Following the previous package of economic policies (vol. 1), the government has announced the package of economic policies, vol. 2. The latter focuses on emphasizing the investment and industrial fields as well as encouraging export activities. These new policies are expected to provide an investment-friendly environment and attract investment by enterprises in Indonesia.

In order to increase investment in Indonesia, the most recent economic policies consist of: 3-hour easy investment services; faster management of tax allowance and tax holidays; VAT-free cost of means of transportation; incentive of the facility of the Bonded Logistics Zone Center; incentive of deposit interest tax deduction; and the streamlining of forestry sector permits.

Providing easy services through a 3-hour issuance of investment licenses in the Industrial Zone may increase investment. By holding the licenses, investors are allowed to conduct investment activities immediately. The 3-hour easy investment services policy will be further regulated by regulation of the Head of BKPM and Governmental Regulation regarding the industrial zone, in addition to regulation of the Minister of Finance.

The government will also determine whether or not such investment shall receive any tax allowance after 25 days of completing the requirements and application. As for a tax

holiday, the Minister of Finance must issue the decree no later than 45 days after all requirements have been satisfied.

Moreover, the government will provide an incentive by not levying VAT on several means of transport, mainly ship-building, railways, and aircraft – all including spare parts. This VAT-free policy is regulated by Government Regulation No. 69/2015 on the Import and Delivery of Transport Equipment and Transfer of Certain Taxable Services Related to Certain Means of Transportation that are Free of VAT. Another incentive to be provided is the facility of the Bonded Logistic Zone Center. Manufacturing companies could collect goods directly from the bonded warehouse of the logistic center instead of importing goods from overseas. Bonded logistic zone centers are scheduled to operate by the end of the year in Cikarang – for the manufacturing sector – and in Merak – for BBM.

The last incentive is the deduction of deposit interest tax. The tax deduction incentives apply especially to exporters obligated to report export proceeds to Bank Indonesia. Export proceeds placed on a 1 month deposit will have their tariff reduced to 10 per cent, while the proceeds placed on a 3 month and 6 month deposit will have their tariff reduced to 7.5 per cent and 2.5 per cent respectively. If such export proceeds are placed on deposit for more than 6 months, the tariff will even be reduced to 0 (zero) per cent. Converting to rupiah, the deposit interest tax for 1, 3, and 6 months deposit successively is 7.5, 5, and 0 per cent.

Furthermore, the investment and production licenses in the forestry sector will be issued faster by streamlining the forestry sector permit. Whereas the Minister of Environment and Forestry currently issues 14 licenses, the economic policies, vol.2 will downsize the permit procedure to 6 licenses. This streamlining involves the revision of 9 regulations of the Minister of Environment and Forestry.

Another follow-up package of economic policies will also be published in order to support the current packages of economic policies (vol.1 and vol.2). The existence of the policy packages is also expected to drive a state economy that has been deteriorating for a while in a better direction.

Guidelines on the Importation of Food and Drugs Activity throughout Indonesian Territory

by Rio Rahmat Hidayat

On September 2015, the government enacted the Head of Food and Drugs Supervisory Agency (*Badan Pengawasan Obat dan Makanan* or "**BPOM**") Regulation No. 12 Year 2015 concerning Supervision on the Import of Food and Drugs into Indonesian Territory ("**Regulation No. 12/2015**"). This regulation has been effective since 15 September 2015 and supersedes the Head of Food and Drugs Supervisory Agency Regulation No. 27 Year 2013 ("**Regulation No. 27/2013**").

Pursuant to Article 3 jo. Article 7 of Regulation No. 12/2015, the importation of food and drugs can only be conducted by the holder of a distribution license ("*Izin Edar*") or their proxy. Nevertheless, the holder of *Izin Edar* is and remains responsible for the importation of food and drugs that were represented through their proxy. *Izin Edar* as defined above is a form of approval issued by the Head of the Supervisory Agency upon the registration of food and drugs that will be distributed throughout Indonesian territory.

Furthermore, Article 4 of Regulation No. 12/2015 states that the food and drugs that will be distributed throughout Indonesian territory should obtain a Certificate of Import (*Surat Keterangan Impor* or "**SKI**") from the Head of Food and Drugs Supervisory Agency which is valid only for 1 (one) time importation and shall also apply to the importation of foods and drugs through a free trade zone and free port or bonded warehouse.

Referring to Article 16 of Regulation No. 12/2015, SKI application must be conducted online (except where the Supervisory Hall of Food and Drugs in Indonesia has not been connected with the Indonesian National Single Window system). Generally, SKI applicants must register with an online database to gain access to a username and password, by upload the supporting documents through the Food and Drugs Supervisory Agency website (<http://www.pom.go.id>), which consists of:

1. a signed application letter by a director or proxy;
2. original statement letter of the responsible party;
3. original Importer Identification Number (API);
4. original Trading Business License (SIUP);
5. original Taxpayer Registration Number (NPWP);
6. original power of attorney ratified by a notary (if the applicant is a company authorized to import); and
7. HS Code list of commodities to be imported.

In addition, the applicant must have made the payment of Non-Tax States Revenues (*Penerimaan Negara Bukan Pajak* or "**PNBP**") via the *e-payment* mechanism by no later than 3 (three)



days after the registration date and by attaching the authorization of *Izin Edar*, certificate of analysis, invoices and the proof of PNBPN payment. In particular, the regulation also requires further documents to be attached (depending on the type of request that the applicant wishes to make).

Pursuant to Article 27 of Regulation No. 12/2015, the approval or rejection of SKI will be published electronically within 1 (one) working day after receipt and evaluation of the application documents. In the case of rejection due to data or incomplete documentation, the applicant will be given 30 (thirty) days to complete with no more than 3 (three) attempts.

In comparison with the previous Regulation No. 27/2013, Regulation No. 12/2015 has a priority service that is valid for 6 (six) months and will be given to applicants with the following criteria:

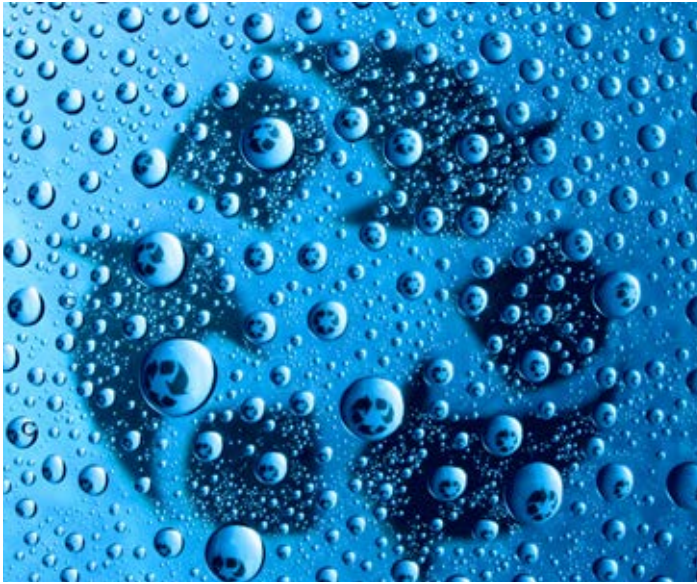
1. possession of a General Importer Identification Number (*Angka Pengenal Importir Umum* or *API-U*) or Importer Identification Number for Producer Importers (*Angka Pengenal Importir – Produsen Importir* or *API-PI*);
2. reputable history / track record in food and drugs supervision within the last 6 (six) months; and
3. has performed importation activity with particular frequency and volume throughout the last 6 (six) months.

The application request by a SKI applicant that is registered in the priority services of BPOM will be automatically processed without prior evaluation by the *e-bpom* system. It is one of the other measures taken by the government to expedite the flow of goods for the purpose of trading (*dwelling time*). Based on Article 31 of Regulation No. 12/2015, violation of points 2 and 3 above will result in a 2 year suspension of priority service.

Moreover, administrative sanctions in the form of (i) written warnings; (ii) temporary suspension of the import or distribution activity; (iii) annihilation or re-export; (iv) freezing of *Izin Edar*; and (v) revocation of *Izin Edar*, shall be imposed on applicants who violate this regulation.

Regulation of Water Utilization Permits

by Vinton Rasil Taris



On 24 July 2015, the Minister of Public Work Services and Minister of Public Housing Affairs issued Regulation No. 37/PRT/M/2015 ("**Regulation No. 37/PRT/M/2015**") regarding Water and/or Water Sources Utilization Permits. The enactment of Regulation No. 37/PRT/M/2015 supersedes the Minister of Public Work Services and Minister of Public Housing Affairs Regulation No. 49/PRT/M/1990 concerning the Procedures and Requirements for the Water and/or Water Source Utilization Permit. This regulation is a guideline for the applicant and the licensor in the licensing process, in order to improve the administration of water and/or water sources utilization permits ("**Water Utilization Permit**") and commercial water usage.

The scope of Regulation No. 37/PRT/M/2015 includes (a) the authority to issue a Water Utilization Permit; (b) procedures and requirements for water utilization; (c) rights and obligations of a Water Utilization Permit holder; and (d) supervision and guidance for the use of water. Article 3 Regulation No. 37/PRT/M/2015 stipulates that government institutions, legal entities, social agencies, or individuals who use water, water resources, and water power have to obtain a Water Utilization Permit, except for water used for basic daily needs and/or for pets, and for an existing farmland irrigation system. Moreover, the Water Utilization Permit is intended for the surface water in rivers, lakes, wetlands and other surface water sources and sea water on

land. According to Article 9 of Regulation No. 37/PRT/M/2015, to obtain a Water Utilization Permit, the applicant must submit an application letter which contains at least the applicant's name, job, address, purpose and objective of the water utilization, the location of water utilization, and other supporting documents listed in Article 9 paragraph (4) Regulation No. 37/PRT/M/2015.

For the issuance of a Water Utilization Permit, technical recommendations from the water resources management from cross-country river areas, cross-provinces river areas, and national strategic river areas must be considered. The Water Utilization Permit governed under this regulation will be valid for a maximum of 5 years, and can be renewed if there are no changes in water quota, location of water utilization, water utilization method, and water utilization building.

Based on Regulation No. 37/PRT/M/2015, every Water Utilization Permit holder has the obligations to:

- a. comply with the permit's provision;
- b. pay for the water sources management services;
- c. protect and maintain the water resources continuity;
- d. protect and maintain the water resources infrastructure;
- e. maintenance, and prevention of water pollution;
- f. ensure recovery after environmental damage caused by the water utilization; and
- g. provide water utilization access for local people's daily needs;

Beside the abovementioned obligations, Regulation No. 37/PRT/M/2015 also stipulates that the permit holder must not lease and/or transfer part or all of the Water Utilization Permit to another party. In terms of guidance and supervision, this provision stipulates under Article 29 Regulation No. 37/PRT/M/2015, that supervision shall consider the legitimacy of the permit holder's identity, compliance with the permit's provision, conformity between the facilities and infrastructure of the permit and the actual conditions, negative impacts, and the utilization of water and/or water sources for which a permit has yet to be obtained.

General Provisions in the Import Sector

by Athalia Devina

The Minister of Trade of the Republic of Indonesia (“**MoT**”) has enacted Regulation No. 48/M-DAG/PER/7/2015 entitled General Provisions in the Import Sector (“**Regulation No. 48/M-DAG/PER/7/2015**”). This regulation has been enacted in order to meet the demand for goods that cannot be obtained from sources inside the country, whether for national industrial production or public consumption. It is therefore necessary to make efforts to improve import regulations by revision of the general provisions, making them more transparent, effective and efficient, as well as sustainable. Regulation No. 48/M-DAG/PER/7/2015 supersedes Regulation No. 54/M-DAG/PER/10/2009, entitled General Provisions in the Import Sector (“**Regulation No. 54/M-DAG/PER/10/2009**”).

Article 2.1 of Regulation No. 48/M-DAG/PER/7/2015 stipulates that imported goods must be in a new condition. In certain circumstances, the MoT may stipulate that imported goods can be in a not-new (used) condition based on laws and regulations, on the authority of the MoT, and/or recommendations or technical considerations from other government agencies. The importation of goods can only be done by importers who have an Importer's Identification Number (“**API**”). In certain circumstances, the importation of goods can be done by importers who do not have an API.

Imported goods can be categorized as free imported goods, restricted imported goods, and prohibited imported goods. All goods can be imported except restricted imported goods, prohibited imported goods, or as otherwise determined by the regulations. The arrangement for restricted imported goods is conducted through the import licenses mechanism: (i) recognition as a producer importer, (ii) determination as a registered importer, (iii) approval to import, (iv) surveyor report, and/or (v) other import licenses. Importers are required to obtain import licenses for restricted imported goods before the goods enters into the customs area. Importers who do not possess import licenses when imported goods enter into the customs area are subjected to suspension of their API and other sanctions in accordance with prevailing laws and regulations. Importers must re-export imported goods if the goods do not obtain the required import licenses.



Importers must know the prevailing laws and regulations in the import sector of the Republic of Indonesia prior to import. Information on the prevailing laws and regulations in the import sector can be accessed by importers through the portal <http://inatrade.kemendag.go.id>.

The enactment of Regulation No. 48/M-DAG/PER/7/2015 is expected to be in accordance with the development of import activities. Regulation No. 48/M-DAG/PER/7/2015 will come into force on 1st January 2016. Simultaneous to Regulation No. 48/M-DAG/PER/7/2015 coming into force, Regulation No. 54/M-DAG/PER/10/2009 will be revoked and declared invalid.