



# Governance of the Export of Forestry Industry Products

by Nirmala Adisti Karunia

Vast forestry areas throughout Indonesia ensure that Indonesia is recognized as one of the biggest suppliers of forestry products in the international market. To encourage the competitiveness of the national forestry industry, the Minister of Trade Republic of Indonesia enacted Minister of Trade Regulation No. 89/M-DAG/PER/10/2015 entitled Provision of Forestry Products Industry ("**MoT Regulation No. 89/2015**"). The MoT Regulation No. 89/2015 essentially simplifies the licensing procedure in the sphere of forestry business.

Forestry industry business owners should pay attention to the addendum to the MoT Regulation No. 89/2015 as it categorizes forestry industry products dividing them into groups, where each group requires a particular license. Forestry products that are categorized in group A in the addendum will require a V-Legal document ("**V-Legal**") that is issued by the Timber Legality Verification Body ("**LVLK**") to be exported. Each V-Legal only can be used for 1 (one) submission of export custom declaration. LVLK issues the V-Legal online through the URL <http://inatrade.kemendag.go.id> and the cost incurred for this paid by the exporter. Hence, forestry products that categorized in group B require certificate of wood legality ("**S-LK**") forexport. There are also certain products listed specifically in group A that require verification or a technical survey to be carried out by a surveyor prior to loading.

The MoT Regulation No. 89/2015 removes the obligation to obtain the registered exporter of forestry industry products or ETPIK to enable a company to export their products; a provision previously governed by MoT Regulation No. 97/M-DAG/PER/12/2014 ("**MoT Regulation No. 97/2014**"). In addition, the MoT Regulation No. 89/2015 regulates companies that have merely trade or industry business licenses and company registration certificates, which may carry out forestry products export, as long as they have obtained a V-Legal or S-LK.

Article 13 of the MoT Regulation No. 89/2015 stipulates that companies that export timber are subject to a require-



ment to report their plan and the realization of annual production and annual export to the Directorate General electronically via <http://inatrade.kemendag.go.id> with a copy conveyed to the Directorate General of Agriculture of the Ministry of Industry and the Directorate General of Production Forest Management of the Ministry of Environment and Forestry. A report of the previous year's production and the current year's export realization and production plan must be submitted no later than the end of month of February. Failure to comply with this obligation results in license revocation, particularly the industry company registration certificate, industry business license or trade business license, whichever is applicable.

The MoT Regulation No. 89/2015 was effective from 19 November 2015 and supersedes the Minister of Trade Regulation No. 35/M-DAG/PER/11/2011, the MoT Regulation No. 97/2014, and Minister of Trade Regulation No. 66/M-DAG/PER/9/2015.



*Wishing you a very happy holiday season,  
and a peaceful and prosperous new year 2016.*

*Thank you for your continued support and partnership,  
we look forward to working with you in the years to come!*

*Merry Christmas & Happy New Year*





# New Regulation on Imports of Certain Products

by Athalia Devina



The Minister of Trade of the Republic of Indonesia (“**MoT**”) has enacted Regulation No. 87/M-DAG/PER/10/2015 entitled Imports of Certain Products (“**Regulation No. 87/M-DAG/PER/10/2015**”). Regulation No. 87/M-DAG/PER/10/2015 supersedes Regulation No. 83/M-DAG/PER/12/2012 entitled Imports of Certain Products, as amended several times, the latest by Regulation No. 73/M-DAG/PER/10/2014.

Imports on certain products can only be conducted by a company that already possesses a General Importer's Identification Number (“**API-U**”). Any import of certain products can only be conducted through the following ports of destination:

1. seaports : Belawan in Medan, Tanjung Priok in Jakarta, Tanjung Emas in Semarang, Tanjung Perak in Surabaya, Soekarno Hatta in Makassar, Dumai in Dumai (only for food and beverage products), Jayapura in Jayapura (only for food and beverage products), Tarakan in Tarakan (only for food and beverage products), Krueng Geukuh in North Aceh (only for food and beverage products, garment and other textile products, electronics, and footwear), Bitung in Bitung only for food and beverage products, garment and other textile products, and electronics);

2. dry ports : Cikarang Dry Port in Bekasi; and
3. airports : Kualanamu in Deli Serdang, Soekarno Hatta in Tangerang, Ahmad Yani in Semarang, Juanda in Surabaya, and Hasanuddin in Makassar.

Every import of certain products must have prior verification or a technical survey at loading ports. The implementation of verification or technical surveillance of imports is carried out by a surveyor appointed by the MoT, and it is carried out on the import of certain products, which must include at least data or information regarding: (i) country of origin and loading port, (ii) post of tariff / HS and description of goods, (iii) number of Certificate of SNI Marking Product (SPPT SNI), for certain products where SNI enforcement is mandatory, (iv) goods registration number, (v) letter of notification or approval letter of distribution permit, for certain products required, (vi) Certificate of Analysis, for certain products required, (vii) user manuals and after sales card of guarantee/warranty in Indonesian for certain products required, (viii) shipping time, and (ix) port of destination. Results of verification or technical surveillance of the import are compiled in a surveyor's report, to be used as a customs supporting document for clearing purposes in the field of import. The provisions regarding verification or technical surveillance do not apply to the import of cosmetics.





A company that has an API-U which imports certain products must submit a report regarding the implementation of import on certain products electronically through <http://inatrade.kemendag.go.id>, by attaching a scan of the Import Realization Control Card which has been initialed and stamped by Customs and Excise officers. The report must be submitted every 3 months, no later than the 15th of the first month of the next quarter, to the Executive Coordinator of UPTP I with a copy to the relevant agencies. The API-U of the company will be frozen if the company does not carry out the reporting obligations twice. The API-U of the company must be revoked if the company: (i) imports certain products not in accordance with the ports of destination as mentioned above, (ii) violates the prohibition of distributing certain imported products from the free trade zone and free port to another place within the customs area, (iii) imports certain products without surveyor reports, (iv) does not carry out the obligation to submit a report within 2 months after the API-U is frozen.

The provisions in Regulation No. 87/M-DAG/PER/10/2015 shall not apply to the import of the following : (i) certain products as mentioned in Article 25 (1) and Article 26 (1) Law No. 10 of 1995 entitled Customs, as amended by Law No. 17 of 2006, (ii) certain products (apparel) in the form of consignments of at most 10 pieces per delivery and personal items of passengers or crew members are valued at most FOB US\$ 1,000 per person, by aircraft, (iii) certain products (electronics) in the form of consignments of at most 2 units per delivery and personal items of passengers or crew members are valued at most FOB US\$ 1,500 per person, by aircraft, (iv) certain products as mentioned in point (ii) and (iii) in the form of consignments or personal items of passengers or crew members are valued at most FOB US\$ 1,500 per person, by aircraft, (v) certain products for the purposes of upstream oil and gas activity, geothermal and mineral and other energy sectors, (vi) certain products which are imported by the company that has an API-P, which are used as capital goods, raw materials, and/or auxiliary materials related to the industry, and (vii) certain products which are imported temporarily.

The IT-Certain Products that were granted based on previous regulation will remain valid until it expires. The provisions in Regulation No. 87/M-DAG/PER/10/2015 shall not apply to the import of certain products with the post tariff/HS as mentioned in Article 23. Imports of these products are evidenced by the Bill of Lading and invoice.

Article 26 of Regulation No. 87/M-DAG/PER/10/2015 states that this regulation came into force on 1<sup>st</sup> November 2015 and it will expire on 31<sup>st</sup> December 2018. The Ministry of

Trade through Directorate General of Foreign Trade has issued Letter No. 1827/DAGLU/SD/10/2015 to Directorate General of Customs and Excises stating that Regulation No. 87/M-DAG/PER/10/2015 will come into force on 1<sup>st</sup> January 2016.<sup>1</sup> The postponement of the implementation of Regulation No. 87/M-DAG/PER/10/2015 is due to economic conditions in Indonesia which could potentially interfere with the effectiveness of its implementation.<sup>2</sup>

<sup>1</sup> <http://industri.bisnis.com/read/20151030/12/487351/setelah-dipotes-pebisnis-lokal-permendag-no.872015-ditunda>

<sup>2</sup> <http://www.cnnindonesia.com/ekonomi/20151030140102-92-88450/kemendag-tunda-pelaksanaan-aturan-impor-produk-tertentu/>







# New Regulation on Importer Identification Number (API)

by Rio Rahmat Hidayat

On 28 September 2015, the government issued the Minister of Trade Regulation No. 70/M-DAG/PER/9/2015 entitled Importer Identification Number (the "**Regulation No. 70/2015**"). The Regulation No. 70/2015 will come into force on 1 January 2016 and revokes the Minister of Trade Regulation No. 27/M-DAG/PER/5/2012, as amended by Minister of Trade Regulation No. 59/M-DAG/PER/9/2012, and Minister of Trade Regulation No. 84/M-DAG/PER/12/2012 (collectively referred to as the "**Previous API Regulations**"). The Regulation No. 70/2015 is one of the deregulation measures (among others) that was issued by the Minister of Trade in order to implement the government's policies in confronting the current economic crisis.

In general, either the new or previous API Regulation provides that any importation of good(s) may be carried out only by an Importer that possesses an Importer's Identification Number (or in Indonesian known as an *Angka Pengenal Importir* or "**API**"). Under the Regulation No. 70/2015, there are two types of API, namely (i) General License Importer Identification Number/*Angka Pengenal Importir Umum* ("**API-U**") that is given to a company that imports certain goods for trading purpose only and Producer License Importer Identification Number/*Angka Pengenal Importir Produsen* ("**API-P**"), that allows a company only to import capital goods, raw and auxiliary materials, and/or materials to support production, in which said goods cannot be traded or transferred.

Compared to Regulation No. 70/2015, the previous API regulation stipulates that the importation of the certain goods by the API-U holder is restricted to the goods that are listed in the determination of Harmonized System Code/*Sistem Klasifikasi Barang* (HS Code) and the API-P holder may perform the importation of certain industrial goods only to the extent of the market test or complementary goods purposes as long as said goods meet the following criteria : (i) the API-P holder could not produce the goods; (ii) are in accordance with the industry business license of the API-P holder; and (iii) produced by the affiliated overseas companies. However, Regulation No. 70/2015 is silent pertaining to the foregoing subject matter.

Just as under the Previous API Regulation, the issuance of the API in accordance with the Regulation No. 70/2015 also applies as long as the importer continues to undertake its business activity, and must be re-registered every 5 (five) years from the date of its issuance. Besides that, the Minister of Trade delegates its credential authority for the issuance of the API's to:



1. the Chairman of the Capital Investment Coordinating Board (*Badan Koordinasi Penanaman Modal* or *BKPM*) for the issuance of API-U and API-P of the capital investment companies whose business license is issued by the central government;
2. the Director General of Foreign Trade of the Ministry of Trade (*Direktur Jendral Perdagangan Luar Negeri, Kementerian Perdagangan*) for the issuance of the API-P of the business entities or contractor(s) in the area of energy, oil and gas, mineral and other natural resources management that performs its business based on a cooperation agreement with the government of the Republic of Indonesia;
3. the Head of Trade Provincial Department for the issuance of the API-U and API-P for domestic investment companies other than the company as mentioned in points 1 and 2 above; and
4. the Head of Free Trade and Free Port Zone Development Board (*Kepala Badan Pengusahaan Kawasan Perdagangan Bebas dan Pelabuhan Bebas*) for the issuance of API-U and API-P of the business entities that are established and domiciled in the free trade and free port zones (Batam, Bintan and Karimun island).

As governed by the Regulation No. 70/2015, every API holder is obliged to (i) report their import realization activities every 3 (three) months to the relevant authorities which issued their API-U or API-P and also by filing their import realization through the Ministry of Trade website (<http://api.kemendag.go.id>) whether it is realized or not; and (ii) report any company data change (e.g.: business entities form, the composition of the BoD and BoC, the company name and address, trade business license number or industrial business permit, company registration certificate number, taxpayer registration number of the company) no longer than 30 (thirty) days upon the occurrence of the change.

Sanctions in the form of freezing to the revocation of an API shall be imposed on the companies that violate the re-registration obligation, reporting obligations on the import realization and the change of the company data by the API holder, as stated above.





# Revaluation of Fixed Assets for Taxation Purposes

by Delvi



On 15 October 2015, the Minister of Finance of the Republic of Indonesia issued Regulation Number 191/PMK.010/2015 entitled the Revaluation of Fixed Assets for Fiscal Purposes, which will be applicable in 2015 and 2016 (“**PMK No. 191/PMK.010/2015**”). It introduces a new tax incentive that makes it more attractive for companies to revalue their fixed assets. Fixed Asset Revaluation was previously regulated by Minister of Finance regulation Number 79/PMK.03/2008 (“**PMK No. 79/PMK.03/2008**”).

There are 2 important points to bear in mind regarding PMK No. 191/PMK.010/2015. Firstly, under this new special tax regulation, taxpayers who submit an application for fixed asset revaluation in 2015 and 2016 will get a reduction of the final tax rate (based on the timing of the taxpayer’s proposal for asset revaluation). Pursuant to Article 1 Paragraph (1) and (2) PMK No. 191/PMK.010/2015, taxpayers may conduct revaluation of fixed assets for tax purposes, with special treatment when such application is applied for to the DGT starting from the effective date of PMK No. 191/PMK.010/2015 to 31 December 2016. Such special treatment provides a final income tax rate 3% for applications until 31 December 2015, 4%, for applications from 1 January 2016 to 30 June 2016; or 6%, for applications from 1 July to 31 December 2016.

Article 5 of the Regulation No. 191/PMK.010/2015 stipulates that the application must be completed with several documents to be submitted no later than:

- a. 31 December 2016, for applications submitted until 31 December 2015;
- b. 30 June 2017, for applications submitted from 1 January 2016 to 30 June 2016; or

- c. 31 December 2017, for applications submitted from 1 July 2016 to 31 December 2016.

Previously, companies had to pay 10% (ten percent) tax on the company’s fixed asset growth (based on Article 5 PMK No. 79/PMK.03/2008). As a result, companies tended to refrain from increasing the level of fixed assets resulting in limited tax revenue. The scale is meant to encourage companies to revalue assets sooner.

Secondly, according to Article 2 PMK No. 191/PMK.010/2015, this provision may be applied to the domestic taxpayer, permanent establishment and individual taxpayer who manage accounting records, including:

- a. the taxpayer who obtains permission to manage accounting records in English and US dollar currencies; and
- b. the taxpayer who at the date of revaluation has not passed a 5 year period from the last revaluation under Minister of Finance Regulation No. 79/PMK.03/2008.

Previously, PMK No. 79/PMK.03/2008 did not include taxpayers who obtained permission to manage accounting records in English and US dollar currencies. In addition, to obtain tax facilities according to PMK No. 191/PMK.010/2015, revaluation can be conducted of all or part of fixed assets that are located in Indonesia, and are owned and used to obtain, collect, or maintain the income that is subject to tax. However the revaluation cannot be carried back before the expiration of a period of 5 (five) years from the revaluation of fixed assets set out under the PMK No. 191/PMK.010/2015.

