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Indonesia: New Integrated Import Guidelines

THOUGHT PIECE



General Information

Last year the Indonesian Government issued Government Regulation No. 29 on Organization of the Trade Sector ("**GR 29**"). GR 29 is an implementing regulation of the Job Creation Law (Omnibus Law), which changes the rules for trade matters, including for distribution of goods, exports and imports.

Following the issuance of GR 29, the Ministry of Trade (MOT) introduced a series of technical implementing regulations. One of the more notable regulations is Minister of Trade Regulation Number 20 of 2021 on Import Policies and Procedures ("**MOT Reg. 20/2021**"), which took effect on 14 November 2021.

MOT Reg. 20/2021 replaced the previous regulations, and has simplified the rules on import of various type of goods. Please refer to **Appendix I** for the details of the revoked regulations.

We set out below the key highlights and takeaways of MOT Reg. 20/2021.

Key Highlights

We set out below a summary of several key features in the regulation that may affect daily operation or activities of business players.

1 Business Identification Number and Business License

Ministry of Trade Regulation No. 48 of 2015 on General Provisions on Import ("**MOT Reg. 48/2015**") did not recognize Business Identification Numbers ("**NIB**") as a requirement for import activities. Meanwhile, import licenses are regulated under MOT Regulation No. 75 of 2018 on Importer Identification Number ("**API**"). So, previously NIB and API were regulated separately. But with the issuance of MOT Reg. 20/2021 they are now regulated under the same regulation.

Importers must obtain an NIB, which will serve as an API. The API consists of a General Importer Identification ("**API-U**") and a Manufacturer Importer Identification ("**API-P**")¹. This is in line with GR 29 and basically the same as the previous regulation on API. There is no change on the provision regarding NIB/API.

¹ Article 3 paragraph 1 of MOT Reg. 20/2021.

On top of the basic import license (NIB, which serves as an API), importers must secure business licenses for the import sectors from the MOT before the arrival of any imported goods into the customs area². The business licenses related to import that are covered by MOT Reg. 20/2021 are as follows:

- Registered Importer (*Importir Terdaftar*/"IT")
- Manufacturer importer (*Importir Produsen*/"IP")
- Import approval (*Persetujuan Impor*/"PI")

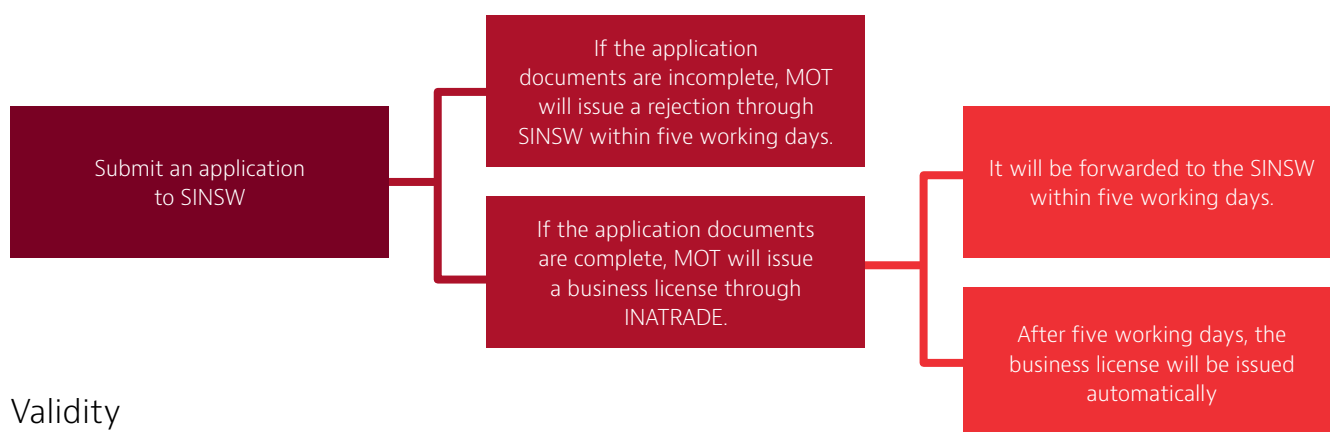
2 Application Process for Business License

Before the issuance of a business license, importers must confirm their taxpayer status³. Further, there is a certain process for securing a business license, which involves obtaining Access Rights to the Indonesia National Single Window System ("**SINSW**") prior to submitting the required documents.

The documents are as follows:

- Tax ID number or ID for individual importers
- Tax ID number for state-owned companies and agencies
- NIB and Tax ID number for cooperatives and business entities

The application process to obtain a business license through SINSW is as follows:



Validity

Business license is generally valid within one year, in accordance with Attachment I and III of MOT Reg. 20/2021⁴.

² Article 4 paragraph 1 of MOT Reg. 20/2021.

³ Article 5 paragraph 1 of MOT Reg. 20/2021.

⁴ Article 8 paragraph 9 of MOT Reg. 20/2021.

3 Goods that are subject to IT, IP, PI

As mentioned above, the business licenses consist of IT, IP and PI. There will be different requirements for import procedures for different types of goods.

For instance, the importation of crude oil, natural gas and other fuels would only require a PI. The importation of iron, steel and their derivative products would require the importers to have a PI and a surveyor report. Further, alcoholic drinks (beer) with an alcohol percentage that does not exceed 5.8%, would require an IT and a PI. For hazardous goods, the importers would need an IT, a PI and a surveyor report.

The import requirements are specifically listed in attachments I and III of MOT Reg. 20/2021 in accordance with the type of goods and the corresponding HS Codes. As such, it would be better if the importer knows the HS Code used to import the goods into Indonesia, for specific details on the business license required for import.

An excerpt of the Attachment of MOT Reg. 20/2021 is shown below:

BESI ATAU BAJA, BAJA PADUAN, DAN PRODUK TURUNANNYA

No	Pos Tarif/HS	Uraian Barang	Persyaratan	Keterangan	IT	IP	PI	LS	Post Border
A. Besi atau Baja			PI Besi atau Baja, Baja Paduan, dan Produk Turunannya (API-P): 1. Data yang tersedia, dalam hal Neraca Komoditas belum ditetapkan; 2. <i>Mill Test Certificate</i> untuk impor Baja Paduan; dan	Penerbitan Persetujuan Impor berdasarkan: a. Neraca Komoditas dalam hal Neraca Komoditas telah ditetapkan; atau b. Data yang tersedia, dalam hal Neraca Komoditas belum ditetapkan.					
694.	7208.10.00	- Dalam gulungan, tidak dikerjakan lebih lanjut selain dicanai panas, dengan pola relief					√	√	
695.	7208.25.00	-- Dengan ketebalan 4,75 mm atau lebih					√	√	
696.	7208.26.00	-- Dengan ketebalan 3 mm atau lebih tetapi kurang dari 4,75 mm					√	√	
697.	7208.27.11	---- Mengandung karbon 0,6 % atau lebih menurut beratnya					√	√	
698.	7208.27.19	---- Lain-lain					√	√	

4 Goods that are subject to verification

Certain goods that are listed in Attachment I or Attachment III of MOT Reg. 20/2021 are subject to verification⁵. There are criteria for goods that need further verification and technical inspection, which will be explained below.

5 Amendment of data stated in the business license

If there is any change on the data of business license, the importers must apply for an amendment of business license within 30 days after the date of data amendment took place through the SINWS⁶. The data that should be amended/updated are as follows:

- NIB and importers' identity
- HS Codes

⁵ Article 21 paragraph 2 of MOT Reg. 20/2021.

⁶ Article 10 paragraph 1 of MOT Reg. 20/2021.

- Description of goods
- Quantity and unit of goods
- Country of origin
- Port of destination

Once the amendment request documents are complete, the MOT will approve the amendment electronically through the INATRADE system and then forward the approval to the SINSW within five working days.

6 Renewal of business license

No later than seven working days before the business licenses expire, importers can apply through SINSW to extend the licenses. The renewal can be delivered through SINSW⁷. Once the renewal application documents are complete, the MOT will approve the amendment electronically through the INATRADE system and then forward the approval to the SINSW within five working days.

7 Cancellation of application for business license, amendment of business license data and renewal of business license

The regulation gives importers an option to cancel an ongoing application process for a business license, amendment of business license data and renewal of business license through the SINSW.⁸

8 Exemption of NIB, Business License, verification or technical assessment

Importers can be exempted from the requirement to obtain an NIB or business license if the import activities are not conducted for business activities, provided that the importers secure a statement letter from the MOT⁹. Further details on the goods that are exempted from the NIB or business licenses obligation are listed in Attachment IV of MOT Reg. 20/2021.

To obtain the exemption from the NIB and business license requirement, importers must obtain Access Rights and then apply for an exemption to the MOT through the SINSW. If the application is accepted, the MOT will issue an exemption statement letter. The letter

⁷ Article 12 of MOT Reg. 20/2021.

⁸ Article 15 of MOT Reg. 20/2021.

⁹ Article 24 paragraph 3 of MOT Reg. 20/2021

will be valid for one or more shipments. There are no details on the timeframe to get this exemption statement letter from the MOT.

Further, importers can also be exempted from the requirement to get a verification or technical assessment if they can secure a statement letter from the MOT. The application process for the statement letter is similar to the process in the paragraph above.

9 Import realization report requirement

MOT Reg. 20/2021 provides an obligation for importers that have an NIB to submit a realization report on imported goods that are **not** subject to the import policy/procedure to the MOT through <http://intrade.kemendag.go.id>. The report should be submitted at the end of every January, April, July, October, and December¹⁰

In addition, MOT Reg. 20/2021 provides an obligation for importers that have a business license and a surveyor's report to submit a realization report on realized or unrealized importation to the MOT. The report should contain the following information¹¹:

- Goods description
- HS Codes
- Goods volume
- Goods value
- Country of origin
- Port of destination
- Number and date of surveyor's report
- Number and date of declaration of imported goods

Meanwhile, importers that have an exemption statement letter should submit a realization report on realized or unrealized importation to the MOT. The report should be submitted on the following occasions¹²:

- Within 15 working days after the expiry date of the import statement letter that is applicable for one shipment
- Every month, at the latest on the 15th day of the following month, for an import statement letter that is applicable for more than one shipment

¹⁰ Article 30 of MOT Reg. 20/2021.

¹¹ Article 31 of MOT Reg. 20/2021.

¹² Article 32 paragraph 2 of MOT Reg. 20/2021

10 Temporary Import and Re-import Provision

Goods that are imported temporarily will not be subject to the policy and regulation of import¹³. Goods that are imported temporarily cannot be re-exported, based on the following considerations¹⁴:

- Temporarily imported goods are needed for government projects.
- Temporarily imported goods suffer severe damage in their use.
- Temporarily imported goods are to be donated to the government.

In addition, goods that have been exported and then re-imported are not subject to the policy and regulation of import¹⁵. Exported goods that are re-imported are subject to Law Number 17 of 2006 on Customs Law¹⁶.

11 Administrative Sanctions

The previous regulation, i.e., MOT Reg. 48/2015, only had one broad provision regarding sanction for importers. MOT Reg. 20/2021 lays out more detailed administrative sanctions than the previous regulation.

There are many forms of administrative sanctions for importers that violate the provisions, ranging from warning notice, suspension and revocation of business license as described below.

Firstly, an importer that fails to file a realization report as discussed in point 9 above would be subject to the following¹⁷:

- Warning notice through the SINSW
- Recommendation to suspend the NIB that serves as API if the importer continues to fail to submit the report for 30 days after the warning notice is issued
- Postponement of the issuance of an exemption statement letter for six months if the importer continues to fail to submit the report within 30 days after the warning notice is issued, for an import statement letter that is applicable for one shipment

¹³ Article 27 paragraph 1 of MOT Reg. 20/2021.

¹⁴ Article 27 paragraph 3 of MOT Reg. 20/2021.

¹⁵ Article 28 paragraph 1 of MOT Reg. 20/2021.

¹⁶ Article 28 paragraph 2 of MOT Reg. 20/2021.

¹⁷ Article 34 and Article 35 of MOT Reg. 20/2021.

- Suspension of exemption statement letter if the importer continues to fail to submit the report within 30 days after the warning notice is issued, for an import statement letter that is applicable for more than one shipment

Secondly, an NIB that serves as an API may be revoked if the following conditions occur¹⁸:

- The importer does not conduct its obligation to submit a realization report.
- The importer violates the customs' provisions.
- The importer is found guilty by a court for the misuse of the NIB that serves as an API.

Thirdly, a business license may be revoked if any of the following conditions occur¹⁹:

- The importer that is an API-P holder sells or transfers the imported goods to other parties, except for complementary, test market and after-sales services goods.
- The importer that is an API-U holder sells or transfers the imported goods to other parties in a manner that is not in compliance with the relevant sales and purchase contract.
- The importer fails to submit a request to change the company's data stated in the business license (if there is a change in the company's data).
- The importer fails to submit the required realization report.
- There are discrepancies in the required documents and information of the business license.
- The importer is found guilty of violating MOT Reg. 20/2021 based on the Director General's evaluation.
- The importer is found guilty in a court decision that is legally binding in relation to the misuse of a business license or surveyor's report.
- The importer violates the customs' provisions.

Lastly, a statement letter may be revoked if any of the following conditions occur:

- The importer does not conduct its obligation to submit a realization report.
- Discrepancies are found between the required documents and data or information contained in an exemption letter.

¹⁸ Article 39 letter (a) of MOT Reg. 20/2021.

¹⁹ Article 39 letter (b) of MOT Reg. 20/2021.

- The imported goods are not in accordance with the data or information stated in the exemption statement letter.
- The importer is found guilty of amending the information in the exemption statement letter.
- The importer violates the customs' provisions.
- The importer is found guilty by a court decision that is legally binding in relation to the misuse of the exemption statement letter.

Key Takeaways and Going Forward

In light of the above, the existence of MOT Reg. 20/2021, which consolidates all of the import provisions, certainly brings a new dynamic to the trade sector, because previously provisions on import were spread over many different regulations, and now they are all covered in one regulation. The following are some key takeaways:

- The issuance of MOT Reg. 20/2021 can be seen as a government effort to simplify the business licensing process to obtain business licenses and other supporting licenses for business activities. Simplification of business licensing is also part of an effort to attract more investment into Indonesia.
- In general, the provisions on import of certain goods, import of capital goods in used condition, and import of complementary, test-market and after-sales services goods remain the same.
- MOT Reg. 20/2021 gives further clarity on certain topics (among others temporary import and re-import)²⁰. MOT Reg. 20/2021 also contains provisions on import of goods related to consumer protection interests, safety, health and environment to a Free Trade Zone and Free Port²¹. We note that the previous MOT regulation did not contain these provisions.
- MOT Reg. 20/2021 introduces SINSW, which essentially is the upgraded version of the INSW system. It appears that the Government aims to make SINSW one of the single channels for business licensing in the import sector.
- There may be some hurdles in the implementation process of a new regulation even when the regulations are already in effect. This is because the relevant authorities and stakeholders may need some time to adjust to the new provisions and processes.

²⁰ Article 27 of MOT Reg. 20/2021.

²¹ Article 22 of MOT Reg. 20/2021.

On 25 November, the Constitutional Court ordered the government to amend or correct parts of the law within two years, describing it as conditionally unconstitutional. The changes must be done within two years or the law would be deemed as “permanently unconstitutional”. The Constitutional Court also ordered the government to suspend all strategic and broad-impact actions/policies and not issue any new implementing regulations relating to the Omnibus Law.

As a result, there is now an open question on the implementing regulations that have been issued prior to this court’s ruling (e.g., MOT Reg. 20/2021). It appears to us that the government may revisit the implementing regulations that have been issued and may amend or even revoke implementing regulations to be in line with the amended Omnibus Law. So we can expect amendments to MOT Reg. 20/2021 going forward.

Appendix I

Revoked Import Regulations

1. Minister of Industry and Minister of Trade Decree Number 230/MPP/KEP/7/1997 on Goods Regulated With Import Procedure
2. Ministry of Trade Regulation Number 44/M-DAG/PER/9/2009 on Procurement, Distribution and Control of Hazardous Materials
3. Ministry of Trade Regulation Number 15/M-DAG/PER/4/2013 on Procurement and Distribution of Subsidized Fertilizer for Agriculture Sector
4. Ministry of Trade Regulation Number 20/M-DAG/PER/4/2014 on Control and Supervision of the Procurement, Distribution and Sales of Alcoholic Beverages
5. Minister of Industry and Minister of Trade Decree Number 647/MPP/KEP/10/2004 on Precursor Import Provision
6. Ministry of Trade Regulation Number 10/M-DAG/PER/6/2005 on Export and Import Provision of Rough Diamonds
7. Ministry of Trade Regulation Number 06/M-DAG/PER/1/2007 on Verification or Technical Inspection of Imported Ceramics
8. Ministry of Trade Regulation Number 40/M-DAG/PER/9/2009 on Verification or Technical Inspection of Imported Glass Sheets
9. Joint Regulation of the Minister of Trade and the Minister of Maritime Affairs and Fisheries Number 52/M-DAG/PER/12/2010 and Number PB.02/MEN/2010 on Prohibition of Importing Certain Species of Shrimp into the Territory of the Republic of Indonesia
10. Ministry of Trade Regulation Number 82/M-DAG/PER/12/2012 on Import Provision on Cell Phones, Handheld Computers, and Tablet Computers
11. Ministry of Trade Regulation Number 36/M-DAG/PER/07/2013 on Import Provision of Plastic Raw Materials
12. Ministry of Trade Regulation Number 48/M-DAG/PER/7/2015 on General Import Provision
13. Ministry of Trade Regulation Number 62/M-DAG/PER/8/2015 on Import Provision of Nitrocellulose
14. Ministry of Trade Regulation Number 83/M-DAG/PER/10/2015 on Provision of Import of Ozone Layer Depleting Substances
15. Ministry of Trade Regulation Number 84/M-DAG/PER/10/2015 on Provision for Importing Goods Based on Refrigeration System

16. Ministry of Trade Regulation Number 85/M-DAG/PER/10/2015 on Provision of Import of Textiles and Textile Products
 17. Ministry of Trade Regulation Number 86/M-DAG/PER/10/2015 on Provision of Import of Textiles and Batik Textile Products and Batik Motifs
 18. Ministry of Trade Regulation Number 87/M-DAG/PER/10/2015 on Provision of Certain Import Products
 19. Ministry of Trade Regulation Number 102/M-DAG/PER/12/2015 on Provision of Import on Color Multifunction Machines, Color Photocopiers and Color Printer Machines
 20. Ministry of Trade Regulation Number 118/M-DAG/PER/12/2015 on Provisions on the Import of Complementary Goods, Goods for Market Tests, and After-Sales Service
 21. Ministry of Trade Regulation Number 77/M-DAG/PER/11/2016 on Import Provision on Tyres
 22. Ministry of Trade Regulation Number 45/M-DAG/PER/7/2017 on Delegation of Licensing Issuance Authority in the Foreign Trade Sector to the Batam Free Trade Area and Free Port Concession Agency, the Bintan Free Trade Zone and Free Port Concession Agency, and the Karimun Free Port and Free Trade Zone Concession Agency
 23. Ministry of Trade Regulation Number 1 of 2018 on Import and Export Provision of Rice
 24. Ministry of Trade Regulation Number 3 of 2018 on Import Provision of Pearls
 25. Ministry of Trade Regulation Number 7 of 2018 on Provision of Import on Clinker Cement and Cement
 26. Ministry of Trade Regulation Number 19 of 2018 on Provision of Import on Lubricants
 27. Ministry of Trade Regulation Number 21 of 2018 on Provision of Import on Corn
 28. Ministry of Trade Regulation Number 29 of 2018 on Provision on the Import of Saccharin and Cyclamate and Odors Containing Alcohol
 29. Ministry of Trade Regulation Number 30 of 2018 on Provision of Importing Hand Tools
 30. Ministry of Trade Regulation Number 66 of 2018 on Provision of Import on Fishery Products
 31. Ministry of Trade Regulation Number 75 of 2018 on Import Identification Number
 32. Ministry of Trade Regulation Number 110 of 2018 on Provision of Import on Iron or Steel, Alloy Steel and Their Derivative Products
 33. Ministry of Trade Regulation Number 118 of 2018 on Provision on the Import of Capital Goods in Not New Condition
 34. Ministry of Trade Regulation Number 21 of 2019 on Provision for Export and
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- Import of Petroleum, Natural Gas, and Other Fuels
35. Ministry of Trade Regulation Number 29 of 2019 on Provision for Export and Import of Animals and Animal Products
36. Ministry of Trade Regulation Number 44 of 2019 on Provision for Horticultural Products
37. Ministry of Trade Regulation Number 63 of 2019 on Provision of Import on Salt
38. Ministry of Trade Regulation Number 82 of 2019 on Provision for Importing Forestry Products
39. Ministry of Trade Regulation Number 84 of 2019 on Provisions on the Import of Non-Hazardous and Toxic Waste as Industrial Raw Materials
40. Ministry of Trade Regulation Number 14 of 2020 on Provision on the Import of Sugar
41. Ministry of Trade Regulation Number 68 of 2020 on Terms of Import of Footwear, Electronics, and Two-Wheel and Tricycle
42. Ministry of Trade Regulation Number 97 of 2020 on Control and Supervision of the Procurement of Alcoholic Beverage Raw Materials
43. Ministry of Trade Regulation Number 100 of 2020 on Provisions on the Import of Non-New Lithium Batteries as Raw Materials for the Lithium Battery Industry to Support the Accelerated Growth of the Battery-Based Electric Motor Vehicle Industry

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