

Update on Indonesian import facilities for COVID-19-related medical devices

April 28, 2020

The surging number of COVID-19 cases in Indonesia has increased the demand for medical devices needed during the pandemic, and it is believed that to be able to successfully fight against the pandemic Indonesia has to have sufficient medical devices and supplies. For this purpose, the Government of the Republic of Indonesia has simplified the process for importing medical devices into Indonesia by granting importers import facilities.

1. The Government's Efforts in Easing Import Procedures for Medical Devices Needed During the COVID-19 Pandemic

Due to the pandemic of COVID-19, Indonesian government has taken the initiative to grant Indonesian importers non-fiscal facilities or exemptions from the import trading system obligations ("Non-Fiscal Facility"), with the aim of satisfying the supplies or reserves of goods deemed to be essential to combat COVID-19, as follow:

- a. Ministry of Trade ("MoT") Regulation No. 28 of 2020 concerning the Eighth Amendment of MoT Reg No. 87/M-DAG/PER/10/2015 on Provisions on Importation of Specific Goods ("MoT Reg 28/2020") enacted on 20 March 2020, grants importers of essential goods to fight against COVID-19, as listed in MoT Reg 28/2020, an exemption from import trading system obligations in the form of issuance of surveyor reports and importation through designated ports of entry;
- b. MoT Reg Number 37 Year 2020 on the Second Amendment to MoT Regulation Number 118 Year 2018 on the Provisions of Import on Used Capital Goods ("MoT Reg 37/2020") enacted on 31 March 2020, exempting the importation of certain used medical devices essential to fight against COVID-19, as listed in MoT Reg 37/2020, from the obligations to obtain surveyor reports and perform importation through designated ports of entry. Therefore, under the MoT Reg 28/2020 and MoT Reg 37/2020 the only shipping document required is a bill of lading (B/L) or airway bill, and this will be effective up to 30 June 2020.
- c. Importation of certain medical devices essential to fight against COVID-19 now meet the criteria under the Special Access Scheme ("SAS") to be granted an exemption from the SAS permit according to Ministry of Health ("MoH") Regulation No. 7 year 2020 to amend MoH Reg 51 of 2014 enacted on 27 March 2020 ("MoH Reg 7/2020").

Previously before the enactment of MoH Reg 7/2020, importation of medical devices through the SAS exempted importers from the obligation to obtain distribution permits, instead of which the importers were obliged to obtain SAS permits.

With the enactment of MoH Reg 7/2020, the obligation to obtain an SAS permit is now also being waived for the importation of certain medical devices through SAS as listed in the MoH Decree No. HK.01.07/MENKES/218/2020 concerning Medical Devices, Diagnostic In Vitro Medical Devices, and Household Medical Supplies Exempted from the Import Trading System Licensing as Countermeasures against Corona Virus 2019 (COVID-19) ("MoH Decree 218/2020") which was enacted on 30 March 2020.

Besides Non-Fiscal Facilities, the Indonesian Government has also granted Indonesian importers fiscal facilities

("Fiscal Facility") as provided in the following:

- a. Ministry of Finance ("MoF") Regulation Number 28/PMK.03/2020 on the Granting of Tax Facilities on Goods and Services Needed for Countermeasures against the Corona Virus 2019 Pandemic enacted on 6 April 2020 ("MoF Reg 28/2020"), grants government institutions, hospitals or other parties appointed by the Government or hospitals an incentive on Value Added Tax ("VAT") and exemption from Article 22 Import Income Tax and/or Article 22 Income Tax ("PPH 22") on the importation of the essential goods to fight against COVID-19 for the tax period of April 2020 to September 2020;
- b. MoF Regulation Number 31/PMK.04/2020 on Additional Incentives for Bonded Zone Companies and/or Companies with Import Facilities for Export Purposes for Countermeasures against the Corona Virus 2019 Pandemic enacted on 13 April 2020 ("MoF Reg 31/2020"), grants importation of certain medical supplies into and to be used within the bonded zone a postponement of import duties and import taxes are not collected and/or VAT/Luxury goods Sales Tax is not collected; and
- c. MoF Regulation Number 34/PMK.04/2020 on the Granting of Customs and/or Excise and Tax Facilities on the Import of Goods for the Purpose of Countermeasure against the Corona Virus 2019 Pandemic ("MoF Reg 34/2020") enacted on 16 April 2020, grants the importer of certain goods essential to fight against COVID-19, an exemption from customs and/or excise duties and Article 22 Income Tax and VAT/Luxury goods Sales Tax is not collected.

2. BNPB Recommendation

Under MoF Reg 34/2020, Fiscal Facilities under MoF Reg 34/2020 will be granted through an MoF decree. However, for importation of any goods as listed in the MoF Reg 34/2020 that are also granted Non-Fiscal Facilities, the importer will need to enclose the recommendation from BNPB ("BNPB Recommendation"). However, there are several goods with a limitation to a certain quantity that are exempted from the import trading system licensing without being required to obtain a BNPB recommendation, which will be determined by the relevant ministry, institution and/or the BNPB.

For a list of the goods concerned in the above and further information related to the services provided, please contact the partner listed under key contacts.

The article above was prepared by Fabian Buddy Pascoal (Partner), Nadya Vera Simanjuntak (Associate), and Widiarahmi Afiandari (Professional Support Lawyer).

This publication is not intended to be a comprehensive review of all developments in the law and practice, or to cover all aspects of those referred to. Readers should take legal advice before applying the information contained in this publication to specific issues or transactions or matters. For more information, please contact us at dentons.hprp@dentons.com.

No part of this publication may be reproduced by any process whatsoever without prior written permission from Hanafiah Ponggawa & Partners (Dentons HPRP).

Your Key Contacts



Fabian Buddy Pascoal

Partner, Jakarta

D +62 21 5701837

M +62 812 8888 899

fabian.pascoal@dentons.com