

USDA Foreign Agricultural Service

GAIN Report

Global Agricultural Information Network

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POLICY

Voluntary - Public

Date: 7/10/2018

GAIN Report Number: ID1819

Indonesia

Post: Jakarta

MOT Revises Requirements on Horticultural Import Permits

Report Categories:

Fresh Fruit and Potatoes

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Report Highlights:

The Ministry of Trade (MOT) recently issued revised requirements to obtain import permits (IP) for horticultural products. While the revisions eased some of the previous burdensome conditions, such as owning warehouse space and limiting downstream sales options, MOT can still potentially use other conditions to restrict imports. These conditions on IP approvals, combined with the Ministry of Agriculture's requirements to obtain import recommendations, mean that Indonesia's overall horticultural import licensing regime can still be used to control the quantity and timing of horticultural product imports.

General Information:

In a regulation dated May 31, 2018, the Ministry of Trade (MOT) revised regulation 30/2017 on requirements to obtain import permits (IP) for horticultural products. This regulation complements a similar Ministry of Agriculture (MOA) regulation issued recently on requirements to obtain import recommendations (IR) on horticultural products. In Indonesia's burdensome import licensing system for horticultural products, importers must first obtain an IR from MOA, and then obtain the IP from MOT.

In the revised regulation, MOT makes changes in IP approval conditions in two key areas: 1) Proof of warehouse space; and 2) Limitations on downstream sales.

Warehouse Space: In MOT's revised regulation, importers are no longer required to "own" warehouse space, but must still show proof that they in some way control it, which seems to mean they will accept leasing. The requirement to show proof of transport capability is also retained in the revised regulation. The revised regulation makes no specific mention of warehouse space quantitative requirements. Previously, MOT required importers to show proof not only of warehouse ownership, but also the amount of fruit they could store at any given time. MOT would frequently use the storage capacity to determine an individual importer's quota. Furthermore, MOT frequently requests additional information on warehouse space as a justification to withhold/delay issuance of IPs.

Downstream Sales Limitations: The revised regulation removes restrictions on importers' ability to sell to retail. Previously importers had to sell to a distributor and could not sell directly to retailers (To overcome this restriction, importers commonly created sister companies as intermediaries through which they would then sell to retail outlets). Furthermore, as a condition to obtain an IP, importers no longer have to show contracts for the upcoming year with three distributors.

However, end-use sales restrictions on "importer-producers" remain. For example, importers of chipping potatoes must use all of the product they import in their potato chip manufacturing facility; they cannot trade or otherwise market imported fresh potatoes.

An unofficial translation of the revised regulation is below, with comments on the changes in blue text:



MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

REGULATION OF THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

NUMBER 64 YEAR 2018

REGARDING

FOURTH AMENDMENT OF THE REGULATION OF THE MINISTER OF TRADE NUMBER 30/M-DAG /PER/5/2017 REGARDING THE PROVISIONS ON HORTICULTURE PRODUCTS IMPORT

BY THE GRACE OF GOD THE ALMIGHTY

THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA,

- Considers:
- a. that to increase the effectivity of the implementation of Horticulture Products Import policy and the ease of conducting business, it is necessary to change several provisions of the Regulation of the Ministry of Trade Number 30/M-DAG /PER/5/2017 Regarding The Provisions of the Horticulture Products Import that has been amended several times, with the last one being the Regulation of the Ministry of Trade Number 16 Year 2018 Regarding the Third Amendment of the Regulation of the Ministry of Trade Number 30/M-DAG /PER/5/2017 Regarding The Provisions of the Horticulture Products Import;
 - b. that based on the consideration as referred to in letter a, it is necessary to stipulate the Regulation of the Ministry of Trade Regarding the Fourth Amendment of the Regulation of the Ministry of Trade Number 30/M-DAG /PER/5/2017 Regarding The Provisions of the Horticulture Products Import;

In the view of: The Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2018 regarding the Provisions of Horticulture Products Import (State Gazette of the Republic of Indonesia Year 2017 Number 728) that has been amended several times, with the last one being the Regulation of the Ministry of Trade Number 16 Year 2018 Regarding the Third Amendment of the Regulation of the Ministry of Trade Number 30/M-DAG /PER/5/2017 Regarding The Provisions of the Horticulture Products Import (State Gazette of the Republic of Indonesia Year 2017 Number 92);

DECIDES

To stipulate: THE REGULATION OF THE MINISTER OF TRADE REGARDING THE FOURTH AMENDMENT OF THE REGULATION OF THE MINISTER OF AGRICULTURE NUMBER 30/M-DAG /PER/5/2017 REGARDING THE PROVISIONS OF HORTICULTURE PRODUCTS IMPORT

Article I

Several provisions in the Regulation of the Minister of Trade Number 30/M-DAG/PER/5/2018 regarding the Provisions of Horticulture Products Import (State Gazette of the Republic of Indonesia Year 2017 Number 728) that has been amended several times, with the last one being the Regulation of

the Ministry of Trade Number 16 Year 2018 Regarding the Third Amendment of the Regulation of the Ministry of Trade Number 30/M-DAG /PER/5/2017 Regarding The Provisions of the Horticulture Products Import (State Gazette of the Republic of Indonesia Year 2017 Number 92) shall be amended as follow:

1. Provisions of letter b of Article 6 is amended, and letters e and f are removed, thus Article 6 reads as follow:

Article 6

In order to obtain Import Permit, as referred to in Article 5 paragraph (2), companies holding API-U must apply electronically to the Director General, in this case the Director, by attaching:

- a. API-U;
 - b. proof of control (*previously: ownership*) of refrigerated warehouse (cold storage), which is registered in accordance to legislation;
 - c. proof of ownership of transport vehicle in accordance with the characteristics of the products;
 - d. statement letter, stamped sufficiently, regarding the warehouse and transport vehicle capability and worthiness in accordance with the characteristics of the Horticulture Products;
 - e. removed (*previously: proof of sales contract of Horticulture Product with at least 3 (three) distributors for the period of 1 (one) year at the minimum*);
 - f. removed (*previously: proof of having experience as a Horticulture Products distributor for a period of 1 (one) year*);
 - g. Horticulture Products import plan that includes types of products, Tariff/HS Post, amount, country of origin, port of loading, and port of destination; and
 - h. Horticulture Product Import Recommendation
2. Provisions of paragraph (2) of letter b of Article 9 is removed, thus Article 9 reads as follow:

Article 9

- (1) Director on behalf of Director General issues:
 - a. Import Permit within 2 (two) working days at the latest since the complete and correct application is received; or
 - b. rejection to issue Import Permit within 2 (two) working days since the application is received, but not complete or correct.
- (2) Issuance of Import Permit for companies holding API-U and API-P must consider:
 - a. warehouse and transport vehicle capability and worthiness in accordance with the characteristics of the Horticulture Products; and
 - b. removed (*previously: Previous Horticulture Products import realization*)

3. Provisions of paragraphs (3) and (4) of Article 10A is amended, thus Article 10A reads as follow:

Article 10A

- (1) Company is required to report and apply for Import Permit amendment against any change linked to the document as referred to in Articles 6, 7, and 8.
 - (2) Company can apply for Import Permit amendment if there is change in Tariff/HS Post, amount, country of origin, and port of loading and/or port of destination.
 - (3) To obtain Import Permit amendment as referred to in paragraphs (1) and (2), company must apply electronically to the Director General, in this case the Director (*previously there was no information to whom should the application be addressed*), by attaching:
 - a. document undergoing changes;
 - b. Import Permit;
 - c. statement letter, stamped sufficiently, containing the rationale on the Import Permit amendment application; and/or
 - d. Horticulture Product Import Recommendation (*previously this is only required for application referred to in paragraph (2) above*).
 - (4) Upon receiving the application as referred to in paragraph (3), Director on behalf of Director General shall issue Import Permit amendment within 2 (two) working days (*previously: 3 (three) working days*) at the latest since the correct and complete application is received.
4. Provisions of paragraph (1), and paragraph (2) letter b of Article 12 is removed, thus Article 12 reads as follow:

Article 12

- (1) Removed. (*Previously: Company holding API-U which have obtained Import Permit:*
 - a. *can only trade and/or handover their imported Horticulture Products to Distributor; and*
 - b. *is not allowed to trade and/or handover their imported Horticulture Products directly to consumers or retailers.*)
 - (2) Company holding API-P which has obtained Import Permit:
 - a. can only import Horticulture Products to be used as production raw materials or auxiliary materials for the production necessity of their industry; and
 - b. removed. (*Previously: is not allowed to trade and/or handover their imported Horticulture Products to other parties*)
5. Provisions of letter a of Article 21 is removed, and letters b and d of Article 21 are amended, thus Article 21 reads as follow:
- a. removed; (*Previously: proven to trade and/or handover their imported Horticulture Products directly to consumers or retailers, as referred to in Article 12 paragraph (1) letter b, for companies holding API-U*);
 - b. proven to use their imported Horticulture Products other than as production raw materials or auxiliary materials for the production necessity of their industry, as referred to in Article 12

paragraph (2) letter a, for companies holding API-P (Previously: proven to trade and/or handover their imported Horticulture Products to other parties, as referred to in Article 12 paragraph (2) letter b, for companies holding API-P);

- c. proven to violate packaging provisions, as referred to in Article 14;
- d. proven to alter the conformity of data and/or information contained in Import Permit or amended Import Permit that has been issued (Previously: proven to alter the data and/or information contained in Import Permit);
- e. proven to provide incorrect data and/or information as the requirements to obtain Import Permit;
- f. commit violation based on the judgement and recommendation of linked technical institution; and/or
- g. found guilty by lawful court ruling on criminal offense related to the misuse of Import Permit.

Article II

This Ministerial Regulation shall take into effect on the date of its promulgation.

In order to be publicly acknowledged, order the enactment of this Ministerial Regulation by establishing it in the State Gazette of the Republic of Indonesia.

Stipulated in Jakarta
on, May 24, 2018
MINISTER OF TRADE
OF THE REPUBLIC OF INDONESIA

signed

ENGGARTIASTO LUKITA

Promulgated in Jakarta
on May 31, 2018

DIRECTOR GENERAL OF LEGISLATION
MINISTRY OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA

signed

WIDODO EKATJAHJANA

