

OUTLOOK TO THE NEW MINISTRY OF TRADE REGULATION ON IMPORT POLICY

By 9 March 2024, the Ministry of Trade Regulation No. 36 of 2023 (11 December 2023) on Import Policy and Regulation ("**MOT Regulation 36**"), will take effect. It revoked the Ministry of Trade Regulation No. 20 of 2021 as amended by Ministry of Trade Regulation No. 25 of 2022 on Import Policy and Regulation ("**MOT Regulation 20**"). It is a refinement of MOT Regulation 20, to keep up with legal advancements in import activities. In this Client Update, we outline several noteworthy provisions of MOT Regulation 36 as follows.





Applicability of NIB as API

Under the MOT Regulation 36 regime, business Identification Number (*Nomor Induk Berusaha* or “NIB” of a company will also serve as the company’s Import Identification Number (*Angka Pengenal Importir* or “API”), a license required to import goods into the territory of Indonesia (Article 2 of MOT Regulation 36). The NIB that applies as the following, as applicable:

- General API (*API Umum* or “API-U”), for importers importing certain goods for trade purposes; or
- Producer API (*API Produsen* or “API-P”), for importers importing capital goods (*barang modal*), raw materials, auxiliary materials and/or materials used to support production processes.

Import Licenses

In addition to API, depending on the type of commodities and the relevant HS Codes* of the goods as listed in Appendix of MOT Regulation 36, importers will also need to obtain the other import licenses from the Ministry of Trade, which comprises of (Article 3(5) of MOT Regulation 36):

- registered importers (*Importir Terdaftar* or “IT”); and/or
- producer importers (*Importir Produsen* or “IP”); and/or
- import approvals (*Persetujuan Impor* or “PI”),
(together referred to as, the “Import Licenses”).

The requirement for Import Licenses depends on the nature of the goods and their respective HS Codes for importation. Some goods may require one or multiple Import License(s). Additionally, importers must acquire a surveyor report (*Laporan Surveyor* or “LS”) before engaging in the importation of specific goods. The LS is a prerequisite for customs area inspection of the goods (Article 24(7) of MOT Regulation 36).

New Requirements for Transitioning NIB from API-U to API-P

The MOT Regulation 36 has introduced new requirements outlining the procedure for converting an NIB serving as API-U to become an NIB serving as API-P. This conversion is permissible provided that (Article 2(6) of MOT Regulation 36).

- An Importer possessing the relevant Import License(s) and/or LS has realised all their imports; and
- The NIB serving as API-U has reached its first anniversary since its date of issuance.

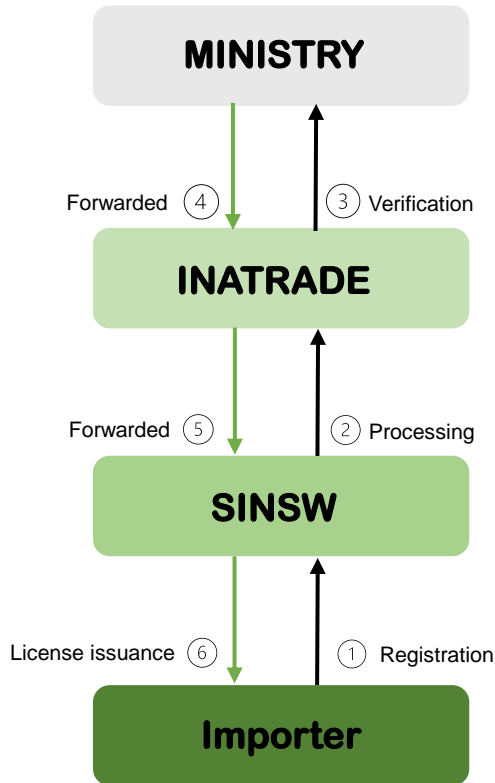
An importer with NIB serving as API-U is required to submit a statement via the OSS System, elucidating the reason for the NIB conversion. Upon successful verification on the conversion request by the Ministry of Trade, the NIB that previously serving as API-U will be revoked and reissued as NIB that valid as API-P. It is crucial to note that this conversion only apply for NIB serving as API-U to become NIB serving as API-P, not otherwise.

*HS Code or the Harmonized System Code is the basis for the classification or classification of goods which is a reference for the determination of import duty rates / special provisions applicable to certain types of goods.

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IMPORT LICENSES APPLICATION

All applications for Import Licenses are conducted electronically to the Minister of Trade through SINSW* which is relayed to the INATRADE** System, with the following flow (Chapter IV of MOT Regulation 36):



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REQUIREMENT ON THE IMPORT OF USED GOODS

The MOT Regulation 36 requires importers to import goods in a new state. An exception to importation of used goods applies if among other things, any of the following conditions is met (Article 20(1) of MOT Regulation 36):



the imported used goods cannot be sourced domestically and are to be used as capital goods in the framework of industrial production process to develop among other things export activities and increase domestic competitiveness.



the imported used goods or equipment are to be used among other things in the framework of recovery and reconstructing in relation to natural disasters.



the imported used goods are non-hazardous scraps or waste, to be used for industrial raw materials and/or auxiliaries; or



the imported used goods are to be used for specific purposes (i.e. industrial relocation and dispensation).

*Indonesia National Single Window System (SINSW), is an electronic system that integrates systems and/or information related to the process of handling customs documents, quarantine documents, licensing documents, port/airport documents, and other documents, related to exports and/or imports, which ensures data and information security and integrates the flow and process of information between internal systems automatically.

**INATRADE system is an integrated service system for trade at the Ministry of Trade that is carried out online through the portal <https://inatrade.kemendag.go.id/>



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IMPORT EXCLUSION



Chapter IX of the MOT Regulation 36 provides exemptions for importers engaging in the following import activities from the obligation to have NIB and/or other relevant Import Licenses.

Imports for NON-BUSINESS purposes	Imports for BUSINESS purposes
<p>Importing <u>free-to-import</u> goods, by an importer that is <u>not</u> eligible to apply for NIB serving as API (Article 31 MOT Regulation 36). Free-to-import goods as listed in Article 31(2) MOT 36/2023.</p> <p>Importing <u>restricted-to-import</u> goods, by an importer that is <u>not</u> eligible to apply for NIB serving as API (Article 32 MOT Regulation 36). Import goods eligible for this exemptions are listed in Schedule IV of MOT Regulation 36.</p> <p>Importing <u>restricted-to-import</u> goods, by importers that are <u>eligible</u> to apply for NIB serving as API (Article 33 MOT Regulation 36). Import goods eligible for this exemptions are listed in Schedule V of MOT Regulation 36.</p> <p>Importing <u>restricted-to-import</u> goods, by an Indonesian migrant worker (Article 34 MOT 36/2023). Import goods eligible for this exemptions are listed in Schedule III of MOT Regulation 36.</p>	<p>Importing <u>restricted-to-import</u> goods, by importers that are <u>eligible</u> to apply for NIB serving as API (Article 35 MOT Regulation 36). Import goods eligible for this exemptions are listed in Schedule VI of MOT Regulation 36.</p>

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IMPORTER OBLIGATION

Each importer is required to submit a monthly report on their import realization to SINSW. The following information outlines the details of the report that must be submitted by the importer pursuant to Chapter XV of MOT Regulation 36.

for General Importation	for import of Certain Goods as listed on Schedule I MOT Regulation 36
<ul style="list-style-type: none"> Import realization report 	<ul style="list-style-type: none"> Import realization report; and Distribution realisation report for the imported goods (only applicable to API-U); or Distribution realisation of processed/produced goods report for the imported goods (only applicable to API-P).



Import realization report includes the following information:

- type/description of goods;
- post tariff/harmonized system;
- number of goods;
- value of goods;
- destination port;
- country of origin;
- number and date of the Surveyor Report, for Imports of certain Goods which are subject to Verification or Technical Inspection obligations; and
- number and date of Import Customs Notification



Distribution realisation report includes the following information:

- number and date of sales or distribution contract;
- name and address of distributor or consumer;
- distribution date;
- volume or amount of distribution; and
- price of goods.

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TRANSITIONAL PROVISIONS

Import Licences, along with documents such as exemptions, certificates, and/or certificates issued by the Ministry of Trade before the MOT Regulation 36 regime, will continue to be valid until expiration date.

All implementing provisions MOT Regulation 20 shall remain in force to the extent not conflicting with this MOT Regulation 36.

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EFFECTIVE DATE

MOT 36/2023 will come into effect as of 9 March 2024. Affected companies should comply to the relevant provisions before the grace period [Article 72 of MOT Regulation 36]. Nonetheless, certain obligations, such as those regarding the regulation of imported goods sent by migrant workers, will be effective immediately upon promulgation [Article 71 of MOT Regulation 36].

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