
AUTHORIZED TRANSLATION



MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

REGULATION OF THE MINISTER OF TRADE OF

THE REPUBLIC OF INDONESIA

NUMBER 44/M-DAG/PER/6/2016

CONCERNING

PROVISIONS OF BUY BACK FOR PROCUREMENT OF GOVERNMENT

GOODS ORIGINATING FROM IMPORT

UPON BLESSINGS OF THE ONE ALMIGHTY GOD

THE MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA,

- Considering :
- a. that buy back is one of the export stimulus in order to encourage the domestic industrial development, expand the market access for the export goods of Indonesia, and strengthen the state foreign exchange reserve;
 - b. that based on the consideration, as meant in letter a, it is necessary to regulate the provisions of buy back for the procurement of government goods originating from import;

- c. that based on the considerations, as meant in letter a and letter b, and in order to implement the provision of Article 40 of Law Number 7 of 2014 concerning Trade and Article 3 of Government Regulation Number 1 of 1982 concerning Implementation of Export, Import, and Foreign Exchange Traffic, it is necessary to determine the Regulation of the Minister of Trade concerning Provisions of Buy Back for Procurement of Government Goods Originating from Import.

- In view of :
1. Law Number 16 of 2012 concerning Defense Industry (State Gazette of the Republic of Indonesia of 2012 Number 183, Supplement to the State Gazette of the Republic of Indonesia Number 5343;
 2. Law Number 7 of 2014 concerning Trade (State Gazette of the Republic of Indonesia of 2014 Number 45, Supplement to the State Gazette of the Republic of Indonesia Number 5512);
 3. Government Regulation Number 1 of 1982 concerning Implementation of Export, Import, and Foreign Exchange Traffic (State Gazette of the Republic of Indonesia of 1982 Number 1, Supplement to the State Gazette of the Republic of Indonesia Number 3210), as has been amended with the Government Regulation Number 24 of 1985 concerning Amendment of Government Regulation Number 1 of 1982 concerning Implementation of Export, Import, and Foreign Exchange Traffic (State Gazette of the Republic of Indonesia

of 1985 Number 32, Supplement to the State Gazette of the Republic of Indonesia Number 3291);

4. Government Regulation Number 76 of 2014 concerning Mechanism of Trade Returns in the Procurement of Defense and Security Equipments from Abroad (State Gazette of the Republic of Indonesia of 2014 Number 262, Supplement to the State Gazette of the Republic of Indonesia Number 5596);
5. Presidential Regulation Number 54 of 2010 concerning Procurement of Government Goods/Services, as has been amended several times and latest with the Presidential Regulation Number 4 of 2015 concerning Fourth Amendment of the President Regulation Number 54 of 2010 concerning Procurement of Government Goods/Services (State Gazette of the Republic of Indonesia of 2015 Number 5, Supplement to the State Gazette of the Republic of Indonesia Number 5655).

HAS DECREED:

To determine : **THE REGULATION OF THE MINISTER OF TRADE CONCERNING PROVISIONS OF BUY BACK FOR PROCUREMENT OF GOVERNMENT GOODS ORIGINATING FROM IMPORT.**

Article I

The meaning of the following in this Regulation of the Minister is:

1. Trade is the order of activities related to the transaction of Goods, domestic and exceeding the state area borders with the objective of transferring the right on Goods in order to obtain reward or compensation.
2. Buy Back is a payment system of Goods that requires the foreign supplier to purchase and/or market certain Goods as payment for the overall or part of the value of Goods from the Foreign supplier.
3. Goods is each article, tangible or intangible, movable or immovable, consumable or non-consumable, and can be traded, worn, used, or utilized by the consumer or business actor.
4. Ministry is the government apparatus in charge of certain affairs in the administration.
5. Non Ministry Government Institution, hereinafter referred to as LPNK, is the state institution that is established to implement certain administration duties from the President.
6. Local Government is the head of region as the organizing element of the Local Government who manages the implementation of the administration affairs that is the authority

of the autonomous region.

7. State Owned Company, hereinafter referred to as BUMN, is the business entity which overall or large portion of its capital is owned by the state through direct participation originating from the separated state property.
8. Regional Owned Company, hereinafter referred to as BUMD is the company that is established by and owned by the local government.
9. Procurement of Government Goods is the procurement of Goods for the need of the Ministry, LPNK (Non Ministry Government Institution), Local Government, BUMN, and BUMD, which use the National Budget (APBN), Regional Budget (APBD), Export Credit, Commercial Credit, government capital participation fund and/or company budget obtained from Profit.
10. Export is the activity of taking out Goods from the customs area.
11. Import is the activity of entering Goods into the customs area.
12. Supplier Company is the company that has been determined as the winner of tender for Procurement of Government Goods through Buy Back.

13. Foreign Supplier is the company abroad that provides and supplies Goods for the need of the Procurement of Government Goods.
14. Third Party Company is the company in form of limited liability company, either domestic investor or foreign investor, that has obtained the delegation to implement the fulfillment of the Buy Back obligation from the Supplier Company that has obtained the recommendation from the Minister of Trade.
15. Minister is the minister who organizes the administration affairs in the trade sector.
16. Director General is the Director General of Foreign Trade, Ministry of Trade.

Article 2

- (1) The Procurement of Government Goods originating from Import with a certain value and/or based on the legislative regulations should be implemented through Buy Back.
- (2) The types and values of Goods for the Procurement of Government Goods, as meant in paragraph (1), and the percentage of the Buy Back obligation is determined by the Buy Back Team, which is established by the Minister.

Article 3

Fulfillment of the Buy Back obligation, as meant in Article 2, should be carried out with Export Goods of Indonesia.

Article 4

The Value of the Export Goods of Indonesia, as meant in Article 3, is calculated in the United States Dollar (US\$) currency or other currencies that are equivalent to the United States Dollar (US\$).

Article 5

The Export Goods of Indonesia to fulfill the Buy Back obligation, as meant in Article 3, are still subject to the provisions of the legislative regulations concerning compliance with the requirements of the origin of goods provision.

Article 6

- (1) The Export Goods of Indonesia, as meant in Article 3, should be in form of non oil and gas commodities.
- (2) The Export Goods of Indonesia, as meant in paragraph (1), that are not used to fulfill the Buy Back obligation, are as follows:
 - a. Goods prohibited for export;
 - b. Goods that are exported in the framework of fulfilling the offset, buy back, work contract;
 - c. Goods that are exported not in the framework of trade transaction, in form of moved Goods, sample Goods, assistance Goods, Goods as gift, and other Goods; and

- d. Other Goods that are declared by the legislative regulations as Goods that cannot be used to fulfill the Buy Back obligation.
- (3) The List of Export Goods of Indonesia, as meant in paragraph (1), that can be used to fulfill the Buy Back obligation, are periodically determined with the Decree of the Director General.

Article 7

- (1) The fulfillment of the Buy Back obligation may only be carried out by the Supplier Company that has complied with the following provisions:
- a. Obtain the approval for the statement of ability to carry out the Buy Back (Letter of Undertaking).
 - b. Determined as winner of tender; and
 - c. Obtain the approval for the Buy Back contract (Annex A).
- (2) The approval for the statement of ability to carry out the Buy Back (Letter of Undertaking) and the approval for the Buy Back contract (Annex-A), as meant in paragraph (1) letter a and letter c, are provided by the Director General.

Article 8

The Supplier Company is required to export the Export Goods of Indonesia with the value of or compatible with the obligation value of Buy Back for the Procurement of Government Goods originating from Import.

Article 9

- (1) In case the Supplier Company itself does not carry out the fulfillment of the Buy Back obligation, as meant in Article 8, then the Supplier Company may transfer the Buy Back obligation to the Third Party Company.
- (2) The list of companies that may be appointed as the Third Party Company, as meant in paragraph (1), is determined with the Decree of the Director General.

Article 10

- (1) The goods that are exported to fulfill the Buy Back obligation, as meant in Article 6, should be directly exported to the Foreign Supplier country.
- (2) In case the Goods originating from Import originate from several countries, then the destination of Goods Export to fulfill the Buy Back obligation may be the country of origin of the Foreign Supplier or the Goods country of origin.
- (3) The export of Goods to comply with the obligation of Buy Back may be carried out by the third country in case:
 - a. Such third country is not the traditional market of the concerned Export Goods; and
 - b. Its export does not disrupt the already existing marketing channel.

Article 11

In case there is more than 1 (one) Supplier Company, then each Supplier Company is responsible to fulfill the Buy Back obligation by exporting Goods with the value of or equal to the value of the Buy Back obligation for Procurement of Government Goods originating from Import.

Article 12

- (1) The Supplier Company is required to implement the Export of Goods in order to fulfill the Buy Back obligation not later than 6 (six) months as of the date of signing the Buy Back contract (Annex-A) or in accordance with the approval of the Director General by taking account of the availability and characteristics of Goods that are used to fulfill the Buy Back obligation.
- (2) In case the fulfillment of the Buy Back obligation is delegated to the Third Party Company, then such Third Party Company is required to implement the Export not later than 6 (six) months as of the date of signing the Buy Back contract (Annex-A) or in accordance with the approval of the Director General by taking account of the availability and characteristics of Goods that are used to fulfill the Buy Back obligation.

Article 13

- (1) The Supplier Company or Third Party Company should submit the export realization report in writing in order to fulfill the Buy Back obligation, either realized or not realized.

- (2) The Export Realization Report, as meant in paragraph (1), is periodically submitted to the Director General every 3 (three) months on the 15th day of the following month.
- (3) The Export Realization Report, as meant in paragraph (1), is also electronically submitted through <http://inatrade.kemendag.go.id>.
- (4) The Export Realization Report, as meant in paragraph (1), is completed with:
 - a. Notification on Export of Goods (PEB);
 - b. Export Service Note (NPE);
 - c. Copy of original Bill of Lading (B/L), Air Way Bill (AWB), or Cargo Receipt;
 - d. Invoice, and
 - e. Other required evidences.
- (5) With regard to the Export Realization Report, as meant in paragraph (1), the Director General submits the confirmation letter to the Supplier Company or Third Party Company with copy submitted to the Ministry, LPNK, Local Government, BUMN and BUMD that carry out the Goods procurement through Buy Back.
- (6) The export realization final report is received not later than 6 (six) months as of the expiration date of the Buy Back obligation.

Article 14

The implementation of the Export of Goods to comply with the obligation of Buy Back on Goods, which Export is limited, is carried out in accordance with the provisions of the legislative regulations.

Article 15

- (1) The Supplier Company or Third Party Company that is unable to realize the Export to fulfill the Buy Back obligation, is imposed sanction in form of obligation to pay 50% (fifty percent) of the value of the Buy Back for Procurement of Government Goods originating from Import.
- (2) In case the Supplier Company or Third Party Company is only able to realize a portion of the Buy Back obligation, is imposed sanction in form of obligation to pay 50% (fifty percent) of the value of the Buy Back for Procurement of Government Goods originating from import that has not been realized.

Article 16

The post audit may be carried out on the implementation of Goods Export in order to comply with the Buy Back obligation by the Ministry of Trade.

Article 17

Violation on the provisions in this Regulation of the Minister is imposed sanctions in accordance with the provisions of the legislative regulations.

Article 18

Technical instructions for the implementation of this Regulation of the

Minister may be determined by the Director General.

Article 19

This Regulation of the Minister commences applicable on the date of enactment.

So that it is known by everyone, the enactment of this Regulation of the Minister is instructed with its placement in the State Gazette of the Republic of Indonesia.

Determined in : Jakarta

On : 20 June 2016

MINISTER OF TRADE OF THE REPUBLIC OF INDONESIA

signed

THOMAS TRIKASIH LIMBONG

Enacted in : Jakarta

On : 27 June 2016

DIRECTOR GENERAL OF LEGISLATIVE REGULATIONS

MINISTRY OF LAW AND HUMAN RIGHTS OF THE REPUBLIC OF INDONESIA

signed

WIDODO EKATJAHJANA

STATE GAZETTE OF THE REPUBLIC OF INDONESIA OF 2016 NUMBER 941

Copy conforms to the original
Secretariat General
Ministry of Trade
Head of Legal Bureau,
signed and sealed

LASMININGSIH

Translated from Indonesian Language
Jakarta, May 15, 2017
Authorized and Sworn Translator,

FIKRI SAID OBED