

LAW
NUMBER 17 OF 2006
REGARDING
AMENDMENT TO LAW NUMBER 10/1995 ON CUSTOMS

WITH THE GRACE OF THE ALMIGHTY GOD
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

- Considering:
- a. that, the Unitary State of the Republic of Indonesia is a country based on Pancasila and Constitution of 1945 with the purpose to create a safe, orderly, and national welfare based on justice;
 - b. that, several provisions of Law No. 10/1995 on Customs are no longer compatible to customs operations so that they should be amended;
 - c. that, in an effort to guarantee more legal certainty, justice, transparency and accountability of public services, to support efforts of improvement and enhancement of national economy in relation to global trade, to support smooth flow of goods, and to increase effective monitoring over flow of goods into or out from Indonesian customs area, and to maximize prevention of and action taking against smuggling, better regulations are heeded for customs operations;
 - d. that, based on the considerations as meant in paragraphs a, c, and c, it is necessary to issue Law on Amendment to Law No. 10/1995 on Customs;

- In view of:
1. Article 5 paragraph (1), Article 20, and Article 23 of Constitution of 1945;
 2. Law No. 7/1994 on Ratification of Agreement Establishing the World Trade Organization (Statute Book of 1994 No. 57, Supplement to Statute Book No. 3564);
 3. Law No. 10/1995 on Customs (Statute Book of 1995 No. 75, Supplement to Statute Book No. 3612);

With joint approval of
THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

and
THE PRESIDENT OF THE REPUBLIC OF INDONESIA

DECIDES:

To stipulate: LAW ON AMENDMENT TO LAW NO. 10/1995 ON CUSTOMS

Article I

The provisions of Law No. 10/1995 on Customs (Statute Book of 1995 No. 75, Supplement to Statute Book No. 3612) are amended as follows:

1. The provisions of Article 1 paragraphs 1 and 17 are amended and four (4) paragraphs are inserted, namely paragraphs 15a, 19, 20, and 21 so Article 1 becomes as follows:

Article 1

Hereinafter referred to as:

1. Customs is everything related to monitoring over flow of goods in or out of customs area and collection of import duty and export duty.
2. Customs Area is Indonesian territory consisting of land, water, and air, and certain areas in Exclusive Economic Zone and the continental shelf where this Law is applicable.
3. Customs Zone is a zone with certain borders at seaport, airport, or other places designated for flow of goods, which are fully under monitoring of the Directorate General of Customs and Excise.
4. Customs Office is an office within the Directorate General of Customs and Excise as place of fulfillment of customs liabilities in accordance with this Law.
5. Customs Monitoring Post is a place used by customs and excise officer to monitor flow of import and export goods.

6. Customs Liabilities are all activities in customs affairs that are mandatory in order to comply with this Law.
7. Customs Manifest is a statement made by a person in the framework of operation of customs liabilities in form and in accordance with the conditions stipulated in this Law.
8. Minister is the Minister of Finance of the Republic of Indonesia.
9. Director General is Director General of Customs and Excise.
10. Directorate General of Customs and Excise is a unit that performs main duties and functions of the Ministry of Finance in customs and excise affairs.
11. Customs and Excise Officer is employee of the Directorate General of Customs and Excise appointed to hold a specific position to perform certain duties based on this law.
12. Person is individual person or corporation.
13. Import is an activity of importing goods into customs area.
14. Export is an activity of exporting goods from customs area.
15. Import Duty is a state levy based on this Law imposed on import goods.
- 15a. Export Duty is a state levy based on this Law imposed on export goods.
16. Temporary Store Place is a building and/or field or other similar places in customs area for storing goods before they are loaded or unloaded.
17. Bonded Store Place is a building, place, or location meeting certain criteria and used for storing goods with certain purposes that receive deferred payment of import duty.

18. Customs Store Place is a building and/or field or other similar places provided by government in customs office, which is under the management of the Directorate General of Customs and Excise, for storing goods stated as goods/assets not controlled by the state, goods/assets controlled by the state, and goods/assets owned by the state based on this Law.
 19. Certain Goods are goods stipulated by related technical institution as goods which transportation in customs area is under monitoring.
 20. Customs Audit is an activity of auditing of financial statements, books, records, and documents that serve as evidence of accounting, documents regarding business activities including electronic data, letters regarding activities in customs affairs, and/or stock of goods in the framework of implementation of laws on customs.
 21. Tariff is classification of goods and imposition of import duty or export duty.
2. The provisions of Article 2 paragraph (2) are amended so Article 2 becomes as follows:

Article 2

- (1) Goods imported to customs area are treated as import goods and subject to import duty.
 - (2) Goods already loaded onto transportation vehicle to be exported from customs area are deemed as already being exported and treated as export goods.
 - (3) The goods, as meant in paragraph (2), do not constitute export goods if it can be evidenced that the goods are to be unloaded at a place in customs area.
3. Between Article 2 and Article 3, 1 Article is inserted, namely Article 2A that reads as follows:

Article 2A

- (1) Export goods may be subjected to export duty.
 - (2) Export duty is imposed on export goods with the intention to:
 - a. guarantee fulfillment of domestic demand;
 - b. protect conservation of natural resources;
 - c. anticipate quite drastic increase of prices of certain export commodities in international market; or
 - d. maintain stability of prices of certain commodities domestically.
 - (3) Provisions regarding imposition of export duty on export goods as meant in paragraph (1) are further stipulated by government regulation.
4. The provisions of Article 3 paragraphs (3) and (4) are amended so Article 3 becomes as follows:

Article 3

- (1) Import goods are subject to inspection.
 - (2) The inspection as meant in paragraph (1) includes document inspection and goods inspection.
 - (3) The inspection as meant in paragraph (2) is conducted selectively.
 - (4) Provisions regarding procedure of inspection as meant in paragraph (1) are further stipulated by or based on regulation of minister.
5. Article 4 is not amended, but Elucidation of Article 4 is amended so Elucidation of Article 4 becomes as stipulated in the Article by Article Elucidation as set forth in this Law.
6. Between Article 4 and Article 5, one (1) Article, namely Article 4A is inserted and it reads as follows:

Article 4A

- (1) Transportation of certain goods is monitored in customs area.
 - (2) Related technical institution, through the minister of trade, notifies types of goods stipulated as certain goods to the Minister.
 - (3) Provisions regarding monitoring of transportation of certain goods as meant in paragraph (1) are further stipulated by or based on government regulation.
7. The provisions of Article 5 paragraphs (2) and (3) are amended so Article S becomes as follows:

Article 5

- (1) Fulfillment of customs-liabilities is implemented at customs office or other similar places by using customs manifest.
 - (2) Customs manifest is conveyed to customs and excise officer at customs office or other similar places.
 - (3) For implementation and monitoring of fulfillment of customs liabilities, customs zone, customs office, and customs monitoring post are designated.
 - (4) Designation of customs zone, customs office, and customs monitoring post is implemented by" the Minister.
8. Between Article S and Article 6, one (1) Article, namely Article SA is inserted and it reads as follows:

Article 5A

- (1) Customs manifest as meant in Article S paragraph (2) may be conveyed in written form or by electronic means.
- (2) Designation of customs office where data is conveyed by electronic means is stipulated by the Minister.

- (3) Data conveyed by electronic means as meant in paragraph (1) is valid evidence based on this Law.
 - (4) Provisions regarding the procedure as meant in paragraph (1) are further stipulated by or based on regulation of minister.
9. The provisions of Article 6 are amended and one (1) paragraph is inserted so Article 6 becomes as follows:

Article 6

- (1) Goods imported or exported are subject to all provisions set forth in this Law.
 - (2) In case that monitoring over transportation of certain goods is not regulated by related technical institutions, the rules are based on the provisions of this Law.
10. Between Article 6 and Article 7, one (1) Article, namely Article 6A is inserted and it reads as follows:

Article 6A

- (1) A person who will fulfill customs liabilities must register himself to the Directorate General of Customs and Excise to get identity number in the framework of customs access.
 - (2) Excepted from the provisions of paragraph (1) are persons who fulfill certain customs liabilities.
 - (3) The provisions of paragraphs (1) and (2) are further stipulated by or based on regulation of minister.
11. The heading of CHAPTER II is amended to become as follows:

CHAPTER II
TRANSPORTATION OF GOODS, IMPORT, AND EXPORT

12. The heading of CHAPTER II Part One is amended to become as follows:

Part One
Transportation of Goods

13. The heading of CHAPTER II Part One Paragraph 1 is amended to become as follows:

Paragraph 1
Arrival of Transportation Vehicle

14. Article 7 is deleted.
15. Between Article 7 and CHAPTER II Part One Paragraph 2, one (1) Article, namely Article 7A is inserted and it reads as follows:

Article 7 A

- (1) Transporter whose transportation vehicle will arrive from:
- a. Outside customs area; or
 - b. In customs area and transports import goods, export goods, and/or goods originating from customs area transported to other place in customs area through outside customs area, must convey inward notice to customs office of port of destination before arrival of transportation vehicle, except land transportation vehicle.
- (2) Transporter whose transportation vehicle enters customs area must mention the goods as meant in paragraph (1) in the manifest.
- (3) Transporter whose transportation vehicle arrives from outside customs area or arrives from inside customs area and transports the goods as meant in paragraph (1) must deliver customs manifest on goods transported before unloading.
- (4) In case it does not immediately unload the goods, the obligation as meant in

paragraph (3) is implemented:

- a. Within not later than twenty-four (24) hours since arrival of transportation vehicle, for sea transportation vehicles;
 - b. Within not later than eight (8) hours since arrival of transportation vehicle, for air transportation vehicles; or
 - c. Upon arrival of transportation vehicle, for land transportation vehicles.
- (5) The obligation as meant in paragraphs (3) and (4) are not applicable to transporters that set anchor for not later than twenty-four (24) hours and do not unload goods.
- (6) In case that transportation vehicle is in emergency, transporter may first unload import goods and must:
- a. report the emergency situation to nearest customs office on the first opportunity; and
 - b. deliver customs manifest within not later than seventy-two (72) hours after unloading.
- (7) Transporter who does not comply with the provisions of paragraph (1) is imposed with administrative sanction in form of monetary charge of at least five million Rupiah (Rp. 5,000,000.00) and maximum fifty million Rupiah (Rp. 50,000,000.00).
- (8) Transporter who does not comply with the provisions of paragraphs (3), (4), or (6), is imposed with administrative sanction in form of monetary charge of at least ten million Rupiah (Rp. 10,000,000.00) and maximum one hundred million Rupiah (Rp. 100,000,000.00).
- (9) The provisions of paragraphs (1), (3), and (4) are further stipulated by or based on regulation of minister.

16. The heading of CHAPTER II Part One Paragraph 2 is amended to become as follows:

Paragraph 2

Transportation of Goods

17. Article 8 is deleted.
18. Between Article 8 CHAPTER II Part One Paragraph 3, three (3) Articles are inserted, namely Articles 8A, 8B, and 8C which read as follows:

Article 8A

- (1) Transportation of import goods from temporary store place or bonded store place destined to other temporary store place or bonded store place must be notified to customs office.
- (2) Entrepreneur or importer who already fulfills the obligation as meant in paragraph (1), but the volume of import goods unloaded is less than the one notified in customs manifest and he cannot prove that it happens beyond his control, must pay import duty on the shortage and is subjected to administrative sanction in form of monetary charge of at least twenty-five million Rupiah (Rp. 25,000,000.00) and maximum two hundred fifty million Rupiah (Rp.250.000.000.00).
- (3) Entrepreneur or importer who already fulfills the obligation as meant in paragraph (1), but volume of import goods unloaded is more than the one notified in customs manifest and he cannot prove that it is beyond his control, is subjected to administrative sanction in form, of monetary charge of at least twenty-five million Rupiah (Rp. 25,000,000.00) and maximum two hundred fifty million Rupiah (Rp. 250,000,000.00).
- (4) Provisions regarding conditions and procedures of transportation of goods as meant in paragraph (1) are further stipulated by or based on regulation of minister.

Article 8B

- (1) Transportation of electricity, liquids, or gas for export or import may be done by transmissions or pipelining which volumes and types are based on result of measurement at final place of measurement in customs area.
- (2) Delivery of software and/or electronic data (softcopy) for import or export may be done by electronic transmission.
- (3) Provisions regarding terms and conditions of transportation of goods as meant in paragraph (1) and delivery of goods as meant in paragraph (2) are further stipulated by or based on regulation of minister.

Article 8C

- (1) Certain goods must be notified by transporter, whether upon departure or arrival at the designated customs office.
- (2) The goods as meant in paragraph (1) must be protected by valid document of transportation.
- (3) Transporter who already fulfills the obligation as meant in paragraph (1), but the volume of goods is less or more than the one notified and he is not able to evidence that it happens beyond his control, is subjected to administrative sanction in form of monetary charge of at least five million Rupiah (Rp. 5,000,000.00) and maximum fifty million Rupiah (Rp. 50,000,000.00).
- (4) Transporter who does not fulfill the obligation as meant in paragraph (2) is subjected to administrative sanction in form of monetary charge of at least twenty-five million Rupiah (Rp. 25,000,000.00) and maximum two hundred fifty million Rupiah (Rp. 250,000,000.00).
- (5) The provisions of paragraphs (1) and (2) are further stipulated by regulation of minister.

19. The heading of CHAPTER II Part One Paragraph 3 is amended to 'become as follows:

Paragraph 3
Departure of Transportation Vehicle

20. Article 9 is deleted.
21. Between Article 9 and CHAPTER II Part Two, one (1) Article, namely Article 9A is inserted and it reads as follows:

Article 9A

- (1) Transporter whose transportation vehicle will depart to:
- a. Outside customs area;
 - b. Inside customs area and transports import goods, export goods, and/or goods originating from customs area transported to other place in customs area through outside customs area must submit customs manifest on the goods transported before departure of transportation vehicle.
- (2) Transporter whose transportation vehicle is destined to outside customs area must mention the goods as meant in paragraph (1) in the manifest.
- (3) Transporter who does not comply with the provisions of paragraph (1) is subjected to administrative sanction in form of penalty of at least ten million Rupiah (Rp. 10,000,000.00) and maximum one hundred million Rupiah (Rp. 100,000,000.00).
- (4) The provisions of paragraph (1) are further stipulated by or based on regulation of minister.
22. The heading of CHAPTER II Part Two is amended to become as follows

Part Two Import

23. Article 10 is deleted.

24. Three (3) paragraphs are inserted in CHAPTER II Part Two, namely Paragraphs 1, 2, and 3 which read as follows:

Paragraph 1
Unloading, Storage, and Exit of Goods
Article 10A

- (1) Import goods transported by transportation vehicle as meant in Article 7A paragraph (1) must be unloaded in customs zone or may be unloaded in other place after securing approval of head of customs office.
- (2) Import goods transported by transportation vehicle as meant in Article 7A paragraph (1) may be unloaded to other transportation vehicle on the sea and the goods must be brought to customs office through the designated lane.
- (3) Transporter who already fulfill the provisions of paragraph (1), but volume of the import goods unloaded is less than the one notified in customs manifest, and he cannot evidence that it happens beyond his control, is subjected to payment of import duty on the shortage and is subjected to administrative sanction in form of monetary charge of at least twenty-five million Rupiah (Rp. 25,000,000.00) and maximum two hundred fifty million Rupiah (Rp. 250,000,000.00).
- (4) Transporter who already complies with the provisions of paragraph (1), but the volume of import goods unloaded is more than the one notified in customs manifest, and he is not able to evidence that it happens beyond his control, is subjected to administrative sanction in form of monetary charge of at least twenty-five million Rupiah (Rp. 25,000,000.00) and maximum two hundred fifty million Rupiah (Rp. 250,000,000.00).
- (5) Import goods temporarily waiting to be exited from customs zone, can be stored at temporary store place.
- (6) In certain cases, import goods maybe stored at other places similar to temporary store place.

- (7) Import goods can be exited from customs zone or other place as meant in paragraph (1) after fulfillment of customs liabilities for:
- a. Being imported for uses;
 - b. Being imported temporarily;
 - c. Being stored at bonded store place;
 - d. Being transported to temporary store place in other customs zone;
 - e. Being continued transported or further transported; or
 - f. Being re-exported.
- (8) Person who exits import goods from customs zone or other places as meant in paragraph (6), after meeting all provisions but not yet getting license to exit goods from customs and excise officer, is subjected to administrative sanction in form of monetary charge of twenty-five million Rupiah (Rp. 25,000,000.00).
- (9) The provisions of paragraphs (1), (5), (6), and (7) are further stipulated by or based on regulation of minister.

Paragraph 2
Imported for Uses
Article 10B

- (1) Import for uses is:
- a. Importing goods into customs area with the intention to be used; or
 - b. Importing goods into customs area to be owned or controlled by persons domiciled in Indonesia.
- (2) Import goods can be exited as import goods for uses after:
- a. Customs manifest is already delivered and import duty already paid;
 - b. Customs manifest and the guarantees as meant in Article 42 are already delivered;
 - c. Complementary customs manifest and the guarantee as meant in Article 42 are already delivered.
- (3) Import goods brought by passengers, crews, or border crossers to customs area upon arrival must be notified to customs and excise officer.

- (4) Import goods delivered by mail or courier service can be exited with approval of customs and excise officer.
- (5) The provisions of paragraphs en (2), (3), and (4) are further stipulated by or based on regulation of minister.
- (6) Person who does not pay import duty on import goods as meant in paragraph (2) clause b or clause c within the time stipulated pursuant to this Law is subjected 'to payment of import duty and administrative sanction in form of monetary charge of ten percent (10%) of import duty payable.

Article 10C

- (1) Importer may submit application for amendment to the mistakes in customs manifest already delivered as long as such mistakes happen due to human error.
- (2) The application as meant in paragraph (1) is rejected if:
 - a. Goods are already exited from customs zone;
 - b. The mistake is identified by customs and excise *officer*; or
 - c. It already receives stipulation of customs and *excise officer*.
- (3) The provisions of paragraph (1) are further stipulated by or based on regulation of minister.

Paragraph 3

Temporary Import

Article 10B

- (1) Import goods can be excited as temporary import goods if when at the time of their being imported, they are intended to be exported within not later than three (3) years.
- (2) Temporary import goods until they are re-exported are under monitoring of the Directorate General of Customs and Excise.

- (3) Temporary import goods may be given import duty exemption or dispensation.
- (4) Temporary import goods given import duty dispensation is subjected to import duty of maximum five percent (5%) of import duty payable each month.
- (5) Person who is late to re-export temporary import goods within the permitted time is subjected to administrative sanction in form of monetary charge at one hundred percent (100%) of import duty payable.
- (6) Person who does not re-export temporary import goods within the permitted time is subjected to import duty and administrative sanction in form of monetary charge at one hundred percent (100%) of import duty payable.
- (7) The provisions of paragraphs (1) and (2) are further stipulated by or based on regulation of minister.

25. The heading of CHAPTER II Part Three is amended to become as follows:

Part Three Export

26. Article 11 is deleted.

27. Between Article 11 and CHAPTER III, one (1) Article, namely Article 11A is inserted and it reads as follows:

Article 11 A

- (1) Goods to be exported must be notified by customs manifest.
- (2) Customs manifest as meant in paragraph (1) is not applicable for goods carried by passengers, crews, border crossers, and goods delivered up to a certain customs value and/or certain amount.
- (3) Loading of export goods is implemented in customs zone or in certain cases in other place with approval of head of customs office.

- (4) Goods already notified to be exported, while waiting for their being loaded, may be stored at temporary store place or other place with approval of head of customs office.
- (5) Goods already notified to be exported as meant in paragraph (1), if export is cancelled, must be reported to customs and excise officer.
- (6) Exporter who does not report export cancellation as meant in paragraph (5) is subjected to administrative sanction in form of monetary charge of five million Rupiah (Rp. 5,000,000.00).
- (7) The provisions of paragraphs (1), (2), (3), and (4) are further stipulated by or based on regulation of minister.

28. The provisions of Article 13 are amended to become as follows:

Article 13

- (1) Import duty may be imposed with a tariff different from the one as meant in Article 12 paragraph (1) for:
 - a. Import goods subjected to import duty tariff based on international agreement or consensus;
 - b. Import goods carried by passengers, crews, border crossers, or goods delivered by mail or courier service.
- (2) The procedure of imposition and amount of import duty tariff as meant in paragraph (1) are further stipulated by regulation of minister.

29. The provisions of Article 14 are amended to become as follows:

Article 14

- (1) In the framework of stipulation of tariff of import duty and export duty, goods are classified based on system of classification of goods.

(2) Provisions regarding classification of goods as meant in paragraph (1) are further stipulated by regulation of minister.

30. The provisions of Article 15 paragraphs (2), (3), (4), (5), (6), and (7) are amended, and between paragraph (3) and paragraph (4), one (1) paragraph is inserted, namely paragraph (3a) so Article 15 becomes as follows:

Article 15

(1) Customs value for calculating import duty is transaction value.

(2) In case customs Value for calculating import duty cannot be decided based on transaction value as meant in paragraph (1), customs value for calculating import duty is decided based on transaction on the goods and identical goods.

(3) In case customs value for calculating import duty cannot be decided based on transaction value as meant in paragraphs (1) and (2), it is decided based on transaction value of similar goods.

(3a) In case customs value for calculating import duty cannot be decided based on the transaction value as meant in paragraphs (1), (2), and (3), it is decided based on the provisions of paragraphs (4) and paragraph,(5) consecutively, except if requested by importer, it can be reversed.

(4) In case customs value for calculating import duty cannot be determined based on transaction value as meant in paragraphs (1), (2), and (:3), it can be determined based on deduction method.

(5) In case customs value for calculating import duty cannot be determined by transaction value as meant in paragraphs (1), (2), (3), and deduction method as meant in paragraph (4), it can be determined by computation method.

(6) In case customs value for calculating import duty cannot be determined by transaction value as meant in paragraphs (1), (2), (3), deduction method as meant in paragraph (4), or computation method as meant in paragraph (5), it can be determined by using fair and consistent procedure based on principles

and provisions of paragraphs (1), (2), (3), (4), or (5) based on data available in customs area with certain limitations.

(7) Provisions regarding customs value for calculating import duty are further stipulated by or based on regulation of minister.

31. The provisions of Article 16 paragraphs (1), (2), (3), (4), and (6) are amended so Article 16 becomes as follows:

Article 16

(1) Customs and excise officer may stipulate tariff of import goods before delivery of customs manifest or within thirty (30) days since date of customs manifest.

(2) Customs and excise officer may stipulate customs value of import goods for calculating import duty before delivery of customs manifest or within thirty (30) days since date of customs manifest.

(3) In case that the stipulation as meant in paragraph (1) and/or (2) causes shortage of payment of import duty, except importer files petition as meant in Article 93 paragraph (1), importer must pay the shortage in accordance with the stipulation.

(4) Importer who mistakenly notifies customs value for calculating import duty that it causes shortage of payment of import duty, is subjected to administrative sanction in form of monetary charge of at least one hundred percent (100%) of the shortage and maximum one thousand percent (1000%) of the shortage.

(5) In case the stipulation as meant in paragraph (1) and/or (2) causes excess of payment of import duty, the excess is returned.

6) Provisions regarding the stipulation as meant in paragraphs (1) and (2) are further stipulated by or based on regulation of minister.

32. The provisions of Article 17 paragraph (2) clause b are amended and one (1) paragraph, namely paragraph (4) is inserted so Article 17 becomes as follows:

Article 17

- (1) The Director General may re-stipulate tariff of customs value for calculating import duty within two ((2) years since date of customs manifest.
 - (2) In case that the stipulation as meant in paragraph (1) is different from the one as meant in Article 16, the Director General notifies importer in writing to:
 - a. Pay shortage of import duty payment; or
 - b. Receive restitution of excess payment of import duty.
 - (3) Import duty shortage or restitution of import duty excess as meant in paragraph (2) is paid in accordance with re-stipulation.
 - (4) The re-stipulation as meant in paragraph (2), if caused by transaction value wrongly notified that it results in import duty shortage, is subjected to administrative sanction in form of monetary charge at least one hundred percent (100%) of import duty shortage and maximum one thousand percent (1000%) of import duty shortage.
33. Between Article 17 and Article 18, one (1) Article, namely Article 17A is inserted and it reads as follows:

Article 17A

Based on request, the Director General may stipulate classification of goods and customs value of import goods as basis for calculating import duty before customs manifest is delivered:

34. The heading of CHAPTER IV is amended so it becomes as follows:

CHAPTER IV ANTI DUMPING DUTY, COMPENSATION DUTY, SAFEGUARD DUTY, AND COUNTERVAILING DUTY

35. Article 20 is deleted.

36. Article 23 is deleted.

37. Three (3) parts are added in CHAPTER IV, namely Part Three, Part Four, and Part Five which read as follows:

Part Three
Safeguard Duty
Article 23A

Safeguard duty may be imposed on import goods in case of sharp increase of import goods, absolutely or relatively, against similar domestic products or directly competitive products, and the sharp increase of import goods:

- a. causes serious losses to domestic industries manufacturing similar products and/or products that are directly competitive;
- b. causes threat of serious losses to domestic industries manufacturing similar products and/or products that are directly competitive.

Article 23B

(1) Safeguard duty as meant in Article 23A is maximum in amount equal to the one required to cover the serious losses or to prevent serious loss threat to domestic industries.

(2) Safeguard duty as meant in paragraph (1) is an import surcharge collected based on Article 12 paragraph (1).

Part Four
Countervailing Duty
Article 23C

(1) Countervailing duty is imposed on import goods originating from country that treated Indonesian export goods with discrimination.

(2) Countervailing duty as meant in paragraph (1) is an import surcharge collected based on Article 12 paragraph (1).

Part Five
Regulations and Stipulations
Article 23D

- (1) Provisions regarding terms and procedure of imposition of anti dumping duty, compensation duty, safeguard duty, and countervailing duty is further stipulated by government regulation.
- (2) Amount of anti dumping duty, compensation duty, safeguard duty, and countervailing duty as meant in paragraph (1) is stipulated by Minister.
38. The provisions of Article 25 paragraph (2) are deleted and the provisions of paragraphs (1), (3), and (4) are amended so Article 25 becomes as follows:

Article 25

- (1) Exemption of import duty is given for import of:
 - a. Goods of foreign embassies and their officers working in Indonesia based on reciprocity principles;
 - b. Goods for international organizations and their officers working in Indonesia;
 - c. Science books;
 - d. Gifts/grants for worship for public, charity, social, cultural, or for prevention of natural disasters;
 - e. Goods for museums, zoos, and other similar places open to public and goods for natural conservation;
 - f. Goods for scientific research and development; g. Goods for blind people and other disabled people;
 - h. Weapons, ammunitions, military and police equipment, and spare parts for state defense and security;
 - i. Goods and materials used to produce goods for state defense and security;
 - j. Sample goods not for sale;
 - k. Coffins or other similar containers containing dead bodies or ashes of cremated persons;
 - l. Removal goods;

- (2) Countervailing duty as meant in paragraph (1) is an import surcharge collected based on Article 12 paragraph (1).

Part Five
Regulations and Stipulations

Article 23D

- (1) Provisions regarding terms and procedure of imposition of anti dumping duty, compensation duty, safeguard duty, and countervailing duty is further stipulated by government regulation.
- (2) Amount of anti dumping duty, compensation duty, safeguard duty, and countervailing duty as meant in paragraph (1) is stipulated by Minister.

38. The provisions of Article 25 paragraph (2) are deleted and the provisions of paragraphs (1), (3), and (4) are amended so Article 25 becomes as follows:

Article 25

- (1) Exemption of import duty is given for import of:
- a. Goods of foreign embassies and their officers working in Indonesia based on-reciprocity principles;
 - b. Goods for international organizations and their officers working in Indonesia;
 - c. Science books;
 - d. Gifts/grants for worship for public, charity, social, cultural, or for prevention of natural disasters;
 - e. Goods for museums, zoos, and other similar places open to public and goods for natural conservation;
 - f. Goods for scientific research and development;
 - g. Goods for blind people and other disabled people;
 - h. Weapons, ammunitions, military and police equipment, and spare parts for state defense and security;
 - i. Goods and materials used to produce goods for state defense and security;
 - j. Sample goods not for sale;

- k. Coffins or other similar containers containing dead bodies or ashes of cremated persons;
- l. Removal goods;
- m. Personal belongings of passengers, crews of transportation vehicles, border crossers, and delivered goods up to certain customs value and/or amount;
- n. Drugs imported by using government budget for public interest;
- o. Goods exported for repair, work, and testing;
- p. Goods exported to be re-imported afterwards in same quality with the one when exported;
- q. Goods for human therapy, blood classification, and materials for classification of tissues.

(2) Deleted.

(3) Provisions regarding exemption of import duty as meant in paragraph (1) are further stipulated by regulation of minister.

(4) Person who does not comply with provisions on exemption of import duty stipulated by this Law must pay import duty payable and is imposed with administrative sanction in form of monetary charge of at least one hundred percent (100%) of import duty payable and maximum five hundred percent (500%) of import duty payable'.

39. The provisions of Article 26 paragraph (2) are deleted and paragraphs (1), (3), and (4) are amended so Article 26 becomes as follows:

Article 26

- (1) Import duty exemption or dispensation may be given for import of:
 - a. Goods and materials for industrial development and improvement in the framework of investment;
 - b. Machineries for industrial development and improvement;
 - c. Goods and materials in the framework of industrial development and improvement for a certain period of time;
 - d. Goods and materia1s used for preventing pollution;

- e. Seeds and germs for development and improvement of agriculture, animal husbandry, or fishery;
- f. Sea products caught by licensed catching devices;
- g. Goods that experience damage, drop of quality, destruction, or natural decline in volume or weight in between the time when they are transported into customs area and when license for import for uses is given;
- h. Goods which by central or regional government are intended for public interest;
- i. Sporting goods imported by national sports organization centre;
- j. Goods for government projects funded by overseas loans and/or grants;,
- k. Goods and materials to be processed, assembled, or installed on other goods with the intention to be exported.

(2) Deleted.

(3) Provisions regarding import duty exemption or dispensation as meant in paragraph (1) are further stipulated by regulation of minister.

(4) Person who does not comply with provisions on import duty exemption or dispensation stipulated by this law must pay import duty payable and is imposed with administrative sanction in form of monetary charge of at least one hundred percent (100%) of import duty payable and maximum five hundred percent (500%) of import duty payable.

40. The provisions of Article 27 are amended to become as follows:

Article 27

- (1) Restitution can be given to all or part of import duty paid, for:
 - a. Excess of payment of import duty as meant in Article 16 paragraph (5), Article 17 paragraph (3), or because of administrative failure;
 - b. Import of goods as meant in Articles 25 and 26;
 - c. Import of goods, which, due to certain reasons, must be re-exported or destructed under supervision of customs and excise officer;

- d. Import of goods which, before the giving of license for import for uses, it is found that the volume is actually smaller than the one which import duty is already paid, defective, or not according to the order given or having lower quality; or
- e. Excess of payment of import duty as a result of decision of tax court.

(2) Provisions regarding restitution of import duty as meant in paragraph (1) are further stipulated by or based on regulation of minister.

41. The provisions of Article 30 are amended by adding two (2) paragraphs, namely paragraphs (3) and (4), so Article 30 becomes as follows:

Article 30

- (1) Importer is responsible for import duty outstanding since date of customs manifest on import.
- (2) The import duty payable as meant in paragraph (1) is calculated based on the tariff applicable on date of customs manifest on Import and customs value as meant in Article 15.
- (3) Import duty shall be paid in Rupiah currency.
- (4) Provisions regarding exchange rate of the currency used in calculation of import duty payment are further stipulated by regulation of minister.

42. The provisions of Article 32 paragraph (3) are amended and one (1) paragraph, namely paragraph (4), is inserted so Article 32 becomes as follows:

Article 32

- (1) Operator of temporary store place is responsible for import duty payable on the goods stored at the temporary store place.
- (2) Operator of temporary store place is exempted from the responsibility as meant in paragraph (1) if the goods stored at the temporary store place:

- a. are damaged unintentionally;
 - b. are re-exported, imported for uses, or import temporarily; or
 - c. are already moved to other temporary store place, bonded store place, or customs store place.
- (3) Calculation of import duty payable as meant in paragraph (1) as long as it cannot be based on tariff and customs value of goods, is based on the highest tariff for category of goods as written on customs manifest at the time when goods are stored in temporary store place, and customs value is stipulated by customs and excise officer.
- (4) The provisions of paragraphs (2) and (3) and procedure of collection are further stipulated by or based on regulation of minister.

43. The heading of CHAPTER VII is amended to become as follows;

CHAPTER VII
PAYMENT, COLLECTION OF OUTSTANDING AMOUNT, AND GUARANTEE

44. The heading of CHAPTER VII Part One is amended to become as follows:

Part One
Payment

45. The provisions of Article 36 paragraphs (2) and (3) are amended so Article 36 becomes as follows:

Article 36

- (1) Import duty, administrative charge, and interest payable to the state pursuant to this Law, are paid to the state treasury or other places of payment designated by Minister.
- (2) Amount of import duty, administrative charge, and interest as meant in paragraph (1) is rounded in thousands of Rupiah.

(3) Provisions regarding procedure of payment, receipt, pay of import duty, administrative charge, and interest as meant in paragraph (1), and rounding of amount as meant in paragraph (2) are further stipulated by regulation of minister.

46. The provisions of Article 37 paragraphs (1), (2), and (3) are amended and between paragraph (2) and paragraph (3), one (1) paragraph, namely paragraph (2a), is inserted so Article 37 becomes as follows:

Article 37

(1) Import duty outstanding must be paid within not later than date of registration of customs manifest.

(2) The obligation to pay import duty as meant in paragraph (1) may be deferred if payment is decided to be made regularly or waiting for decision regarding import duty exemption or dispensation.

(2a) Deferred payment of import duty as meant in paragraph (2):

- a. is not subjected to interest as long as payment is decided to be made regularly;
- b. is not subjected to interest as long as application for import duty dispensation is rejected.

(3) The provisions regarding deferred payment of import duty as meant in paragraphs (2) and (2a) are further stipulated by or based on regulation of minister.

47. Between Article 37 and Part Two CHAPTER VII, one (1) Article, namely Article 37A is inserted and it reads as follows:

Article 37A

(1) Shortage of payment of import duty and/or administrative charge outstanding shall be paid within not later than sixty (60) days since date of stipulation.

- (2) Upon request of the payer, the Director General may give approval for deferred payment or installed payment of import duty and/or administrative charge as meant in paragraph (1) for not later than twelve (12) months.
- (3) Deferred payment of import duty and/or administrative charge as meant in paragraph (2) is subjected to interest of two percent (2%) per month, and time of less than one month is assumed as one (1) month
- (4) The provisions regarding deferred payment of the outstanding amount as meant in paragraph (2) are further stipulated by or based on regulation of minister.

48. The provisions of Article 38 are amended by adding one (1) paragraph, namely paragraph (3), so Article 38 becomes as follows:

Article 38

- (1) Outstanding amount or amount payable to the state pursuant to this Law, which is underpaid or unpaid, is subjected to interest of two percent (2%) per month for not later than twenty-four (24) months .since date of maturity until date of payment, and time of less than one month is assumed as one (1) month.
- (2) Outstanding amount or amount payable to the state pursuant to this law is rounded to thousands of Rupiah.
- (3) Maturity date as meant in paragraph (1), is as follows:
 - a. In case of amount collectible by the state from debtor: sixty (60) days since date of stipulation as meant in Article 37A paragraph (1);
 - b. In case of amount collectible by creditor from the state: thirty (30) days since date of letter of decision of Minister regarding restitution.

49. The provisions of Article 41 are not amended but the Elucidation of Article 41 is amended to become as stipulated in the Article by Article Elucidation of this Law.

50. The provisions of Article 44 paragraphs (1) and (2) are amended and between paragraph (1) and paragraph (2), one (1) paragraph, namely paragraph (1a), is inserted so Article 44 becomes as follows:

Article 44

- (1) With certain conditions, a zone, place, or building may be designated as bonded store place subjected to deferred payment of import duty for:
- a. Storing import goods to be imported for uses,
 - b. Storing goods to be processed or combined before they are exported or imported for uses;
 - c. Storing import goods, with or without goods and in customs area, to be exhibited;
 - d. Storing, procuring goods to be sold and selling import goods to persons and/or certain persons;
 - e. Storing import goods to be auctioned before they are exported or imported for uses;
 - f. Storing goods originating from customs area to be auctioned before they are exported or re-imported into customs area; or
 - g. Storing import goods to be recycled before they are exported or imported for uses.

(1a) The Minister may designate a zone, place, or building as place for operation of a specific activity other than those as meant in paragraph (1), as bonded store place.

(2) Provisions regarding terms and procedure for establishment, arrangement, operation, and change of form of bonded store place are further stipulated by or based on government regulation.

51. The provisions of Article 45 are amended to become as follows:

Article 45

- (1) Goods can be exited from bonded store place with approval of customs and excise officer to be:
- a. Imported for uses;
 - b. Processed;
 - c. Re-exported before or after they are processed;
 - d. Transported to other bonded store place or temporary store place;

- e. Worked in customs area then re-imported into bonded store place with conditions stipulated by Minister; or
 - f. Re-imported into customs area.
- (2) Goods from bonded store place which are imported for uses include:
- a. Goods already processed or combined;
 - b. Goods not processed; and/or
 - c. Other goods subjected to import duty based on tariff and customs value stipulated by regulation of minister.
- (3) Person who exits goods from bonded store place before securing approval of customs and excise officer without the intention to not pay customs liabilities, are subjected to administrative sanction in form of monetary charge of seventy-five million Rupiah (Rp. 75,000,000.00).
- (4) Operator of bonded store place who is not able to account for the goods that should be stored in that place shall pay import duty outstanding and is subjected to administrative sanction in form of monetary charge of one hundred percent (100%) of import duty payable.

52. The provisions of Article 49 are amended to become as follows:

Article 49

Importer, exporter, operator of temporary store place, operator of bonded store place, customs service provider, or transportation operator must operate accounting.

53. The provisions of Article 50 are amended to become as follows:

Article 50

- (1) At the request of customs and excise officer, the person as meant in Article 49 must deliver financial statements, books, records, and documents evidencing accounting, letters relating to business activities and electronic data, and letters relating to activities in customs affairs for the interest of customs audit.

(2) In case the person as meant in paragraph (1) is not available, the obligation to deliver financial statements, books, records, and documents evidencing, accounting, letters relating to business activities and electronic data, letters relating to activities in customs affairs is assigned to his authorized party.

54. The provisions of Article 51 are amended and three (3) paragraphs, namely paragraphs (2), (3), and (4) are inserted so Article 51 becomes as follows:

Article 51

(1) Accounting as meant in Article 49 shall be operated properly to describe actual condition or business activities, and shall at least consist of records of assets, liabilities, capital, income, and expenses.

(2) Accounting must be operated in Indonesia & Latin alphabets, Arabic numerals, Rupiah currency, and Indonesian language, or foreign currency and foreign language permitted by Minister.

(3) Financial statements, books, records, and documents evidencing accounting, - letters relating to business activities and electronic data, letters relating to activities in customs affairs shall be kept for ten (10) years at the place of business in Indonesia.

(4) Provisions regarding guidelines for operation of accounting are further stipulated by or based on regulation of minister.

55. The provisions of Article 52 are amended and one (1) paragraph is inserted so Article 52 becomes as follows:

Article 52

(1) Person who does not operate accounting as meant in Article 49 is subjected to administrative sanction in form of monetary charge of fifty million, Rupiah (Rp. 50,000,000.00).

- (2) Person who does not comply with the provisions of Article 51 paragraph (1), (2), or (3) is subjected to administrative sanction in form of monetary charge of twenty-five million Rupiah (Rp. 25,000,000.00).

56. The heading of CHAPTER X is amended to become as follows:

CHAPTER X
PROHIBITIONS AND RESTRICTIONS IN IMPORT OR EXPORT, DELAYED
IMPORT OR EXPORT OF GOODS AS A RESULT OF VIOLATION AGAINST
INTELLECTUAL PROPERTY RIGHTS, AND ACTION-TAKING AGAINST GOODS
RELATED TO ACTS OF TERRORISM AND/OR CROSS COUNTRY CRIMES

57. The provisions of Article 53 paragraphs (1),(2), and (3) are amended so Article 53 becomes as follows:

Article 53

- (1) For monitoring over implementation of provisions regarding prohibitions and restrictions, technical institution that stipulates regulations on prohibitions and/or restrictions in import or export must notify the Minister.
- (2) Provisions regarding implementation of monitoring over prohibitions and/or restrictions as meant in paragraph (1) are further stipulated by or based on regulation of minister.
- (3) All goods prohibited or restricted and not complying with conditions for being imported or exported, if they are already notified by customs manifest, at request of importer or exporter:
- a. their export is cancelled;
 - b. are being re-exported;
 - c. are destroyed under supervision of customs and excise officer, except if stipulated otherwise based on the laws in force.
- (4) Goods which are prohibited or restricted in import or export and are not notified or notified improperly are stated as assets controlled by the state as meant in Article 68, except if stipulated otherwise by the law in force.

58. The provisions of Article 54 are amended to become as follows:

Article 54

At request of owner or holder of right of mark or copyright, chief of the commercial court may issue written instruction to customs and excise officer to temporarily delay exit of import or export goods from customs area, which, based on sufficient evidences, are assumed as a result of violations against mark and copyright protected in Indonesia.

59. The provisions of Article 56 are amended to become as follows:

Article 56

Based on the written instruction as meant in Article 54, customs and excise officer:

- a. notifies importer, exporter, or owner of goods in writing about instruction for delayed exit of import and export goods;
- b. implements delay of exit of import or export goods from customs zone since date of receipt of written instruction of chief of commercial court.

60. The provisions of Article 57 paragraphs (1) and (2) are amended so Article 57 becomes as follows:

Article 57

- (1) Delay of exit of goods as meant in Article 56 paragraph b is implemented for a period of not later than ten (10) working days.
- (2) The period as meant in paragraph (1), based on certain reasons and with certain conditions, maybe extended for one time for not later than ten (10) working days with written instruction of chief of commercial court.

- (3) Extension of time of delay of exit of import or export goods as meant in paragraph (2) is accompanied by extension of term of guarantee as meant in Article 55 paragraph d.

61. The provisions of Article 58 are amended to become as follows:

Article 58

- (1) At request of owner or holder of right of mark or copyright requesting for delayed exit of import or export goods, chief of commercial court may give license to the owner or holder of the right to examine import or export goods requested for delayed exit.
- (2) The license to examine as meant in paragraph (1) is given by chief of commercial court after hearing and considering the opinion and observing the interest of owner of import or export goods requested for delayed exit.

62. The provisions of Article 59 are amended to become as follows:

Article 59

- (1) If within ten (10) working days as meant in Article 57 paragraph (1), customs and excise officer does not receive notification from the one who requested for delayed exit of import or export goods that the legal actions required to protect his right in accordance with the laws in force are already conducted and chief of commercial court does not extend the instruction for delayed exit in writing, customs and excise officer shall terminate the delayed exit of import or export goods and settle it in accordance with customs regulations based on this Law.
- (2) In case the legal actions to protect the right are already conducted in accordance with the laws in force within ten (10) working days as meant in paragraph (1), the one who requested for delayed exit of import or export goods shall immediately report this matter to customs and excise officer who receives the instruction and implements delay of exit of import or export goods.

(3) In case the legal actions as meant in paragraph (2) are already notified and chief of commercial court does not extend the instruction for delayed exit in writing as meant in Article 57 paragraph (2), customs and excise officer terminates delay of exit of import or export goods and settle this matter in accordance with customs regulations based on this Law.

63. The provisions of Article 60 are amended to become as follows:

Article 60

In certain cases, importer, exporter, or owner of import or export goods may file request to chief of commercial court to instruct customs and excise officer in writing to terminate delayed exit of import or export goods as meant in Article 54 by submitting similar guarantee as meant in Article 55 paragraph d.

64. The provisions of Article 61 are amended to become as follows:

Article 61

(1) If the result of examination of case evidences that the import or export goods do not constitute or are not as a result of violation against right of mark or copy right, owner of import or export goods may receive indemnity from the owner or holder of right who requested for delayed exit of import or export goods.

(2) Commercial court that examines and decides the case as meant in paragraph (1) may instruct that the guarantee as meant in Article 55 paragraph b to be used as payment or element of payment of indemnity payable.

65. Between Article 64 and CHAPTER XI, one (1) Part, namely Part Three is inserted and it reads as follows:

Part Three

Action Taking-Against Goods Related to Acts of Terrorism and/or Cross-Country Crimes

Article 64A

(1) Goods, which, based on preliminary evidences, are assumed as being related to acts of terrorism and/or cross-country crimes, may be subjected to action-taking by customs and excise officer.

(2) Provisions regarding procedure of action-taking as meant in paragraph (1) are further stipulated by or based on regulation of minister.

66. The provisions of Article 75 paragraph (1) are amended so Article 75 becomes as follows:

Article 75

(1) Customs and excise officer, in performing monitoring over transportation vehicles on the seam on rivers, use patrol boats or other means.

(2) The patrol boats or the other means used by customs and excise officer as meant in paragraph (1) may be equipped with fire weapons which volume and type are stipulated by government regulation.

67. The provisions of Article 76 are amended to become as follows:

Article 76

(1) In operating the duties based on this Law, Customs and excise officer may request assistance of the Indonesian Police, Indonesian National Army, and/or other institutions.

(2) Based on the request as meant in paragraph (1), Indonesian Police, Indonesian National Army, and/ or other institutions shall fulfill the request.

68. The provisions of Article 78 are amended to become as follows:

Article 78

Customs and excise officer is authorized to lock, seal, and/or attach security, label necessary on import goods which customs liabilities are not yet settled and export

goods or other goods that shall be monitored in accordance with this Law and located on transportation vehicle, at store place, or other places.

69. The provisions of Article 82 paragraph (4) are deleted and paragraphs (i), (3), (5), a_d (6) are amended so Article 82 becomes as follows:

Article 82

- (1) Customs and excise officer is authorized to perform examination into import or export goods after customs manifest is already delivered.
- (2) Customs and excise officer is authorized to request importer, exporter, transporter, temporary store place operator, bonded store place operator, or their authorized parties to deliver goods to be examined, to open transportation vehicles or parts of transportation vehicles, and to open every package or container to be examined.
- (3) If the request as meant in paragraph (2) is not fulfilled:
 - a. The customs and excise officer is authorized to perform the action as meant in paragraph (2) at the risk and expenses of the concerned party; and
 - b. The concerned party is imposed with administrative sanction in form of monetary charge of twenty-five million Rupiah (Rp. 25,000,000.00).
- (4) Deleted.
- (5) A person who mistakenly notifies type and/or volume of goods in customs manifest on import that results in shortage of payment of import duty, is subjected to, administrative sanction in form of monetary charge of at least one hundred percent (100%) of import duty shortage and maximum one thousand percent (1000%) of import duty shortage.
- (6) A person who mistakenly notifies type and/or volume of goods in customs manifest on export that results in un-fulfillment of state levies on export, is subjected to administrative sanction in form of monetary charge of one hundred percent (100%) of shortage of state levies on export and maximum one

thousand percent (1000%) of shortage of state levies on export.

70. Between Article 82 and Article 83, one Article, namely Article 82A is inserted and it reads as follows:

Article 82A

- (1) For monitoring, customs and excise officer is authorized to officially perform examination into import or export goods before or after delivery of customs manifest.
- (2) Provisions regarding the procedure as meant in paragraph (1) are further stipulated by or based on regulation of minister.

71. The provisions of Article 85 paragraph (1) are amended and one (1) paragraph, namely paragraph (3), is inserted so Article 85 becomes as follows:

Article 85

- (1) Customs and excise officer gives import or export license after customs manifest that already meets the conditions stipulated is accepted and result of examination indicated that the goods are in accordance with the ones mentioned in the customs manifest.
- (2) Customs and excise *officer* is authorized to delay the issuance of import or export license if customs manifest does not comply with the conditions stipulated.
- (3) Customs and excise officer is authorized to reject providing customs services in case that the concerned person not yet fulfills customs liabilities pursuant to this Law.

72. Between Article 85 and CHAPTER XII Paragraph 2, one (1) Article, namely Article 85A, is inserted and it reads as follows:

Article 85A

- (1) Based on the laws in force, customs and excise officer may perform examination into certain goods transported into customs area.
 - (2) The examination into certain goods as meant in paragraph (1), may be performed upon loading, transportation, and/or unloading of goods at place of destination.
 - (3) Provisions regarding examination into certain goods as meant in paragraph (1) are further stipulated by or based on regulation of minister.
73. The provisions of Article 86 paragraphs (1) and (2) are amended and between paragraph (1) and (2), one (1) paragraph, namely paragraph (1a) is inserted, and one (1) paragraph, namely paragraph (3), is added so Article 86 becomes as follows:

Article 86

- (1) Customs and excise officer is authorized to perform audit into person as meant in Article 49.
- (1a) In performing audit as meant in paragraph (1), customs and excise officer is authorized:
 - a. To ask for financial statements, books, records, and documents that become basic evidences of accounting, letters relating to business activities including electronic data, and letters relating to activities in custom affairs;
 - b. To inquire information, verbal or and/or written, from person and other related parties;
 - c. To enter into buildings as places of business activities, rooms as places for keeping financial statements, books, records, and documents that become basic evidences of accounting, and letters relating to business activities, and means/media for storing electronic data, and goods that can give hints to condition of business activities related to customs activities; and
 - d. To perform actions of protection deemed necessary on places or rooms for keeping documents relating to customs activities.

(2) Person as meant in Article 49 who causes customs and excise officer not being able to perform audit, is subjected to administrative sanction in form of monetary charge of seventy-five million Rupiah (Rp. 75,000,000.00).

(3) Provisions regarding procedure of performance of audit as meant in paragraph (1) are further stipulated by or based on regulation of minister.

74. Between Article 86 and Paragraph 3, one (1) Article, namely Article 86A, is inserted and it reads as follows:

Article 86A

If during audit, shortage of payment of import duty is identified and it is as a result of miss-notification about volume and/or type of goods, the person must pay the shortage and is subjected to administrative sanction in form of monetary charge as meant in Article 82 paragraph (5).

75. The provisions of Article 88 paragraph (2) as amended so Article 88 becomes as follows:

Article 88

(1) For fulfillment of customs liabilities based on this Law, customs and excise officer is authorized to enter and examine buildings or places that are non-residential places and may examine every single goods found.

(2) During the examination of the buildings or places as meant in paragraph (1) and at the request of customs and excise *officer*, the one who owns or controls the buildings or places shall submit letters or documents relating to goods located in such places.

76. The provisions of Article 90 paragraphs (3) and (4) are amended so Article 90 becomes as follows:

Article 90

- (1) For fulfillment of customs liabilities based on this Law, customs and excise officer is authorized to stop and examine transportation vehicles and the goods on the transportation vehicles.
- (2) Transportation vehicles sealed by other law enforcers or postal agency are exempted from the examination as meant in paragraph (1).
- (3) Customs and excise officer based on customs manifest as meant in Article 7A paragraph (3) is authorized to stop unloading of goods from transportation vehicles if the goods loaded are not in compliance with laws in force.
- (4) Person who does not implement the instruction to stop the unloading of goods as meant in paragraph (3) is subjected to administrative sanction in form off monetary charge of twenty-five million Rupiah (Rp. 25,000,000.00).

77. Between Article 92 and CHAPTER XIII, one Part, namely Part Four, is inserted and it reads as follows:

Part Four

Special Authority of the Director General

Article 92A

- (1) The Director General, officially or at request of the person concerned, may:
 - a. Revise letter of stipulation of collection of import duty shortage which contains mistakes in writing, miscalculations, and/or mistakes in application of the provisions of this Law; or
 - b. Reduce or eliminate administrative sanction in form of monetary charge imposed on person who is subjected to administrative sanction as a result of his mistakes or not as a result of his mistakes.
- (2) Provisions regarding procedure of conveyance of request, revision, reduction, or elimination as meant in paragraph (1) are further stipulated by or based on regulation of minister.

78. The heading of CHAPTER XIII is amended to become as follows:

CHAPTER XIII
PETITION AND APPEAL

79. The provisions of Article 93 paragraphs (n (2), (3), (4), and (5) are amended and between paragraph (1) and paragraph (2), one paragraph, namely paragraph (1a) is inserted and one (1) paragraph, namely paragraph (6), is added so Article 93 becomes as follows:

Article 93

- (1) Person who does not agree with stipulation of customs and excise officer regarding tariff and/or customs value for calculating import duty may convey a petition in writing only to the Director General within sixty (60) days since date of stipulation by submitting guarantee in amount equal to the outstanding payment.
- (1a) The guarantee as meant in paragraph (1) is not obligatory if import goods are not yet exited from customs zone.
- (2) The Director General decides the petition as meant in paragraph (1) within sixty (60) days since acceptance of petition.
- (3) If the petition as meant in paragraph (1) is rejected by the Director General, guarantee is cashed for payment of import duty and/or administrative sanction in form of monetary charge, and if the petition is accepted the guarantee is returned.
- (4) If within sixty (60) days as meant in paragraph (2), the Director General does not issue any decision, the petition is deemed acceptable and the guarantee is returned.
- (5) If the guarantee as meant in paragraph (1) is in form of cash and the guarantee as meant in paragraphs. (3) and (4) is returned thirty (30) days after objection is

accepted, government gives interest of two percent (2%) per month for not later than twenty-four (24) months.

(6) Provisions regarding procedure of conveyance of petition as meant in paragraph (1) are further stipulated by or based on regulation of minister.

80. Between Article 93. and Article 94, one (1) Article, namely Article 93A, is inserted and it reads as follows:

Article 93A

(1) Person who does not agree with stipulation of customs and excise officer regarding matters other than tariff and/or customs value for calculating import duty may file a petition in writing only to the Director General within sixty (60) days since date of stipulation.

(2) As long as the petition as meant in paragraph (1) is regarding shortage payment of import duty, guarantee in amount equal to the outstanding payment shall be delivered.

(3) The guarantee as meant in paragraph (2) is not obligatory if import goods are not yet exited from customs zone.

(4) The Director General decides the petition as meant in paragraph (1) within sixty (60) days since date of receipt of the petition

(5) If the petition as meant in paragraph (1) is rejected by the Director General, guarantee is cashed for payment of import duty and/or administrative sanction in form of monetary charge, and if petition is accepted the guarantee is returned.

(6) If within sixty (60) days as meant in paragraph (3), the Director General does not issue any decision, the petition is deemed acceptable and the guarantee is returned.

(7) If the guarantee as meant in paragraph (1) is in form of cash and the guarantee as meant in paragraphs (5) and (6) is returned thirty (30) days after petition is accepted, government pays interest of two percent (2%) per month for not later than twenty-four (24) months.

(8) Provisions regarding procedure of conveyance of petition as meant in paragraph (1) are further stipulated by or based on regulation of minister.

81. The provisions of Article 94 are amended and one (1) paragraph, namely paragraph (6), is added so Article 94 becomes as follows:

Article 94

(1) A person subjected to administrative sanction in form of monetary charge may file petition in writing only to the Director General within sixty (60) days since date of stipulation along with guarantee in amount equal to the administrative sanction in form of monetary charge as stipulated.

(2) The Director General decides the petition as meant in paragraph (1) within sixty (60) days since date of receipt of the petition.

(3) If the petition as meant in paragraph (1) is rejected by the Director General, guarantee is cashed for payment of administrative sanction in form of monetary charge as stipulated, and if petition is accepted the guarantee is returned.

(4) If within sixty (60) days as meant in paragraph (2) the Director General does not issue any decision, the petition is deemed acceptable and the guarantee is returned.

(5) If the guarantee as meant in paragraph (1) is in form of cash and the guarantee as meant in paragraphs (3) and (4) is returned thirty (30) days after petition is accepted, the government pays interest of two percent (2%) per month for not later than twenty-four (24) months.

(6) Provisions regarding procedure of conveyance of petition as meant in paragraph (1) are further stipulated by or based on regulation of minister.

82. The provisions of Article, 95 are amended to become as follows:

Article 95

A person who does not agree to stipulation of the Director General regarding tariff and customs value as meant in Article 17 paragraph (2) and decision of the Director General as meant in Article 93 paragraph (2), Article 93A paragraph (4), or Article 94 paragraph (2), may file appeal to Tax Court within sixty (60) days since date of stipulation or date of decision, after outstanding payments are fully paid.

83. Article 96 is deleted.
84. Article 97 is deleted.
85. Article 98 is deleted.
86. Article 99 is deleted.
87. Article 100 is deleted.
88. Article 101 is deleted.
89. The provisions of CHAPTER XIII Part Two are deleted.
90. The provisions of Article 102 are amended to become as follows:

Article 102

A person who:

- a. transports import goods that are not mentioned in the manifest as meant in Article 7 A paragraph (2);
- b. unloads import goods outside customs zone or in other places without license of head of customs office;
- c. unloads import goods that are not mentioned in toms manifest as meant in Article 7A paragraph (3);

- d. unloads or stores import goods that are under monitoring in places other than the designated and/or permitted places;
- e. hides import goods not in accordance with the laws;
- f. exits import goods which customs liabilities are not yet settled from customs zone or from bonded store place or from other places under monitoring without approval of customs and excise officer that results in un-fulfillment of state levies based on this Law;
- g. transports import goods from temporary store place or bonded store place and the goods do not arrive at customs office of port of destination and he. is not able to evidence that this happens beyond his control;
- h. intentionally notifies wrong type and/or volume of import goods in the customs manifest, is penalized due to smuggling charges by imprisonment of at least one (1) year and maximum ten (10) years and monetary charge of at least fifty million Rupiah (Rp. 50,000,000.00) and maximum five billion Rupiah (Rp. 5,000,000,000.00).

91. Between Article 102 and Article 103, four (4) Articles, namely Articles 102A, 102B, 102C, and 102D are added and they read as follows:

Article 102A

A person who:

- a. exports goods without submitting customs manifest;
- b. intentionally notifies wrong type and/or volume of export goods in customs manifest as meant in Article 11A paragraph 91) that results un-fulfillment of state levies on export;
- c. loads export goods outside aJStoo1s zone without license of head of customs office as meant in Article 11A paragraph (3);
- d. unloads export goods in customs area without permission of head of customs office; or
- e. transports export goods without being protected by valid documents in accordance with customs manifest as meant in Article 9A paragraph (1), is penalized due to smuggling charges by imprisonment of at least one (1) year and maximum ten (10) years and monetary charge of at least fifty million Rupiah (Rp. 50,000,000.00) and maximum five billion Rupiah (Rp. 5,000,000,000.00).

Article 102B

The violation as meant in Article 102 and Article 102A that results in disturbances of aspects of state economy, is subject to imprisonment of at least five (5) years and maximum twenty (20) years and monetary charge of at least five billion Rupiah (Rp. 5,000,000,000.00) and maximum one hundred billion Rupiah (Rp. 100,000,000,000.00).

Article 102C

In case that the crime as meant in Articles 102, 102A, and 102B, is committed by government officials and law enforcers, the penalties as set forth in this Law are subject to an additional penalty of one third (1/3) of these penalties.

Article 102D

A person who transports certain goods that do not arrive at customs office of port of destination and is not able to evidence that this event happens beyond his control is subjected to imprisonment of at least one (1) year and maximum five (5) years and/or monetary charge of at least ten million Rupiah (Rp. 10,000,000.00) and maximum one billion Rupiah (Rp. 1,000,000,000.00).

92. The provisions of Article 103 are amended to become as follows:

Article 103

A person who:

- a. delivers false or forged customs manifest and/or complementary customs manifest;
- b. makes, agrees, or participates in the falsification of data on books or records;
- c. gives false information, verbal or written, for fulfillment of customs liabilities; or
- d. hoards, stores, owns, buys, sells, exchanges, acquires, or gives import goods known as or are assumed as resulting from the criminal acts as meant in Article 102, are penalized by imprisonment of at least two (2) years and maximum eight (8) years and/or monetary charge of at least one hundred million Rupiah (Rp. 100,000,000.00) and maximum five billion Rupiah (Rp. 5,000,000,000.00).

93. Between Article 103 and Article 104, one (1) Article, namely Article 103A, is inserted and it reads as follows:

Article 103A

- (1) A person who illegally accesses electronic system related to customs services and/or monitoring is penalized by imprisonment of at least one (1) year and maximum five (5) years and/or monetary charge of at least fifty million Rupiah (Rp. 50,000,000.00) and maximum one billion Rupiah (Rp 1,000,000,000.00).
- (2) The act as meant in paragraph (1) that results in unfulfilment of state levies based on this Law is subjected to imprisonment of at least two (2) years and maximum ten (10) years and/or monetary charge of at least one billion Rupiah (Rp. 1,000,000,000.00) and maximum five billion Rupiah (Rp. 5,000,000,000.00).

94. The provisions of Article 104 are amended to become as follows:

Article 104

A person who:

- a. transports goods as a result of the criminal acts as meant in Articles 102, 102A, or 102B;
- b. destroys, cuts, hides, or throws away books or records, which, pursuant to this Law, must be .
- c. eliminates, agrees, or participates in elimination of information from customs manifest, complementary customs manifest, or records; or
- d. keeps and/or makes available blanks of trade invoices from companies domiciled overseas known as being able, to be used as complements of customs manifest pursuant to this Law is penalized by imprisonment of at least one (1) year" and maximum three years and/or monetary charge of at least (five hundred million Rupiah (Rp. 500,000,000.00) and maximum three billion Rupiah (Rp. 3,000,000,000.00).

95. The provisions of Article 105 are amended to become as follows:

Article 105

A person who intentionally and without license opens, releases, or damages key, seal, or protecting/security label installed by customs and excise officer is penalized by imprisonment of at least one (1) year and maximum three (3) years and/or monetary charge of at least five hundred million Rupiah (Rp. 500,000,000.00) and maximum one billion Rupiah (Rp. 1,000,000,000.00).

96. Article 106 is deleted.

97. Article 107 is un-amended and Elucidation of Article 107 is amended to become as stipulated in Article by Article Elucidation of this Law.

98. The provisions of Article 108 paragraphs (3) and (4) are amended so Article 108 becomes as follows:

Article 108

(1) In case a criminal act threatened by penalty based on this Law is committed by on or on behalf of corporation, corporate body or company, association, foundation or cooperatives, criminal suits are addressed to and penalty is impose on:

- a. the corporation/corporate body of company, association, foundation or cooperatives; and/or
- b. those who give orders to commit the criminal acts or those who act as directors or who fail to prevent the acts.

(2) Criminal act, pursuant to this Law is also committed by or on behalf of corporation, corporate body or company, association; foundation or cooperatives if the act is committed by persons who, based on employment: relationship or based on other relationships, act for the corporation, corporate body or company, association foundation or cooperatives without observing whether each of such persons commits the act individually or jointly.

(3) In case that a criminal suit is addressed to a corporation, corporate body or company, association, foundation or cooperatives, it is represented by the management who is legally responsible in accordance with form of the corporation concerned.

(4) To corporation, corporate body or company, association, foundation or cooperatives which is penalized by the penalties as meant fn this Law/the basic penalty imposed is always in form of monetary charge in amount of maximum one billion five hundred million Rupiah (Rp. 1,500,000,000.00) if the criminal act is threatened by imprisonment, and the monetary charge shall not be invalidated if the criminal act is threatened by imprisonment and monetary charge.

99. The provisions of Article 109 paragraphs (1) and-(2) are amended and between paragraph (2) and paragraph (3), one paragraph, namely paragraph (2a) is inserted so Article 109 becomes as follows:

Article 109

(1) Import goods as meant in Article 102, Article 103 paragraph d, or Article 104 paragraph a, export goods as meant in Article 102A, or certain goods as meant in Article 102D as result of criminal acts, are seized for interest of the state.

(2) Transportation vehicle which is merely used for committing the criminal act as meant in Articles 102 and 102A, is seized for interest of the state.

(2a) Transportation vehicle used for committing the criminal act as meant in Article 102D may be seized for interest of the state.

(3) Goods as mean in paragraph (1) are settled based on the provisions of Article 73.

100. Between CHAPTER XV and CHAPTER XVI, one (1) Chapter, namely CHAPTER XV A, is inserted it reads as follows:

CHAPTER XV
EMPLOYEE DEVELOPMENT

Article 113

- (1) Attitude and behavior of employees of the Directorate General of Customs and Excise are ruled by codes of ethics that become guides for performance of duties as set forth, in this Law.
- (2) Violation against codes of ethics by employees of the Directorate General of Customs and Excise is settled by Codes of Ethics Commission.
- (3) Provisions regarding codes of ethics are further stipulated by regulation of minister.
- (4) Provisions regarding establishment, structure, and work procedure of the Codes of Ethics Commission are further stipulated by regulation of minister.

Article 113B

If customs and excise officer calculates-or stipulates import duty or export duty not in accordance with this Law that it results in un-fulfillment of state levies, the customs and excise officer is imposed with sanctions in accordance with the laws in force.

Article 113C

- (1) In case that employee of the Directorate General of Customs and Excise is suspected of committing criminal act, the Minister may assign the internal audit unit of the Ministry of Finance to inspect the employee to identify preliminary evidences.
- (2) The provisions as meant in paragraph (1) are further stipulated by regulation of minister.

Article 113D

- (1) Individual person, a group of persons, and/or work unit that has successfully settled customs violations is entitled to receive premium.
- (2) Amount of premium given is maximum fifty percent (50%) of administrative sanction in form of monetary charge and/or proceeds of auction of goods as a result of criminal act in customs affairs.
- (3) In case that the goods seized are goods which, based on the laws in force, are prohibited and/or restricted from being auctioned, value of the goods as basis for calculating premium is stipulated by the Minister.
- (4) Provisions regarding payment of premium as meant in paragraphs (1) and (2) are further stipulated by regulation of minister.

101. Between Article 115 and CHAPTER XVII, three (3) Articles, namely Articles 115A, 115B, and 115C are inserted and they read as follows:

Article 115A

- (1) Goods introduced or exited to and from and are located in an area designated as free trade area and/or free port may be monitored by the Directorate General of Customs and Excise.
- (2) The provisions of paragraph (1) are further stipulated by or based on government regulation.

Article 115B

- (1) Based on public request, the Director General gives information managed by him, except information with certain characteristics.
- (2) Provisions regarding giving of information as meant in paragraph (1) are further stipulated by regulation of minister.

Article 115C

- (1) Employee of the Directorate General of Customs and Excise may not disclose any matter that he knows or is notified to him by person in the framework of his office or work for implementation of the provisions of this Law to other un-entitled parties.
- (2) The prohibition as meant in paragraph (1) is also applicable to professionals appointed by the Director General to support implementation of the provisions of this Law.
- (3) The Minister, in writing, may instruct employees of the Directorate General of Customs and Excise and professionals as meant in paragraphs (1) and (2) to convey information and to show evidences of persons to auditors for interest of audit of state finances.
- (4) For interest of court examination into criminal case, at the request of the judge as meant in Article 180 of Law No. 8/1981 on Criminal Procedural Law, the Minister may give license, in writing, to employees of the Directorate General of Customs and Excise and professionals as meant in paragraphs (1) and (2) to give evidences and information to the judge.

Article II

Transitory Provisions

1. On the date this Law comes into force:
 - a. enforcement regulations on customs affairs that already exist remain valid as long as they are not in violation with and/or are not yet stipulated by enforcement regulations as set forth in this Law;
 - b. customs affairs, which, upon validity of this Law, are not yet settled, will be settled based on the laws in force on customs affairs that gives relief to each of the persons involved.
2. Regulations for enforcement of this Law are stipulated within not later than one (1) year since promulgation of this Law.

3. This Law comes into effect from the date it is promulgated.

For public cognizance, this Law is promulgated by placing it in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta

On November 15, 2006

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

Sgd.

DR. H. SUSILOBAMBANG YUDHOYONO

Promulgated in Jakarta

On November 15, 2006

THE MINISTER OF JUSTICE AND HUMAN RIGHTS OF

THE REPUBLIC OF INDONESIA

Sgd

HAMID AWALUDDIN

STATUTE BOOK OF THE REPUBLIC OF INDONESIA OF 2006 NO. 93

**ELUCIDATION OF
LAW NUMBER 17/2006
ON
AMENDMENT TO LAW NUMBER 10/1995 ON CUSTOMS**

1. GENERAL

The rapid development of industry and trade generates public demand to government to create legal certainty in business. The government, particularly the Directorate General of Customs and Excise, which facilitates trade must be able to make customs laws that could anticipate development in the society in the framework of providing faster, better, and cheaper services and monitoring.

Since the enforceability of Law No. 10/1995 on Customs, society assumes that the definition of "smuggling" as set forth in Article 102 of Law No. 10/1995 on Customs stating that "Whoever import or exports or attempts to import or export goods not in compliance with the provisions of this Law is penalized due to committing smuggling" is less explicitly stated since in the elucidation it is stated that the definition of "not in compliance with" is not in accordance with regulations or procedures. It means that if fulfilling one of obligations, such as conveying customs manifest without observing whether it is proper or not, can not be classified as smuggling so it does not reflect sense of justice of the society therefore it is deemed necessary to re-stipulate acts that can be classified as smuggling.

Law No. 10/1995 on Customs explicitly stated that the authority of the Directorate General of Customs and Excise is to perform monitoring over flow of goods into or out from customs area, but considering the geographical location of Indonesia as an archipelago country which seas are directly bordered with neighboring countries, monitoring is necessarily performed over goods transported by the sea in customs area to prevent smuggling with inter-island transportation modus, especially specific goods. Implicitly it can be stated that monitoring over transportation of certain goods in customs area is the expansion of authority of or part inseparable from customs authority as one of institutions that supervise border areas.

In relation to the above, the society deemed it necessary to authorize the Directorate General of Customs and Excise to monitor transportation of certain goods as proposed by related technical institution.

Bonded Store Place as an incentive which has so far been given is not able to accommodate demand of foreign investors to perform auction, recycle, and other activities because of restriction on the functions of the Bonded Store Place only as a place for storing import goods to be processed, exhibited, and/or supplied to be sold. To prevent relocation of investment to neighboring countries and to lure foreign investors, incentive, legal certainty, and business certainty must be created by expansion of functions of Bonded Store Place.

In relation to international trade, Customs Law should be able to conform to international conventions and international customs practices so it is necessary to adjust Indonesian customs laws by supplements or amendments in accordance with the above conventions.

Articles 96 to 101 of Law No. 10/1995 on Customs rule about court of appeal. Yet, in fact, the institution is not yet established with the reason that tax dispute settlement agency is already established based on Law No. 17/1997 on Tax Dispute Settlement Agency, which was later changed to Tax Court based on Law No. 14/2002 on Tax Court. The competency of the tax court includes appeal in customs affairs so Articles 96 to 101 of Law No. 10/1995 on Customs are no longer necessary and they are deleted.

Based on Agreement on Implementation of Article VII of General Agreement on Trade and Tariff (GATT) of 1994, Article 22 stated that national laws must set forth provisions regarding stipulation of customs value in accordance with World Trade Organization (WTO) Valuation Agreement. Article 4 of the above convention stated that computation method can be used preceding deduction method at importer's request. Indonesia has made use of the opportunity to delay implementation of Article 4 of the convention for five (5) years ending in 2000 so provisions regarding customs value pursuant to Article 4 of the convention must be included in this Amendment to Law on Customs.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear

Article 2

Paragraph (1)

This paragraph confirms about the definition of "import", which is when goods enters customs area and stipulates when goods are subject to import duty and is a legal basis for customs and excise officer for performing monitoring.

Paragraph (2)

This paragraph confirms about the definition of "export", In fact, export is effective when goods pass customs area, but considering that from (he points of view of service and protection, it is impossible to place customs and excise officer along the border line to provide services and to perform monitoring over export goods. Legally, export is assumed effective when tile goods are already loaded onto transportation vehicle that will depart to outside customs area.

The definition of "transportation vehicle" includes every vehicle, airplane, vessel, or other means used for transporting goods or persons.

The definition of "loaded" is putting of goods, onto transportation vehicle and customs manifest is already submitted and export duty already paid.

Paragraph (3)

This paragraph confirms that even though goods have been loaded onto transportation vehicle that will depart to outside customs area, if it can be evidenced that goods will be unloaded in customs area by delivery of customs manifest, goods are deemed as export goods.

Article 2A

Imposition of export duty in this Article is intended to protect national interest, and not to reduce competitiveness of export commodities in the global market.

Article 3

Paragraph (1)

To get accurate data and result of inspection into customs manifest on import goods, inspection is performed in form of inspection into documents and examination.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Basically, inspection is conducted in customs area by customs and excise officer selectively in consideration of risks attached to goods and importer. Yet, by considering smooth flow of goods and/or protection of state revenues, Minister may stipulate performance of inspection outside customs area by customs and excise officer or other party acting for and on behalf of the Directorate General of Customs and Excise.

Paragraph (4)

Sufficiently clear

Article 4

Basically, customs inspection is conducted in customs area by customs and excise officer.

In the framework of enhancement of export, especially in relation to attempt to increase competitiveness of Indonesian export commodities in global market, speed and certainty to exporters are necessary. So, customs inspection in form of inspection into physical condition of export goods must be tried to be minimized so on export goods, the kind of inspection performed is only document inspection.

To get accurate data and result of inspection into customs manifest, this Article authorizes the minister, in certain cases, to rule about procedure of inspection into physical condition of export goods.

Article 4A

Paragraph (1)

Monitoring over transportation of certain goods as meant in this paragraph is only performed on transportation of the goods from one place to another in customs area by the sea.

Monitoring over transportation of certain goods is to prevent smuggling by inter-island transportation modus of strategic goods, such as forest products, mining products, and goods that receive subsidy.

Paragraph (2)

"Related technical institution" is the competent ministry or non-departmental government institution.

Paragraph (3)

Sufficiently clear

Article 5

Paragraph (1)

Looking at the geographical condition of Indonesia which has a very large size of area and is an archipelago country, it is impossible to place customs and excise officers along the shores to maintain that all good introduced to or exited from customs area to already fulfill the conditions stipulated. So, it is stipulated that fulfillment of customs liabilities may only be done at customs office. A statement confirming that fulfillment of customs liabilities is conducted at customs office means that if goods are found to be unloaded or loaded at a place not designated as customs office it constitutes violation against this law.

So, monitoring is easier to be conducted since the place for fulfillment of customs liabilities, such a conveyance of customs manifest or payment of import duty is already decided by designating custom office in accordance with demands.

Fulfillment of customs liabilities at a place other than customs office may be allowed with fulfillment of certain conditions to be stipulated by Minister in accordance with trade and economic interests, or if by this manner, customs liabilities are more easily, more safely, and more cheaply fulfilled.

Grant of facilities in form of fulfillment of customs liabilities in places other than customs office is temporary.

Paragraph (2)

Sufficiently clear

Paragraph (3)

For interest of Services, monitoring, smooth flow of goods, order in unloading & loading of goods, and protection of state finances this Law stipulates customs zone at seaport, airport, or other places fully monitored by the Directorate General of Customs and Excise and stipulates the customs office.

Designation of customs monitoring post is intended as place for customs and excise officer to perform monitoring. Such monitoring post is part of customs office, and fulfillment of customs liabilities cannot be done at that place.

Paragraph (4)

Sufficiently clear

Article 5A

Paragraph (1)

Data conveyed by electronic means (softcopy) is information or a set of information arranged and/or collected for special purposes which is received, recorded, sent, stored, processed, re-loaded, or reproduced electronically by using computer or electronic, optical data processor, or by other similar means.

Paragraphs (2) - (4)

Sufficiently clear

Article 6

Paragraph (1)

This paragraph means that anything related to settlement *bf* customs liabilities on import or export goods must be based on provisions of this Law and enforced by the Directorate General of Customs and Excise.

Paragraph (2)
Sufficiently clear

Article 6A

Paragraph (1)

With increased application of information technology in customs activities, there should be a means to identify of customs services by personal identification number given by the Directorate General of Customs and Excise. The personal identification number is intended so that the person who has the identification number is able to access or relate to system of information technology on customs.

The identification number could be obtained through registration, for example, registration of importer, exporter, and customs service operator.

Paragraph (2)

Exception from the provisions of this paragraph is given to persons who settle certain customs liabilities, among other things, on passenger carries, diplomatic goods, or goods delivered by mail or courier service company.

Paragraph (3)

Sufficiently clear

Article 7A

Paragraph (1)

These provisions rule about obligation of transporter to notify arrival of its transportation vehicle before transportation vehicle arrives in customs lone, whether for liners or trampers. This is to increase monitoring over import and/or export goods.

Time of arrival of transportation vehicle means:

- a. When transportation vehicle sets anchor, for sea transportation vehicle;
- b. When transportation vehicle lands at the airport, for air transportation vehicle.

Paragraph (2)

Manifest is list of goods loaded onto transportation vehicle.

Paragraph (3)

Customs manifest as meant in this paragraph contains information of all goods transported by transportation vehicle, whether import goods, export goods, or goods originating from customs area transported to another place in customs area through outside customs area.

Paragraph (4)

Sufficiently clear

Paragraph (5)

"Set anchor" as meant in this paragraph is from arrival of transportation vehicle as meant in the elucidation of paragraph (1).

Paragraph (6)

Basically, import goods may only be unloaded after conveyance of customs manifest regarding arrival of transportation vehicle. But, if transportation vehicle is in emergency situation, such as on fire, in un-repairable machine damage, is trapped in bad weather, or other events beyond human control, exception that could be given is in form of unloading of goods without notifying arrival of transportation vehicle.

Clause a

Nearest customs office is customs office that can most easily be reached.

"Report the emergency situation" could be done by using call radio, telephone, or facsimile.

Clause b

Sufficiently clear

Paragraphs (7) - (9)

Sufficiently clear

Article 8A

Paragraph (1)

"Transportation" in this paragraph means inland transportation.

Paragraph (2)

"Entrepreneur" means temporary store place operator or bonded store place
"Importer" is a person who imports goods.

Paragraphs (3) and (4)

Sufficiently clear

Article 8B

Paragraph (1)

Considering that electricity, liquids or gas are specific goods transportation of such goods is operated in a special manner among other things, by transmission or pipelining.

Customs manifest on import or export of the above goods must be based on volume and type of goods when they are measured at final measurement place in customs area.

Paragraph (2)

Software may be in form of a set of computer programs that instruct the computer to do something.

Software and softcopy are goods that become objects of this Law, and transportation or delivery of them may be done by electronic transmission, for example, through the Internet.

Paragraph (3)

Sufficiently clear

Article 8C

Paragraph (1)

Sufficiently clear

Paragraph (2)

"Valid document is document required for transportation of certain goods.

Paragraph (3)

Administrative sanction in form of monetary charge is imposed on excess or shortage of certain goods upon transportation or unloading.

Paragraphs (4) and (5)

Sufficiently clear

Article 9A

Paragraph (1)

"Import goods" are import goods further transported or continued transported.

Paragraphs (2) - (4)

Sufficiently clear

Article 10A

Paragraph (1)

"Unloaded in other place" is implemented in accordance with unloading techniques or other matters considered by head of customs office, for example, transportation vehicle is not able to set anchor at the pier or unloading means are not available..

Paragraph (2)

"Unloading" in this paragraph means unloading of goods from one transportation vehicle to another at a port where it is not able to set anchor so unloading is, implemented outside port (redde).

"Designated lane" means a lane that must be passed by transportation vehicle that continues transportation redde to a customs office.

Paragraph (3)

The obligations as meant in this paragraph shall be fulfilled by transporter or his authorized party that notifies arrival of transportation vehicles by customs manifest to customs and excise officer and the document must mention or contain all import goods transported by the transportation vehicle, whether in form of commercial goods or supplies. If volume of the goods unloaded is less than the one notified in customs manifest, transporter, based on the provisions of this paragraph, is deemed

as having introduced import goods to free circulation so he must pay import duty on the goods unloaded and is also subjected to administrative sanction in form of monetary charge if he is not able to evidence that the shortage of the goods unloaded is not due to his mistake.

In case that goods transported are in packages, "volume of goods" means number of packages.

Paragraph (4)

Sufficiently clear

Paragraph (5)

These provisions are intended so that storage of goods in temporary store place, is mandatory since storage at the store place may only be implemented in case goods can not be immediately exited.

Paragraph (6)

"In certain cases" means if storage in temporary store place could not be done, such as congestion, technical problems in storage, nature of goods or other reasons that makes it impossible to store import goods and giving of storage facilities other than in the temporary place in order to prevent cost of storage which may or already arises in process of fulfillment of customs liabilities.

Rules applicable in the temporary store place are also applicable in other places as meant in this paragraph.

Paragraph (7)

Clauses a- d

Sufficiently clear

Clause e

"Goods being continued transported" are goods transported by transportation vehicle through customs office without being first unloaded.

"Goods being further transported" are goods transported by transportation vehicle through customs area, and they have been unloaded before.

Clause f

"Goods being re-exported" means, among other things:

- 1) Import goods are re-delivered out from customs area because they are not in accordance with orders;
- 2) New regulations issued by the government ruling that goods may not be imported to customs area.

Paragraph (8)

Exit of goods, in this paragraph, is implemented without intention to prevent payment of import duty because customs manifest is already delivered and import duty is already paid, but because goods are exited without approval of customs and excise officer, it is subject to administrative sanction in form of monetary charge.

Paragraph (9)

Sufficiently clear

Article 10B

Paragraph (1)

Clauses a and b

Sufficiently clear

Paragraph (2)

Clause a

Sufficiently clear

Clause b

These provisions enable importer who already meets requirements for exit of import goods for uses before paying import duty payable by submitting guarantee. But, importer shall settle his liabilities within the time stipulated by this Law. This facility is given to accelerate flow of goods.

Clause c

Sufficiently clear

Paragraph (3)

"Passenger" is a person that passes border of a country by using transportation vehicle, but he is not the transportation vehicle's crew and is not a border crosser,

"Crew" means a person who, because of the nature of his job, must stay on transportation vehicle and arrive with the transportation vehicle.

"Border crosser" is population staying or residing in country border and has identity card issued by competent institution and travels passing border area through border cross monitoring post.

"Notified" means submitting notification, verbally or in writing.

Paragraph (4)

"Approval of customs and excise officer" is stipulation of customs and excise officer stating that customs liabilities on the goods are already paid in accordance with this Law.

Paragraph (5)

Sufficiently clear

Paragraph (6)

The provisions of this paragraph rule about imposition of administrative sanction on importer who receives facilities based on the provisions of paragraph (2) clauses b and c, namely importing goods to be used before paying import duty by submitting guarantee, but not settling payment of import duty within the time as stipulated by this law.

Article 10C

Paragraph (1)

"Mistake" is mistake or human error in customs manifest that frequently happens in form of writing mistake, miscalculation and/or misapplication of laws, and does not contain disputes between customs and excise officer and user of customs services, for example:

- Mistake in writing in form of mistake in writing of name or address;
- Miscalculation in form of miscalculation of import duty or tax;
- Misapplication of regulations in form of not knowing about amendments to

regulations that frequently happens in early validity of new regulation.

Paragraph (2)

Causes a and b

Sufficiently clear

Clause c

Stipulation of customs and excise officer may constitute stipulation by using computer system.

Paragraph (3)

Sufficiently clear

Article 10D

Paragraph (1)

The purpose of regulations about temporary import is to enable import of goods with certain purposes, for example, for racing; vehicles brought by tourists; means of research; equipment used by technicians, journalists, and professionals; packages used repeatedly; and project goods used temporarily which when they are imported, it is clear that these goods are intended to be re-exported.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Considering that import is only temporary, the goods are given import duty exemption or dispensation.

Paragraph (4)

Sufficiently clear

Paragraph (5)

"Late" means goods are already completely used within the permitted time, but the concerned party does not arrange the customs administrations until due date.

Import duty as meant in this paragraph is calculated based on tariff and customs

value upon delivery of customs manifest on the temporary import.

Paragraphs (6) and (7)

Sufficiently clear

Article 11A

Paragraph (1)

"Notification" in this paragraph is a means for performing monitoring over goods that are to be exited from customs area.

Paragraphs (2) - (4)

Sufficiently clear

Paragraph (5)

"Cancelled" means cancelled partly or wholly.

Paragraphs (6) and (7)

Sufficiently clear

Article 13

Paragraph (1)

This paragraph authorizes the minister to stipulate import duty tariff in amount different from the one as provided in Article 12 paragraph (1).

Clause a

Import duty tariff is imposed based on agreement or consensus between Indonesian government and governments of other country or other several countries, for example, import duty based on Common Effective Preferential Tariff for Asean Free Trade Area (CEPT for AFTA).

Clause b

In the framework of easing and accelerating of settlement of import of passenger carries, goods of transportation vehicle crews, border crossers, and goods delivered by mail or courier service operators, these goods may be imposed by import duty tariff which is different from the one as meant in Article 12 paragraph (1), for example, by imposing the average tariff. These

provisions are necessary considering that passenger carriers, goods of transportation vehicle's crews, and border crossers, in general, consist of several types.

Paragraph (2)

Sufficiently clear

Article 14

Paragraph (1)

"System of classification of goods" in this Article means a list of classification of goods made systematically with the purpose to make easier tariff designating, trade, transportation, and statistics.

Paragraph (2)

Sufficiently clear

Article 15

Paragraph (1)

"Transaction value" is actual price paid or payable. by buyer to seller for the goods sold to be exported 'to customs area plus:

- a. Costs payable by buyer that are not yet included in the price actually paid or payable in form of:
 1. Commission and service fee, except purchase admission;
 2. Cost of packaging, which, for customs interest, the package becomes part inseparable of goods;
 3. Cost of packing that includes cost of material and wages for workers;
- b. Value of goods and service in form of:
 1. Materials, components, parts, and similar goods contained in import goods;
 2. Tools, prints, and other similar goods used for' making of import goods;
 3. Materials used in making of import goods;
 4. Techniques, development, works of arts, design, planning, and sketch made anywhere outside customs area and are necessary for making import goods, supplied directly or indirectly by buyer and the goods and services:
 - a) are supplied free of charge or at reduced prices;
 - b) are for interest of production and sales for export of import goods

- purchased;
- c) their prices are not included in the actual price or prices payable for the import goods.
 - c. Royalty and cost of license payable by buyer directly or indirectly as a requirement for sale and purchase of goods, as long as the royalty and cost of license are not included in the actual price of the import goods.
 - d. Value of each part of proceeds/revenue acquired by buyer to be given directly or indirectly to seller, on sale, utilization, or use of the import goods.
 - e. Cost of transportation of import goods sold to be exported to seaport or place of import in customs area.
 - f. Cost of loading, unloading, and handling in relation to transportation of import goods to the port or place of import in customs area.
 - g. Insurance.

Paragraph (2)

Two goods are deemed identical if both are similar in any matter, at least in physical characteristics, qualities, and reputation, and:

- a. are manufactured by the same producer in the same or
- b. are manufactured by another producer in the same country.

Paragraph (3)

Two goods are deemed similar if both have similar physical characteristics and material components so they are able to operate similar function and are commercially exchangeable, and

- a. are manufactured by the same producer in the same country; or
- b. are manufactured by another producer in the same country.

Paragraph (3a)

Sufficiently clear

Paragraph (4)

Deduction method means method for calculating customs value of import goods based on selling price of import goods, import goods identical or similar in the market in customs area less cost or expenses, among other things, commission or gain, transportation, insurance, import duty, and tax.

Paragraph (5)

Computation method is method for calculating customs value of import goods based on total of prices of raw materials, cost of process of production, and other costs/expenses until goods arrive at the port or place of import in customs area.

Paragraph (6)

"Certain limitations" means that calculation of customs value of import goods based on this paragraph is not allowed to be decided based on:

- a. Selling price of goods produced domestically;
- b. A system that determines higher value if there are two alternatives;
- c. Prices of goods in domestic market of the exporting country;
- d. Cost of production, other than value calculated by computation method as meant in paragraph (5) which is already decided on identical or similar goods;
- e. Prices of goods exported to a country other than to customs area;
- f. Benchmark prices;
- g. Value stipulated officially or fictitiously.

Paragraph (7)

Sufficiently clear

Article 16

Stipulation of tariff and customs value in customs manifest by self assessment is only implemented if tariff and customs value notified are different with the existing tariff and/or actual customs value so:

- a. Import duty is underpaid in case the stipulated tariff and/or customs value is higher;
- b. Import duty is overpaid in case the stipulated tariff and/or customs value is lower.

In certain cases, stipulation of tariff and customs value is done for calculation of import duty after physical inspection of goods, but customs manifest is not yet delivered.

In the framework of giving certainty to public, if customs manifest is already registered, stipulation shall have been given within thirty (30) days since date of registration. The thirty (30) days time is deemed sufficient for customs and excise officer to collect information as a consideration for making stipulation.

Paragraph (1)

"Stipulation of tariff before delivery of customs manifest" means tariff is stipulated on certain imports by official assessment.

Paragraph (2)

"Stipulation of customs value before delivery of customs manifest" means customs value is stipulated on certain imports, such as temporary import of passenger's carries or goods delivered by official assessment.

Paragraphs (3) - (6)

Sufficiently clear

Article 17

Paragraph (1)

Basically, stipulation of customs and excise officer is already binding and enforceable. But, if result of re-inspection into customs manifest or result of customs audit indicates shortage and/or excess of payment of import duty due to mis-notification of tariff and/or customs value, the Director General makes re-stipulation.

Paragraphs (2) and (3)

Sufficiently clear

Paragraph (4)

These provisions are intended so that basically the one who knows about value of transaction is the seller and the buyer and so the verity of the notification regarding transaction value merely depends on honesty of the transacting parties. Therefore, mistakes due to dishonesty found in re-inspection or customs audit is subject to administrative sanction in form of monetary charge.

Article 17A

Stipulation of the Director General before customs manifest is delivered as meant in this Article, is in the framework of providing services to service users and compliance with international customs practices, which are known as "Pre-Entry Classification and Valuation Ruling. The meaning of "Pre-Entry Classification" is stipulations of classification of goods by the Director General on import of goods before customs manifest is delivered

at importer's request.

The meaning of "Valuation Ruling" is stipulation of customs value by the Director General made based on results of customs audit into import of goods already and to be realized by importer within a certain time.

Article 23A

"Safeguard duty" is import duty collected as a result of government's action to recover serious losses and/or prevent serious loss threat against domestic industries due to sharp increase of import of similar goods or goods which are the direct competitors of products of domestic industries with purpose for domestic industries that suffer from serious losses and/or serious loss threat to be able to implement structural adjustment.

In case that safeguard action is already stipulated in form of quota (import restriction), safeguard duty may not be imposed.

The meanings of serious losses are actual losses suffered by domestic industries. Such losses shall be based on facts and not on claims, assumptions, and predictions.

Article 23B

Paragraph (1)

In case that Indonesian export goods receive unusual treatment from a country; for example, by restriction, prohibition, or imposition of import surcharge, goods from the country concerned may be imposed by tariff in amount different from the one as meant in Article 12 paragraph (1).

Paragraph (2)

Sufficiently clear

Articles 23C and 23D

Sufficiently clear

Article 25

Paragraph (1)

"Exemption of Import duty" exemption of payment of import duty" means exemption of payment of import duty as set forth in this Law.

Clause a

"Goods of foreign embassies and their officers" are properties or goods for the needs of the foreign embassies, including their officers as holders of diplomatic passports and their family members in Indonesia. Such exemption is given if the country concerned gives similar treatment on Indonesian diplomats.

Clause b

"Goods for international organizations and their officers" are properties or goods for the needs of international organizations acknowledged and registered with Indonesian government, including their officers posted in Indonesia. Such exemption is not given to officers of international organizations who hold Indonesian passports.

Clause c

Exemption of import duty is given based on recommendation from related ministry on books with purpose to increase knowledge in the framework of development of intellectual life of the nation.

Clause d

"Goods for worship for public" goods used only for religious worship of every religion acknowledged in Indonesia.

"Goods for charity and social purposes" are goods merely for charity and social purposes and that are not for commercial purpose, such as aid for victims-of natural disasters and elimination of an epidemic.

"Goods for cultural purpose" are goods for increasing international cultural relationships. Exemption of import duty is given based on recommendation' of the related ministry.

Clause e

Sufficiently clear

Clause f

"Goods for scientific research and development" are goods or instruments

used for performing research or experiments to increase or develop innovation in science and technology. Exemption of import duty is given based on recommendation of the related ministry.

Clauses g - i

Sufficiently clear

Clause j

"Sample goods" are goods imported specially for samples, amongst others, for prototypes and exhibitions in limited volume and type, whether in type or mark.

Clause k

Sufficiently clear

Clause l

"Removal goods" are household goods of a person who is previously domiciled overseas, which are then removed to domestic country.

Clause m

"Personal belongings of passengers, crews of transportation vehicles, and border crossers" are goods carried by these persons as meant in elucidation of Article 10B paragraph (3), and "delivered goods" are goods delivered by a sender overseas to a domestic recipient.

Clause n

Sufficiently clear

Clause o

"Repair" is handling of goods that are damaged, worn out, or old by recovering them into their original condition without changing their true nature.

"Work" means handling of goods, other than "repair" as mentioned above, that results in increase of prices of goods, from economic point of view, without changing their true nature.

"Testing" includes examination of goods from technical point of view based on quality and capacity in accordance with stipulated standards.

Exemption or dispensation in this case may only be given on goods in the same condition as that when they are exported, and the replaced or added parts and cost of repair are subjected to import duty.

Clause p

Exemption of import duty may be given on goods that are already exported, re-imported without being worked or refined, such as goods carried by passengers to overseas, goods for exhibitions, shows, or races.

Goods exported to be re-imported due to certain matter in the same condition providing that all facilities that have ever been received are returned.

Clause q

"Good human therapy, blood classification, and materials for classification of tissues include:

- 1) Goods for therapy derived from humans, namely human blood and its derivatives, such as all bloods, dry plasma, albumin, gama globulin, fibrinogen, and body organs;
- 2) Materials for classification of .blood derived from humans, animals, plants, or other sources;
- 3) Goods for classification of tissues derived from humans, animals, plants, or other sources.

Paragraph (3)

This paragraph authorizes the Minister to further stipulate terms and conditions that shall be fulfilled in order to receive exemption pursuant to this Article.

Paragraph (4)

"Does not comply with provisions" means, among other things, not being used in accordance with the stipulated purposes and conditions, such as exemption of import duty on import of sample goods not for sale, but actually, these goods are traded.

Violation against provisions regarding exemption of import duty is found in monitoring, re-inspection, and/or performance of customs audit.

Article 26

Import duty exemption given as meant this Article, is relative exemption meaning that exemption is given based on certain conditions and intentions; so import goods may be given import duty exemption or only dispensation.

Paragraph (1)

Import duty dispensation is reduction of import duty payment as set forth in this Law.

Clause a

"Investment" in this clause means foreign investment and domestic investment as stipulated in the laws in force.

Clause b

"Machineries for industrial development and improvement" include machines, machineries, factory installation equipment, tools, or instruments used for industrial development and improvement.

"Industrial development and improvement" includes establishment of new company or factory and expansion (diversification) of products, modernization, and rehabilitation for increase of productions capacity of existing companies or factories.

Clause c

"Goods and materials" include all goods or materials, not considering type and composition, used as materials or components for producing finished goods. And, "certain period of time" will be stipulated in enforcement regulation.

Clause d

Sufficiently clear

Clause e

"Seeds and germs" are all kinds of plants or animal imported with the purpose to be further reared in the framework of development of agriculture,

plantation or forestry, animal husbandry, or fishery.

Clause f

"Sea products" are all kinds of sea animals worth *for* consumption, such as fish, shrimp's, shells, and crabs that are not yet or already processed in the catching fleet/device.

"Catching" fleet/device is one or several ships that have tools for catching or extracting sea products, including those that' have processing equipment.

"Licensed catching device" is Indonesian or foreign flag catching fleet that already secures license from Indonesian government to catch or extract sea products.

Clause g:

In transactions, possible change of condition of goods before goods are received by buyer might happen. And, provisions regarding collection of import duty in this Law are applicable to all goods imported to be used so if there is change of condition (damage, decline of quality, or natural decline in volume or weight), goods cannot be used or cannot give the expected benefits, it is normal if goods that experience change of condition as mentioned above are not subjected to collection of import duty in full amount. So, change of condition happen in between time of transportation and issuance, of license import to be used.

Clause h

"Public interest" is interest of society that does not put priority interest in financial field, for example, installation of lights in public roads.

Clauses i - k

Sufficiently clear

Paragraph (4)

"Does not comply with provisions" are among other things, not being used in accordance with their intended uses and conditions as stipulated, such as import duty; dispensation on import of goods for sporting needs, but, in fact; these goods

are traded.

Article 27

Paragraph (1)

Clause a

Administrative failure includes, among other things, writing mistake, miscalculation, or mistake in writing of tariff.

Clause b

Sufficiently clear

Clause c

"Certain reasons" means that the event is not due to importer's intention, but due to government policy that results in the import goods not being able to be imported to customs area so they must be re-exported or destroyed under monitoring of customs and excise officer in similar condition.

Clauses d and e

Sufficiently clear

Paragraph (2)

Sufficiently clear

Article 30

Sufficiently clear

Article 32

Paragraph (1)

Basically, importer is responsible for paying import duty on the goods imported by him. But, pursuant to the provisions of Article 30 paragraph (1) of this Law, importer is declared as responsible for paying import duty since registration of customs manifest. So, before customs manifest is registered, the operator of temporary store place, namely place for storing the import goods, is responsible for payment of import duty.

Paragraph (2)

Sufficiently clear

Paragraph (3)

If import goods subjected to import duty consist of several types under one general name (classification of goods), and the actual type of the goods cannot be identified, the basis for calculation of import duty is the highest tariff applicable for the type of the goods, and customs value is stipulated by customs and excise officer.

Paragraph (4)

Sufficiently clear

Article 36

Paragraph (1)

Sufficiently clear

Paragraph (2)

"Rounded in thousands of Rupiah" means being rounded above so that less than a thousand is rounded to one full thousand.

Paragraph (3)

Sufficiently clear

Article 37

Paragraph (1)

Import duty as meant in Article 2 must be fully paid within not later than date of registration of customs manifest on import.

Paragraph (2)

"Deferred payment" means deferred payment of import duty in the framework of regular payment and deferred payment facility because of waiting for issuance of decision on import duty exemption or dispensation.

Paragraphs (2a) and (3)

Sufficiently clear

Article 37 A

Paragraph (1)

Sufficiently clear

Paragraph (2)

The Director General may give deferred payment or installed payment after considering capacity of the person in paying his debts based on financial statements and credibility of that person.

Paragraphs (3) and (4)

Sufficiently clear

Article 38

Sufficiently clear

Article 41

With the validity of Law No. 19/1997 on Collection of Taxes by Letter of Compulsion as already amended by Law No. 19/2000, collection of import duty is implemented by the Director General of Customs and Excise.

Article 44

Paragraph (1)

Purpose of procurement of bonded store place in this Law is giving facility to operator in form of deferred payment of import duty.

"Deferred payment" means temporary elimination of payment of import duty until arising of obligation of payment of import duty pursuant to this Law.

In the bonded store place, activities of storing, keeping, conducting quality control, repairing/reconditioning, combining/kitting, exhibiting, selling, packing, re-packing, processing, recycling, auctioning, assembling, disassembling, and/or cultivating floras and faunas originating from outside customs area are operated without prior collection of import duty.

Procurement of the bonded store place is expected to accelerate flow of import or export goods and to enhance domestic production

Clause a

Sufficiently clear

Clause b

"Processing" is an activity of processing raw materials, semi-finished goods, and/or finished goods to become goods with higher values.

Clause c

Import goods, after being exhibited, may be re-exported or sold after import duty is already paid.

Goods originating from customs area may be exported after meeting export requirements in accordance with regulations in force.

Clause d

"Certain person" is foreign Citizen working in Indonesia or person who departs to another country.

Clauses e and f

Sufficiently clear

Clause g

"Recycle" means an activity of treating waste and other goods to become products with added values and higher economic values.

Paragraph (1a)

Designation by minister is to anticipate industrial development and international trade.

Paragraph (2)

"Operation of bonded store place" is activities of storing, keeping, conducting quality control, repairing/reconditioning, combining/kitting, exhibiting, selling, packing, re-packing, processing, recycling, auctioning, assembling, disassembling, and/or cultivating floras and faunas in bonded store place.

Article 45

Paragraph (1)

Sufficiently clear

Paragraph (2)

Clauses a and b

Sufficiently clear

Clause c

"Other goods" include, among other things, waste, cargo, remains, damaged raw materials, and/or damaged goods.

Paragraph (3)

Exit of goods in this paragraph is implemented without intention to prevent payment of import duty because customs manifest is already submitted and import duty is already paid, but exit of these goods is implemented without license of customs and excise officer so the violator is subjected to administrative sanction in form of monetary charge.

Paragraph (4)

"Operator of bonded store place is a person who operates activities of storing, keeping, conducting quality control, repairing/reconditioning, combining/kitting, exhibiting, selling, packing & repacking, processing, recycling, auctioning, assembling, disassembling, and/or cultivating florals and, in bonded store place.

The provisions of this paragraphs state that import goods subjected to import duty which are missing from bonded store place, bonded store place operator shall pay the import duty payable and administrative sanction in form of monetary charge.

Article 49

"Accounting" means a process of regular recording to collect data and information regarding and that affects assets, liabilities, capital, revenues, and expenses which describe total cost of acquisition and delivery of goods and services, which are then written on financial statements.

Obligation to operate accounting is necessary for performance of customs audit after goods are exited from customs zone.

"Transportation operator" is a person that provides services of transportation of import or export goods by land, sea, and air transportation vehicles.

Article 50

Paragraph (1)

Sufficiently clear

Paragraph (2)

"Person as meant in paragraph (is) not available" on corporation means the director of the corporation is not available. "Authorized party" means-employee or subordinate or other parties appointed by the person as meant in Article 49.

Article 51

Paragraph (1)

The provisions of this paragraph are intended to calculate value o import of export transaction. To guarantee achievement of the above purpose, accounting shall be operated based on method or system normally adopted in Indonesia, for example, financial accounting standards.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Financial statements, books, records, and documents evidencing accounting, letters relating to business activities including electronic data, letters relating to activities in customs affairs, shall be kept for ten(10) years in Indonesia with the intention that if the Director General will perform customs audit, evidence of accounting and letters necessary are available and can immediately be made available.

In case that data is in form of electronic data, the person shall guarantee reliability of the data processing system so the electronic data stored can be opened, read, or downloaded at any time.

Paragraph (4)

Sufficiently clear

Article 5

Sufficiently clear

Article 53

Paragraph (1)

According to international customs practices, monitoring over flow of goods into or out from customs area is performed by customs institution. So, to make monitoring over regulations: on prohibition and restriction to become effective and coordinated, the related technical institution shall convey the above regulations to Minister to be stipulated and implemented by the Directorate General of Customs and Excise.

Paragraph (2)

Sufficiently clear

Paragraph (3)

Goods which import or export is prohibited or restricted and do not meet requirements are import or export goods notified in customs manifest, but do not meet the conditions as stipulated in regulations on prohibition or restriction of the above goods,

"Notified in customs manifest" as meant in this Article, may be in form of inward manifest, manifest of import for uses, and export manifest.

Request of importer or exporter to cancel export, re-export, or destroy goods cannot be agreed if the laws in force stipulate otherwise.

Paragraph (4)

"Stipulated otherwise by the laws in force" means that the laws in force specifically stipulate about import goods prohibited or restricted, for example, import of waste containing imports or exports or attempts to import or export goods imports or exports or attempts to import or export goods ous and toxic materials.

Administrative sanction as meant in this paragraph shall not reduce the criminal provisions.

Article 54

The written instruction is issued by chief of commercial court which domicile covers

customs zone, namely; place where import or export activities take place.

In case that import of goods are destined to several customs zones in Indonesian customs area, request of the instruction is addressed to and issued by chief of commercial court which domicile; covers the first customs zone, namely place where import goods are destined or unloaded. In case that export is destined to several customs zones, such request is addressed to and issued by chief of commercial court which domicile covers the first customs zone, namely place where export takes place.

"Commercial court" is the commercial court which is competent based on the laws in force.

Article 56

Sufficiently clear

Article 57

Paragraph (1)

The ten (10) working day period is the maximum period for delay. The term is provided to give an opportunity to the one who requested for delay to take actions to maintain his right in accordance with the laws in force.

Paragraph (2)

Extension of the term of delay may only be done with tight requirements to prevent possible misuses of right to request for delay.

Paragraph (3)

Sufficiently clear

Article 58

Paragraph (1)

Examination is performed in the framework of identification for the exercising of legal actions. or actions to maintain right which is assumed as having been violated.

The examination is performed with knowledge of customs and excise officer.

Paragraph (2)

Since the request for delay is based on assumption, the interest of owner of goods should also be considered properly. Such interest includes, among other things, for maintaining trade secrets or confidential information technology secrets, used for import or export goods. In such cases, examination is only permitted physically, only to identify goods which are requested for delay.

Article 59

Sufficiently clear

Article 60

"Certain cases" are, for example, goods which are easily damaged.

Article 61

Sufficiently clear

Article 64A

Paragraph (1)

"Action taking" means action taking in customs affairs necessarily operated by the Directorate General of Customs and Excise on goods assumed to be related to terrorism-and/or cross-country crimes.

Paragraph (2)

Sufficiently clear

Article 75

Paragraph (1)

These provisions are made so that in performing monitoring so that transportation vehicle passes through the designated lane and to examine transportation vehicle inform of ship, customs and excise officer should be equipped with means of operation in form of patrol boat or other means, such as telecommunications radio or radar.

"Patrol boat" is vessel and/or airplane owned by the Directorate General of Customs and Excise and commanded by customs and excise officer as the commander who is authorized to enforce law in customs area pursuant to this Law.

Paragraph (2)

The patrol boat or other means with fire weapon as meant in this paragraph is to face events that threaten lives .or safety of customs and excise officer and patrol boat pursuant to regulations in force.

Article 76

All government institutions, civil or military, if requested, shall give their assistance and protection or give instruction to protect customs and excise officer in any matter relating to their authorities.

The provisions of this Article state that the assistance as mentioned above is in relation to any activity performed by customs and excise officer based on the laws in force.

Article 78

Authority of customs and excise officer as set forth in this Article is to guarantee better monitoring in the framework of protection of state finances.

Article 82

Paragraph (1)

This paragraph authorizes customs and excise officer to examine goods in order to obtain accurate data and results of inspection into manifest or document submitted.

In performing the examination, owner of goods or his authorized party shall be present in the examination.

Paragraph (2)

“Deliver goods to be examined” in this paragraph means making available goods at place of examination and prepare tools for examination to enable customs and excise officer to perform physical examination of goods.

Paragraphs (3)

Sufficiently clear

Paragraph (6)

"Mistakenly" in this paragraph means mistake due to negligence.

"State levies on export" include export duty.

Article 82A

Paragraph (1)

"Officially perform examination" means examination performed by customs and excise officer due to his authority given pursuant to this Law in the framework of monitoring.

Paragraph (2)

Sufficiently clear

Article 85

Paragraphs (1) and (2)

Sufficiently clear

Paragraph (3)

These provisions are intended in case that the person already "fulfills his liabilities, customs officer immediately gives customs services.

Article 85A

Paragraph (1)

This Article authorizes customs and excise officer to perform examination into certain goods on transportation vehicle, at place of loading of goods and at place of unloading in customs area.

Article 86

Paragraph (1)

Audit is performed in the framework of monitoring as a consequence of the application of:

- a. Self assessment system;
- b. Provisions regarding customs value based on transaction value;
- c. Giving of elimination, exemption, dispensation, restitution, or deferred payment of import duty that may only be monitored and evaluated after import goods are exited from customs zone.

Paragraph (1a)

Clause a

Customs audit does not constitute audit to evaluate or give opinion regarding financial statements, but to examine compliance with customs regulations.

The financial statements requested in customs audit for purpose only to ensure that the accounting given by person to customs and excise officer is the actual accounting applied in recording conditions of business activities at the end of period as written on financial statements.

Besides, with financial statements, customs and excise officer may get information regarding activities of the person relating to customs affairs.

Customs and excise officer who performs audit may not disclose to un entitled parties anything known by or informed to him by audited person.

Clause b

"Other related parties" means parties who have relationships with the person related to the transaction executed by that person, for example, domestic buyer of import goods, foreign buyer of export goods, domestic supplier of export goods, foreign supplier of import goods, banks, and other parties who are surely able to give information regarding the transaction executed by the person, such as Centre for Financial Transaction Reporting and Analysis.

Clauses c and d

Sufficiently clear

Paragraph (2')

These provisions are intended that the action that causes customs and excise officer not being able to perform his authority includes not submitting financial statements, books, records, and documents that become evidences of accounting, letters relating to business activities including electronic data, and letters relating to activities in customs affairs as meant in Article 50.

Paragraph (3)

Sufficiently clear

Article 86A

Sufficiently clear

Article 88

Buildings and other places that are non-residential places as meant in this paragraph are, for example, buildings constructed specially any to store any goods and are not intended as places or business pursuant to this Law.

If based on the existing guidelines, in that place, goods related to violations exist in that place, whether goods subjected to import duty or subjected to prohibition and restrictions, the Director General may instruct customs and excise officer to inspect such place.

Paragraph (2)

Sufficiently clear

Article 90

Paragraph (1)

"Stop and examine" are performed by customs and excise officer on transportation vehicle for the purpose of monitoring and compliance with laws and the implementation is assigned to Directorate General of Customs and Excise. Therefore, stopping and examination of transportation vehicle and the goods carried by the vehicle are performed selectively.

Paragraph (2)

Sufficiently clear

Paragraph (3)

These provisions are intended that in performing monitoring over transportation vehicle that unloads import goods, customs and excise officer is authorized to stop the work if the goods unloaded are, in fact, may not be imported to customs area.

Paragraph (4)

Sufficiently clear

Articled 92A

Paragraph (1)

Clause a

Revision of letter of stipulation of collecting of import duty shortage, pursuant to these provisions, is conducted in the framework of implementation of good governance so if there are mistakes or human errors found in a stipulation, due revisions will be made.

"Revise" may also be defined as adding, reducing, or deleting, in accordance with nature of the mistake and error.

The Director General, because of his authority, may revise or cancel mistaken letter of stipulation of collection of import duty shortage, for example it does not meet the formal requirements even though material requirements are already fulfilled.

Clause b

The Director General may reduce or eliminate administrative sanction in form of monetary charge if the sanctioned person only committed mistake instead of intentional wrongdoing or such wrongdoing happens as a result of the act of another person who does not have business relationship with him and without his knowledge and approval.

Paragraph (2)

Sufficiently clear

Article 93

Paragraph (1)

These provisions are intended to guarantee legal certainty and as a manifestation of justice and to give right to user of customs services to file petition against decision of customs and excise officer.

The sixty (60) day period given to user of customs services is deemed necessary for

the concerned party to collect data necessary for filing of petition to the Director General.

In case that the sixty (60)-day period is exceeded the concerned party is no longer entitled to file petition, and stipulation of customs and excise officer is deemed agreed.

"Equal to outstanding payment" means import duty shortage, shortage of tax in the framework of import, and administrative sanction in form of monetary charge.

In case that outstanding payment is already fully paid, petition may still be submitted without the obligation to convey a guarantee.

Paragraph (1a)

"Import goods are not yet exited" in this paragraph means import goods are still in customs area.

The party who files petition is responsible for the import goods and for possible expenses.

Paragraph (2)

Sixty (60) day period-is a sufficiently time for the Director General to decide the petition submitted by user of "customs services considering that the Director General should also collect data and information for deciding a petition.

Paragraph (3)

"Rejected by the Director General" means rejection of the Director General against .petition so the stipulation of customs and excise officer is final and binding.

Rejection by the Director General may also be in form of rejection of petition partly, or the Director General stipulates matters other than customs and excise officer's stipulation, and the stipulation may be higher or lower than customs and excise officer's stipulation.

Paragraphs (4) - (6)

Sufficiently clear

Article 93A

Paragraph (1)

Petition may be filed against stipulation of customs and excise officer relating to matters other than tariff and/or customs value, for example, invalidation of facility or stipulation as a result of misinterpretation of regulations.

Paragraphs (2) and (3)

Sufficiently clear

Paragraph (4)

Sixty (60) day period is a sufficient time for the Director General to decide the petition submitted by user of customs services considering that the Director General should also collect data and information for deciding a petition.

Paragraphs (5) - (8)

Sufficiently clear

Articles 94 and 95

Sufficiently clear

Article 102

Paragraphs a - c

Sufficiently clear

Paragraph d

"Import goods under monitoring" are import goods which customs liabilities are not yet settled.

"Unloads or stores in places other than designated and/or permitted places" is, for example, goods destined to bonded store place A are unloaded or stored outside bonded store place A.

Paragraph e

"Hides import goods not in accordance with the laws" means storing goods in improper place and/ or intentionally not revealing location of the goods.

"Improper places" include, among other things, inside container's wall, inside suitcase's wall, in the body, inside ship's wall in the machine room, or other places.

Paragraphs f and g

Sufficiently clear

Paragraph h

The difference between violation as meant in this paragraph and the one as meant in Article 82 paragraph (5) is that the violation as meant in this paragraph is based on an act committed intentionally and in violation with the law.

Article 102A

Paragraph a

Sufficiently clear

Clause b

"State levies on export" means export duty.

Clause c

"Loads" means loading export goods onto transportation vehicle that is to depart to outside customs area.

Paragraph d

These provisions are intended to prevent repeat unloading of export goods already loaded onto transportation vehicle with main purpose to prevent fictitious for example.

Paragraph e

Sufficiently clear

Articles 102B - 102D

Sufficiently clear

Article 103

Paragraph a

"False or forged documents" include, among other things:

- a. Documents made by un-entitled person; or
- b. Documents made by entitled person, 'but contain false data.

Paragraph b

Sufficiently clear

Paragraph c

"Gives verbal information" as meant in this paragraph is mainly for passengers and border crossers.

Paragraph d

These criminal provisions are related to condition of place of identification of person who keeps, owns, stores, buys, sells, exchanges, acquires, or delivers illegal import goods as meant in Article 102.

A person who is found keeping, owning, storing, buying, selling, exchanging, acquiring, or delivering goods without the doer of such crime being identified, may be subjected to penalty pursuant to this Article. But, if he acquires the goods in good faith, he is not prosecuted. Or, if the doer of the act is identified, both can be prosecuted.

Article 103A

Paragraph (1)

"Accesses" means an act or attempt conducted to login into system of customs.

Login" means entering or connected to an electronic system so the doer is able to send and/or acquire information through the data available in the electronic system.

Paragraph (2)

Sufficiently clear

Article 104

Paragraphs a - c

Sufficiently clear

Paragraph d

This paragraph is to prevent falsification or manipulation of data on complementary customs manifest, for example, invoice.

Article 105

"Damages" means damaging or performing action that changes the function of the key, seal, or protecting/security label.

Article 107

This Article states that if operator of customs services commits violation against this Law in performing the work delegated by importer or exporter, he is threatened with penalty which is equal to the one imposed on importer or exporter, for example, if operator of customs services falsifies invoice received by importer so that the customs value written on the customs manifest submitted on behalf of the importer becomes lower, the operator of customs services is threatened with penalty.

Article 108

This Article provides possible imposition of penalty on corporation, corporate body or company, including state or regional enterprise in any name and form, permanent establishment or other business enterprise, association, including alliance, firm or partnership, foundation or similar organization, or cooperatives; In practice, sometimes a person commits an act, by hiding behind or committing the act on behalf of the above enterprises.

Therefore, besides the above enterprises, those who give orders to commit criminal acts or who actually commit the criminal acts shall also be penalized. So, the person acting not on behalf of himself, but as agent of an enterprise, must also comply with regulations and prohibitions threatened with penalty, as if they are the ones who committed the acts.

Based on result of investigation, penalty to be imposed on the concerned enterprises and/or their directors may be stipulated. Penalty imposed on enterprises is always in form of monetary charge.

Article 109

Paragraph (1)

Sufficiently clear

Paragraph (2)

"Merely used for committing criminal act" is transportation vehicle, at the time it is, caught, is intended for committing smuggling

Paragraph (2a)

"Is seized" means giving authority to the judges to consider the verdict, case by case, for example, ship which only transports certain goods in small volume, and ship used as transportation vehicle to support regional trade is not to be seized.

Paragraph (3)

In general, court verdict is implemented by public prosecutor. But, import or export goods, which, based on court verdict, are declared as seized for interest of the state based on this Law, become state assets and the utilization of which is stipulated by Minister.

Article 113A

Paragraph (1)

This paragraph states that employee of the Directorate General of Customs and Excise, in performing his duty and authority, shall put priority services or monitoring in collection of fund through collection of import duty, protecting of public interest, acceleration of flow of goods, persons, documents, and creating of business climate which is supportive to enhance national development.

Paragraph (2)

Considering that performance of duties of the Directorate General of Customs and Excise is closely related to monitoring and services, employee of the Directorate General of Customs and Excise who performs his duty and authority must be responsible for his act to the Codes of Ethics Commission if he violates codes of ethics.

Paragraphs (3) and (4)

Sufficiently clear

Articles 113 B and 113C

Sufficiently clear

Article 113D

Paragraph (1)

"Customs violation" means administrative violation and criminal act in customs affairs. "Successfully" means having successfully settled:

- a. Administrative violation" in form of disclosing of information, administrative or physical identification, and settlement of collection *of* outstanding payments; or
- b. Criminal act in customs affairs that include disclosing *of* information, implementing of detention, investigation, and prosecution.

Paragraphs (2) - (4)

Sufficiently clear

Article 115A

Paragraph (1)

The provisions of this paragraph are to prevent misuses of free trade zone or border, port from import and/or export of prohibited and restricted goods, such as drugs, fire weapons, and explosives.

Paragraph (2)

Sufficiently clear

Article 115B

"Information with certain characteristics" means information regarding state secrets or, which, based on the 'laws in force, shall be kept as secret.

Paragraph (2)

Sufficiently clear

Article 115C

Sufficiently dear

Paragraph (3)

The provisions of this paragraph are an attempt to protect state finances and are implemented by the Supreme Audit Board or other auditors based on the law.

Paragraph (4)

Request of the judge as mentioned in this paragraph, shall mention name of suspect, information inquired, and relationship between criminal act with the information, inquired.

Article II

Sufficiently clear

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