INDONESIA

SSEK
Indonesian Legal Consultants

New Trade Law and its effect on business

By Ira A Eddymurthy and Ryan A Budiharjo

Indonesia's House of Representatives (Dewan Perwakilan Rakyat or DPR) recently passed into law a long-awaited trade bill. The new Trade Law will act as an underlying regulation for other trade-related regulations that have been issued in Indonesia.

There are several points of the new Trade Law in particular that should be highlighted and could affect companies doing business in Indonesia. These points are related to (i) domestic and international trade activities, (ii) labeling, (iii) the standardization of trade goods, (iv) e-commerce transactions, (v) international trade security for exports and imports, (vi) export business facilities, (vii) warehouse registration, and (viii) the requirement for business service providers to have competent technical personnel.

The Trade Law does not provide specific requirements or detailed information on the above key points and most of the provisions provide that these will be further regulated by the implementing regulations to be issued by the relevant government institutions. Therefore, it remains to be seen how the provisions of the Trade Law will be applied and enforced.

Trade protection

There is a reference in the new Trade Law that the Indonesian government may intervene in the Indonesian market and in international trade activities to protect national interests and boost the domestic market.

A clause in the Trade Law allows the government to restrict or prohibit the import and export of certain products for a number of reasons. Those reasons include: (a) to ensure a sufficient supply to meet domestic demand; (b) to add economic value to natural resources; (c) to control commodity prices in the domestic market; and (d) to build, accelerate, and protect specific domestic industries.

Such provision is in line with Indonesia's recent ban on the export of some raw mineral ores, which was introduced by the government to add value to the ores and boost the domestic industry.

Domestic products

For the purpose of strengthening the domestic market, the central government, regional governments, and/or related institutions will make an effort to increase the use of domestic products. This could affect the business activities of importers and manufacturers that use imported products for their raw materials.

Protections for Indonesian exporters

The new Trade Law provides the government the means to protect Indonesian exporters against accusations from export destination countries. It provides procedures to protect domestic producers, giving the Indonesian government the power to impose import duties, antidumping mechanisms, or quotas on imported products deemed to be harming or causing losses to Indonesian producers.

The new law does not provide details on how potential losses by Indonesian producers will be determined. The Ministry of Trade will further stipulate any import duties, antidumping mechanisms, and/or quotas.

E-commerce

The new Trade Law requires that any party providing goods and/or services electronically submit the necessary information to the relevant authority. This information shall include: (i) proof of status as a producer or distributor; (ii) technical details of goods and/or services being traded; (iii) price of goods and/or services; and (iv) method of payment and method of delivery of goods and/or services.

Failure to comply with these requirements would result in the loss of business license.

Implementing regulations

Almost all of the provisions under the new Trade Law will be further regulated by way of implementing regulations. Such implementing regulations are to be issued within two years of the promulgation date of the law, and these implementing regulations will provide further detail on how the law will be implemented and its effect on business.

Lastly, the new Trade Law will repeal and replace: 1. Provisions on trade under the 1934 Bedrijfsreglementerings Ordonnantie; 2. Law No. 10 of 1961 regarding the Affirmation of Government Regulation in Lieu of Law No. 1 of 1961 regarding the Trading Goods as Law; 3. Government Regulation in Lieu of Law No. 8 of 1962 regarding the Supervised Trading of Goods; and 4. Law No. 11 of 1965 regarding the Affirmation of Government Regulation in Lieu of Law No. 5 of 1962 on the Amendment of Government Regulation in Lieu of Law No. 2 of 1960 regarding Warehouses as Law.

Soewito Suhardiman Eddymurthy Kardono (SSEK)
14th Floor Mayapada Tower
Jl. Jend. Sudirman Kav.28
Jakarta 12920, Indonesia
Tel: (62) 21 304 16700 / 521 2038
Fax: (62) 21 521 2039
Email: iraeddymurthy@ssek.com
ryanbudiharjo@ssek.com
www.ssek.com