

PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

BY GRACE OF GOD THE ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering:

That in order to implement the provisions of Articles 78, 89, 95, 99, 108, 112 paragraph (2), 113, and 210 paragraph (2) of Law Number 17 Year 2008 regarding Shipping, it's necessary to stipulate a government regulation regarding Port Affairs;

In view of:

1. Article 5 paragraph (2) of the Constitution of 1945;
2. Law Number 17 Year 2008 (BN No. 7505 pages 10A-15A and so on) regarding Navigation (Statute Book of the Republic of Indonesia Year 2008 Number 64, Supplement to Statute Book of the Republic of Indonesia Number 4849);

D E C I D E S :

To stipulate:

THE GOVERNMENT REGULATION REGARDING PORT AFFAIRS.

CHAPTER I

GENERAL PROVISION

Article 1

Referred to in this government regulation as:

1. Port shall be a place consisting of mainland and/

or waters with certain borders as a place of administration activity and management activity used as a place where ships berth, embark and disembark passengers and/or load/unload goods, in the form of terminal and berthing place of ships equipped by navigation safety and security facilities and seaport supporting activities as well as a place for the change in intra- and inter-transportation mode.

2. Port Affairs shall be everything related to the exercise of port functions to support the smooth, secure and orderly traffic of ships, passengers and/or goods, navigation safety and security, a place for intra- and inter-mode change as well as boost national and regional economy by regarding territorial layout.
3. National Port Affairs Arrangement shall be a seaport affairs system containing role, function, type, hierarchy of seaport, national port master plan, and location of port as well as intra- and inter-mode integration as well as integration with other sectors.
4. Main Port shall be a port performing the main function to serve domestic and international sea transport activities, transfer of domestic and international sea transport freights in a large quantity and as the origin /destination of passengers and/or goods as well as ferry transport with the sphere of inter-provincial service.

5. Collecting Port shall be a port performing the main function to serve domestic sea transport activities, transfer of domestic sea transport freights in a medium quantity and as a place of origin/destination of passengers and/or goods as well as ferry transport with the sphere of inter-provincial service.
6. Feeder Port shall be a port performing the main function to serve domestic sea transport activities, transfer of domestic sea transport freights and as a place of origin/destination of passengers and/or goods as well as free transport with the sphere of intra-provincial service.
7. Seaport shall be a port usable to serve sea transport activities and/or ferry transport activities on sea and river.
8. River and Lake Port shall be a port used for serving river and lake transport on river and lake.
9. Port Administrator shall be port authority or port administrator unit.
10. Port Authority shall be a government institution at port as authority performing the functions of regulation, control and supervision over commercially managed port activities.
11. Port Administrator Unit shall be a government institution at port as authority performing the function of regulation, control, supervision over port activities and providing port service for ports not yet managed commercially.
12. Sea Transport shall be transport activity which according to the activity thereof serves sea transport activity.
13. Ferry Transport shall be transport serving as bridge linking road networks and/or railway networks separated by waters to carry passengers and vehicle along with freight thereof.
14. River and Lake Transport shall be transport activity by using ship on sea, lake, reservoir, embankment, swamp, flood canal and tunnel to carry passengers and/or goods, which is managed by river and lake transport company.
15. National Port Master Plan shall be the regulation of national port space containing information about port policy, planned locations and port hierarchy nationally, which constitutes guideline in stipulating locations, development, operation and expansion of ports.
16. Port Master Plan shall be the regulation of port space in the form of the designation of land and waters exploitation plan in the working and interest area of port.
17. Working Area shall be waters and mailand at special seaport or terminal, which are used directly for port activities.
18. Interest Area shall be waters around the waters working area of port, which are used for assuring navigation safety.
19. Terminal shall be a port facility consisting of berthing or anchoring basin, hoarding place, waiting place and embarkation/disembarkation place of passengers and/or loading/unloading place of goods.
20. Special Terminal shall be a terminal located outside working area and interest area of port, which constitutes a part of the nearest port to

serve private interest in accordance with the main business thereof.

21. Private Interest Terminal shall be a terminal located inside working area and interest area of port, which constitutes part of port to serve private interest in accordance the main business thereof.
22. Special Terminal Management shall be a specified business entity in accordance with the main business thereof.
23. Mooring Basin shall be waters constituting part of port basin, which is used for operational interest of ship mooring and thettering at the pier.
24. Port Basin shall be waters in the front of the pier, which are used for operational interest of ship mooring and movement.
25. Layout shall be the shape of spatial structure and pattern.
26. Spatial Arrangement shall be a system of layout planning, space utilization and control over he use of space.
27. Management Right to Land shall be a right granted to the government, regional governments or state-owned enterprises, which can be used for interests of other parties.
28. Harbormaster shall be a government official at port, who is appointed by the Minister and has the highest authority to implement and conduct supervision over the fulfillment of the provisions of legislation in order to assure navigation safety and security.
29. Port Business Entity shall be a business entity having special business activity in the field of the management of terminal and other port facilities.

30. Concession shall be the granting of right by port administrator to port business entity to undertake activities of provision and/or rendering of certain port services in a specified period and with certain compensation.

31. Everybody shall be individual or corporation.

32. Central Government hereinafter called the Government shall be the President of the Republic of Indonesia holding the executive power of the Republic of Indonesia as referred to in the Constitution of 1945.

33. Regional Government shall be governor, regent/ mayor and regional apparatuses as components of regional administrator.

34. Minister shall be the minister in charge of shipping affairs.

Article 2

This government regulation shall rule national port affair arrangement, port master plan as well as working area and interest area of port, the implementation of activities at port, development and operation of port, special terminal and terminal for private interests, tariff, special port and terminal opened for foreign trade and port information system.

CHAPTER II

NATIONAL PORT AFFAIRS ARRANGEMENT

Part One

General

Article 3

- (1) The national port affairs arrangement shall be realized in the framework of operating ports

which are reliable and highly capable, assure efficiency, and have global competitiveness to support national and regional development in the context of the archipelago concept.

(2) The national port affairs arrangement as referred to in paragraph (1) shall constitute a national port system describing port affairs planning on the basis of economic, geographic area and comparative advantages of regions as well as natural condition.

(3) The national port affairs arrangement as referred to in paragraph (1) shall contain:

- a. role, function, type, and hierarchy of port;
- b. national port master plan; and
- c. port location.

Part Two

Role, Function, Type and Hierarchy of Port

Article 4

Ports shall play role as:

- a. hub in transportation networks in accordance with hierarchy thereof;
- b. gateway of economic activities;
- c. place for the transfer of transportation mode;
- d. support of industrial and/or trading activities;
- e. distribution, production and consolidation place of freights or goods; and
- f. instrument to realize the concept of archipelago state and state sovereignty.

Article 5

Ports shall function as activity place of:

- a. administration; and
- b. management.

Article 6

(1) Type of port shall consist of:

- a. seaport; and
- b. river and lake port.

(2) The seaport as referred to in paragraph (1) letter a shall be used for serving:

- a. sea transport; and/or
- b. ferry transport.

(3) Hierarchically, the seaport as referred to in paragraph (1) letter a shall consist of:

- a. the main port;
- b. collecting port; and
- c. feeder port.

Part Three

National Port Master Plan

Paragraph 1

General

Article 7

(1) National Port Master Plan, which constitutes the manifestation of national port affairs arrangement shall be used as a guideline in stipulating the location, development, operation, expansion of ports and formulating port master plan.

(2) The national port master plan as referred to in paragraph (1) shall constitute a long-term national port development policy.

Article 8

(1) The national port master plan as referred to in Article 7 paragraph (1) shall contain:

a. national.....

- a. national port policy; and
- b. planned location and hierarchy of ports.

(2) The Minister shall stipulate the national port master plan for a period of 20 (twenty) years.

(3) In stipulating the national port master plan as referred to in paragraph (2), the Minister shall coordinate first with the minister in charge of port affairs.

(4) The national port master plan as referred to in paragraph (2) may be reviewed once in 5 (five) years.

(5) In the of any change in strategic environmental condition attributed to disaster stipulated by the provisions of legislation, the national port master plan may be reviewed more than once in 5 (five) years.

Paragraph 2

National Port Policy

Article 9

The national port policy as referred to in Article 8 paragraph (1) letter a shall contain direction of the development of the existing ports and new ports so that the operation of ports may be mutually synergic and mutually supporting one each other.

Paragraph 3

Planned Location and Hierachy of Port

Article 10

(1) The planned location of ports to be built shall be formulated by referring to national port policy.

(2) The planned location of port to be built shall be in accordance with:

- a. national layout plan, provincial layout plan and regental/municipal layout plan;
- b. socio economic potentials and developments of regions;
- c. potentials of natural resources; and
- d. developments of national and international strategic environment.

Article 11

(1) In stipulating the planning location of the main ports used for serving sea transport, besides complying with the provision as referred to in Article 10 paragraph (2) shall also refer to:

- a. geographical affinity to international market destinations;
- b. affinity to international shipping lane;
- c. at a certain distance from the other main ports;
- d. having certain size of mainland and waters as well as being protected from wave;
- e. capable of serving ships with certain capacity;
- f. playing role as the transfer place of international passengers and goods; and
- g. volume of loading and unloading activity in certain quantity.

(2) In stipulating the planned location of the main port used for serving ferry transport, besides complying with the provision as referred to in Article 10 paragraph (2) shall also refer to:

a. national

- a. national road networks; and/or
- b. national railway networks.

Article 12

(1) Besides complying with the provision as referred to in Article 10 paragraph (2), the stipulation of the planned location of collecting port used for serving sea transport shall refer to:

- a. the government's policies, covering the equitable distribution of national development and enhancement of the growth of regions;
- b. having certain distance from other collecting ports;
- c. having certain distance from domestic sea transport lane/route;
- d. having certain size of mainland and waters as well as being protected from wave;
- e. close to regional growth center of the capital of province and national growth areas;
- f. capable of serving ships with certain capacity; and
- g. certain volume of loading and unloading activity.

(2) Besides complying with the provision as referred to in Article 10 paragraph (2), the stipulation of the planned location of collecting port used for serving inter-provincial and/or inter-state ferry transport shall refer to:

- a. national road networks; and/or
- b. national railway networks.

Article 13

(1) Besides complying with the provision as referred

to in Article 10 paragraph (2), the stipulation of the planned location of regional feeder port used for serving sea transport shall refer to:

- a. provincial layout and equitable distribution of development between provinces;
- b. regental/municipal layout as well as equitable distribution and enhancement of regental/municipal development;
- c. regional economic growth center;
- d. distance with other feeder ports;
- e. size of mainland and waters;
- f. passenger and goods service between regencies/cities and/or between districts in one city/regency; and
- g. capability of the port in serving ship.

(2) Besides complying with the provision as referred to in Article 10 paragraph (2), the stipulation of the planned location of regional feeder port used for serving inter-regency/city ferry transport in one province shall refer to:

- a. provincial road networks; and/or
- b. provincial railway networks.

Article 14

(1) Besides complying with the provision as referred to in Article 10 paragraph (2), the stipulation of the planned location of local feeder port used for serving sea transport shall refer to:

- a. layout of regency/city and equitable distribution as well as enhancement of regental/municipal development;
- b. regional economic growth center;
- c. distance with other feeder ports;

- d. size of mainland and waters;
 - e. passenger and goods service between regencies/cities and/or between districts in one regency/city; and
 - f. capability of port in serving ship.
- (2) Besides complying with the provision as referred to in Article 10 paragraph (2), the stipulation of the planned location of local feeder port used for serving ferry transport shall refer to:
- a. regental/municipal road networks; and/or
 - b. regental/municipal railway networks.

Article 15

By hierarchy of river and lake port service, the planned location of river and lake port as referred to in Article 6 paragraph (1) letter b shall consist of:

- a. river and lake port used for serving river and lake transport; and/or
- b. river and lake port serving ferry transport:
 - 1. between provinces and/or between countries;
 - 2. between regencies/cities in one province; and/or
 - 3. inside one regency/city.

Article 16

The planned location of river and lake port used for serving river and lake transport and/or ferry transport as referred to in Article 15 shall be formulated by referring to:

- a. geographic affinity to national and/or international market destinations;
- b. certain distance from other port;
- c. certain size of mainland and waters as well as being protected from wave;
- d. capable of serving ship with certain capacity;
- e. role as the transfer place of international passengers and goods;
- f. volume of loading and unloading activity in certain quantity;
- g. linked road networks; and/or
- h. linked railway network.

Part Four Port Location Article 17

- (1) The use of certain mainland and waters territory as port location shall be stipulated by the Minister in accordance with national port master plan.
- (2) The port location as referred to in paragraph (1) shall be accompanied by port master plan as well as working area and interest area of port.
- (3) The stipulation of the Minister as referred to in paragraph (1) shall contain at least:
 - a. geographic coordinate point of port location;
 - b. name of port location; and
 - c. position of administrative territory.

Article 18

- (1) Locations of ports shall be stipulated by the Minister on the basis of application from the government or regional governments.
- (2) The application as referred to in paragraph (1) shall be accompanied by requirements consisting of:
 - a. national port master plan;
 - b. provincial layout plan;
 - c. regental/municipal layout plan;
 - d. plan of working area and interest area of port;
 - e. result of feasibility study on:
 - 1. technical feasibility;
 - 2. economic feasibility;
 - 3. environmental feasibility;
 - 4. economic growth and social developments of local region;
 - 5. intra and inter-mode integration;
 - 6. access to hinterland;
 - 7. navigation safety and security; and
 - 8. defense and security.
 - f. recommendation from governor and regent/mayor.
- (3) Based on the application as referred to in paragraph (2), the Minister shall examine the

requirements.....

requirements in a period of 30 (thirty) working days as from the date of receipt of the application.

- (4) In the case of the application failing to comply with the requirements, the Minister shall grant written rejection accompanied by reason for the rejection.

Article 19

Further provision on procedures for stipulating locations of ports shall be governed by a regulation of the Minister.

CHAPTER III

MASTER PLAN OF PORT, WORKING AREA AND INTEREST AREA OF PORTS

Part One

Master Plan of Port

Article 20

- (1) Every port shall have master plan of port.
- (2) The master plan of port as referred to in paragraph (1) shall be formulated by port administrator by referring to:

- a. national port master plan;
- b. provincial layout plan;
- c. regental/municipal layout plan;
- d. harmony and equilibrium with other related activities in the location of the port;
- e. technical, economic and environmental feasibility; and
- f. ship traffic security and safety.

- (3) The planning period in master plan of port shall covers:

- a. long term, exceeding 15 (fifteen) years up to 20 (twenty) years;
- b. medium term, exceeding 10 (ten) years up to 15 (fifteen) years; and
- c. short term , 5 (five) years up to 10 (ten) years.

Article 21,.....

(To be continued)

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PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

[Continued from Business News No. 7922 pages 29A-36A]

Article 21

(1) Master plan of seaport and master plan of river and lake port shall cover plan of allocation of mainland and waters territory.

(2) The plan of allocation of mainland territory as referred to in paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. basic facilities; and
- b. supporting facilities.

(3) The plan of allocation of waters territory as referred to in paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. basic facilities; and
- b. supporting facilities.

Article 22

(1) The allocation plan of mainland territory for the port master plan as referred to in Article 21 paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall include:

- a. pier;
- b. first-line warehouse;
- c. first-line hoarding square;
- d. passenger terminal;

e. container terminal;

f. ro-ro terminal;

g. waste collection and treatment facility;

h. bunker facility;

i. fire extinguisher facility;

j. warehouse facility of dangerous and toxic materials/goods (B3); and

k. Shipping-navigation instrument (SBNP) and equipment maintenance and repairing facility.

(3) The supporting facility as referred to in paragraph (1) letter b shall include:

- a. office area;
- b. post and telecommunications facility;
- c. tourism and hotel facility;
- d. drinking water, electricity and telecommunications installations;
- e. road and railway network;
- f. waste water, drainage and rubbish network;
- g. port development area;
- h. waiting place of motorized vehicle;
- i. trading area;
- j. industrial area; and
- k. other public facilities.

Article 23

(1) The allocation plan of waters territory for the port master plan as referred to in Article 21

paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall include:

- a. shipping lane;
- b. berthing area;
- c. port basin for the anchorage and movement of ships;
- d. ship loading and unloading waters;
- e. waters for ship carrying Hazardous and Toxic Goods/Materials (B3);
- f. waters for the need of quarantine;
- g. waters for the need of intra-port connecting lane;
- h. piloting waters; and
- i. waters for government's ship.

(3) The supporting facility as referred to in paragraph (1) letter b shall cover:

- a. waters for the need of port development in the long term;
- b. waters for the need of ship building and maintenance facility;
- c. waters for the need of trial run of ship (trial run of sailing);
- d. waters for sheltering dead ships;
- e. waters for emergency purposes; and
- f. waters for the need of tourism activity and hotel.

Article 24

(1) The plan of designation of port land for the River and Lake Port Master Plan as referred to in Article 21 paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall cover:

- a. pier;
- b. hoarding square;
- c. passenger terminal;
- d. waste collecting and treatment facility;
- e. bunker;
- f. fire fighting facility; and
- g. Hazardous and Toxic Goods/Material treatment facility.

(3) The supporting facility as referred to in paragraph (1) letter b shall include :

- a. office building;
- b. post and telecommunications facility;
- c. tourism facility;
- d. drinking water, electricity and telecommunications installation;
- e. road and railway network;
- f. waste water, drainage and rubbish network;
- g. port development area;
- h. waiting place of motorized vehicle;
- i. commercial area;
- j. industrial area; and
- k. Other public facilities.

Article 25

(1) The plan of designation of port waters for the River and Lake Port Master Plan as referred to in Article 21 paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall include:

- a. shipping lane;
- b. anchorage area;
- c. area for the need of ship anchorage and movement;
- d. area for ships carrying hazardous and toxic materials/goods (B3); and
- e. area for the government's ships.

(3) The supporting facility as referred to in paragraph (1) letter b shall include:

- a. area for the need of long-term port development;
- b. area for the need of ship building and maintenance facility; and
- c. area for the need of emergency.

Article 26

(1) The plan of designation of port mainland for the Master Plan of Seaport as well as River and Lake Port as referred to in Article 21 paragraph (1), which are used for serving ferry transport shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall include:

- a. passenger terminal;
- b. weighing of loaded vehicle (good carrier); ^(S)
- c. gang way;
- d. office building for activities of administration and service;
- e. bunker;
- f. drinking water, electricity and telecommunications installation;
- g. road access and/or railway track;
- h. fire fighting facility; and; and
- i. waiting place (parking lot) of vehicle before embarking on ship.

(3) The supporting facility as referred to in paragraph (1) letter b shall include:

- a. area of office building supporting the smooth provision of port service;
- b. waste collection place;
- c. facility of businesses supporting activities of ferry port;
- d. port development area; and
- e. other public facilities.

Article 27

(1) The plan of designation of port waters for the Master Plan of Port and River and Lake Port as referred to in Article 21 paragraph (1) shall be formulated on the basis of criteria for the need of:

- a. main facility; and
- b. supporting facility.

(2) The main facility as referred to in paragraph (1) letter a shall include:

- a. shipping lane;
- b. berthing facility of ship;
- c. anchoring waters; and
- d. port basin for the need of berthing and movement of ships.

(3) The supporting facility as referred to in paragraph (1) letter b shall include:

- a. waters for the need of long-term port development;
- b. waters for the need of ship building and maintenance facility;
- c. waters for the need of trial run of ship (trial run of sailing);
- d. waters for the need of emergency; and
- e. waters for the need of the government's ship.

Article 28

(1) The master plan of port shall be stipulated by:

- a. the Minister, in the case of the main port and collecting port;
- b. governors, in the case of regional feeder port; or
- c. regents/mayors in the case of local feeder port as well as river and lake port.

(2) In stipulating the master plan of ports as referred to in paragraph (1) letter a, the Minister shall secure prior recommendation from governors and regents/mayors about the conformance

for layout plan of provinces and/or regency/city.

(3) In stipulating the master plan of ports as referred to in paragraph (1) letter b, governors shall secure prior recommendation from regents/mayors about conformance for layout plan of regencies/cities.

Article 29

Further provision on procedures for stipulating and evaluating the master plan of port shall be governed by a regulation of the Minister.

Part Two

Work Area and Interest Area of Port

Article 30

(1) The work area of port shall consist of:

- a. port land;
- b. port waters.

(2) The port land as referred to in paragraph (1) letter a shall be used for activities of the main and supporting facilities.

(3) The port waters as referred to in paragraph (1) letter b shall be used for activities of shipping lane, anchorage, inter-ship transfer of load, port basin for the berthing and movement of ships, piloting activities, ship repairing facility and other activities in accordance with the need.

Article 31

(1) Port Interest Area shall constitute port waters outside the work area of port.

(2) The port interest area as referred to in paragraph (1) shall be used for:

- a. shipping lane from and to port;
- b. emergency need;
- c. placement of dead ship;
- d. trial run of sailing;
- e. piloting of ship;
- f. ship building and maintenance facility; and
- g. long-term port development.

Article 32

(1) The work area and interest area of ports shall be stipulated by:

- a. the Minister, in the case of the main port and collecting port;
- b. governors, in the case of regional feeder port; or
- c. regents/mayors in the case of local feeder port as well as river and lake port.

(2) In stipulating the work area and interest area of ports as referred to in paragraph (1) letter a, the Minister shall secure prior recommendation from governors and regents/mayors about the conformance for layout plan of provinces and/or regency/city.

(3) In stipulating the work area and interest area of ports as referred to in paragraph (1) letter b, governors shall secure prior recommendation

from regents/mayors about conformance for layout plan of regencies/cities.

Article 33

The stipulation of borders of the work area and interest area of ports as referred to in Article 32 paragraph (1) shall contain at least:

- a. the size of mainland used as work area;
- b. the size of waters used as work area and interest area of port;
- c. geographic coordinate points as borders of work area and interest area of port.

Article 34

(1) The mainland and/or waters stipulated as work area and interest area of port as referred to in Article 32 paragraph (1) shall be controlled by the state and ruled by port administrator.

(2) In the stipulated work area of port, the right to manage land and/or use or utilize waters shall be granted in accordance with the provisions of legislation.

Article 35.....

(To be continued)

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PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

[Continued from Business News No. 7923 pages 28A-32A]

Article 34

- (1) The mainland and/or waters stipulated as work area and interest area of port as referred to in Article 32 paragraph (1) shall be controlled by the state and ruled by port administrator.
- (2) In the stipulated work area of port, the right to manage land and/or use or utilize waters shall be granted in accordance with the provisions of legislation.

Article 35

- (1) Based on the stipulation of work area and interest area of port as referred to in Article 32 paragraph (1), in the work area of port it shall be obliged to:
 - a. install border sign in accordance with borders of the mainland work area already stipulated;
 - b. install billboard containing information about borders of the mainland work area of port;
 - c. secure assets which are owned;
 - d. settle certificate of right to manage land in accordance with the provisions of legislation;
 - e. install border signs in accordance with the borders of work area of waters already stipulated;
 - f. notify the borders of waters work area of port to players of port activities;
 - g. provide shipping navigation auxiliary facility;
 - h. provide and maintain port basis and shipping lane;

- i. assure and preserve environmental conservation; and
- j. secure assets which are owned, in the form of port facilities on waters.

- (2) Based on the stipulation of work area and interest area of port as referred to in Article 32 paragraph (1), in the port interest area, port administrator shall be obliged to:
 - a. preserve security and order;
 - b. provide shipping navigation auxiliary facility;
 - c. provide and preserve shipping lane;
 - d. preserve environmental conservation; and
 - e. supervise and control the use of coastal area.

Article 36

Further provision on procedures for stipulating and evaluating the work area and interest area of port shall be governed by a regulation of the Minister.

CHAPTER IV

THE EXECUTION OF ACTIVITIES AT PORT

Part One

Public Administration Activity at Port

Paragraph 1

General

Article 37

- (1) Public administration activities at the port as referred to in Article 5 letter a shall cover minimally functions of:
 - a. regulation.....

- a. regulation and fostering, controlling and supervision over port activities; and
 - b. navigation safety and security.
- (2) Besides the public administration activities as referred to in paragraph (1), other functions which may be executed at port shall be:
- a. customs affairs;
 - b. immigration;
 - c. quarantine; and/or
 - d. other non-permanent public administration activities.

Article 38

- (1) The function of regulation and fostering, controlling and supervision over port activities as referred to in Article 37 paragraph (1) letter a shall be executed by port administrator.
- (2) The port administrator as referred to in paragraph (1) shall consist of:
- a. port authority at commercially managed port; and
 - b. port administrator unit at ports not yet managed commercially.
- (3) Port authority and port administrator unit may oversee one port or more.

Article 39

- (1) Harbor master shall perform the function of navigation safety and security as referred to in Article 37 paragraph (1) letter b.
- (2) In performing the function of navigation safety and security as referred to in paragraph (1), harbor master shall implement, supervise and enforce law in the field of on-water transportation, port affairs and maritime environment protection at port.

- (3) Besides performing the function as referred to in paragraph (1), harbor master shall help implement search and rescue at port in accordance with the provisions of legislation.

Article 40

- (1) In order to perform the function of navigation safety and security as referred to in Article 39 paragraph (1) and paragraph (3), harbor master institution shall be established.
- (2) The harbor master institution shall consist of:
- a. Head of Port Officer;
 - b. ship worthiness section;
 - c. seafarer and sailing worthiness affair section; and
 - d. order and patrol section.
- (3) Further provision on the organizational structure and working arrangement of harbor master institution shall be governed by the Minister after coordinating with the State Ministry in charge of administrative reforms.

Article 41

The customs, immigration, quarantine functions and other non-permanent public administration activities as referred to in Article 37 paragraph (2) shall be executed in accordance with the provision of legislation.

Paragraph 2

Port Authority

Article 42

- (1) The port authority as referred to in Article 38 paragraph (2) letter a shall be established at commercially managed ports.

(2) Port authority shall have task and responsibility as follows:

- a. providing area in port land and waters;
- b. providing and preserving breakwaters, port basin, shipping lane and road network;
- c. providing and preserving shipping navigation auxiliary facility;
- d. guaranteeing security and order at port;
- e. assuring and preserving environmental conservation at port;
- f. formulating master plan of port as well as work area and interest area of port;
- g. recommending tariff for stipulation by the Minister, with respects to the use of port waters and/or land and facility provided by the government as well as port services provided by port authority in accordance with the provisions of legislation; and
- h. assuring the smooth flow of goods.

(3) Besides the task and responsibility as referred to in paragraph (2), port authority shall also provide port services needed by users, which have not been provided by port business entity.

(4) In certain condition, the maintenance of breakwaters, port basin, shipping lane and road network as referred to in paragraph (2) letter b may be executed by port business entity or terminal operator for private interest, which is written down in a concession agreement.

Article 43

Port Authority shall finance operational

activities of port in accordance with the provisions of legislation.

Paragraph 3

Port Administrator Unit

Article 44

(1) The port administrator unit as referred to in Article 38 paragraph (2) letter b shall be established at ports not yet managed commercially.

(2) The port administrator unit as referred to in paragraph (1) shall be established and responsible to:

- a. the Minister in the case of the port administrator unit of the government; and
- b. governors or regents/mayors in the case of port administrator unit of regional government.

(3) In executing the function of regulation and fostering, control and supervision over port activities, the port administrator unit as referred to in paragraph (1) shall have the task and responsibility as follows:

- a. providing and maintaining breakwaters, port basin and shipping lane;
- b. providing and maintaining shipping navigation auxiliary facility;
- c. assuring security and order at port;
- d. assuring and maintaining environmental conservation at port;
- e. formulating master plan of port as well as work area and interest area of port;
- f. assuring the smooth flow of goods; and
- g. providing port facilities.

- (4) In certain condition, the maintenance of breakwaters, port basin and shipping lane as referred to in paragraph (2) letter b may be executed by terminal operator for private interest, which is written down in a concession agreement.

Article 45

- (1) Port administrator unit shall provide activities of provision and/or rendering of port services at ports not yet managed commercially.
- (2) The provision and/or rendering of port services as referred to in paragraph (1) may also be done by port business entity after securing concession from port administrator unit.

Paragraph 4

Port Administration Apparatus

Article 46

Port administration apparatus shall consist of:

- a. apparatus of port authority; and
- b. apparatus of port administrator unit.

Article 47

- (1) Apparatuses of port authority and port administrator unit as referred to in Article 46 shall constitute civil servant.
- (2) The apparatuses as referred to in paragraph (1) shall be obliged to have qualification and competence in the field of port affairs in accordance with the stipulated criteria.
- (3) The capability and competence in the field of port affairs as referred to in paragraph (2) shall consist of:

- a. port affairs management in the field of:

1. port planning;
2. port operation; and/or
3. piloting.

- b. sea transport management in the field of:

1. loading and unloading;
2. ship route; and/or
3. ship operation.

- c. knowledge of contract/agreement.

- (4) The capability and competence as referred to in paragraph (3) shall be proven by certificate of expertise achieved through port affairs education and/or training.

Paragraph 5

Organization and Working Mechanism of

Port Administrator

Article 48

- (1) The port authority as referred to in Article 42 paragraph (1) shall be led by a chief overseeing minimally 3 (three) sections, namely:
- a. planning and development;
 - b. port business; and
 - c. operation and supervision.
- (2) Port authority shall be established for one port or several ports.

Article 49

- (1) The port administrator unit as referred to in Article 44 paragraph (1) shall be lead by a chief overseeing minimally 3 (three) sections, namely:
- a. planning and development;
 - b. port business; and
 - c. operation and supervision.

- (2) Port administrator unit shall be established for one port or several ports.

Article 50

Further provision on the organizational structure and working mechanism of port administrator and port administrator unit shall be governed by the Minister after consulting with the state ministry in charge of administrative reforms.

Paragraph 6

Task and Responsibility of Port Administrator

Article 51

- (1) Port Authority shall provide area in the port land and waters as referred to in Article 42 paragraph (2) letter a.
- (2) The area as referred to in paragraph (1) shall be controlled by the state.
- (3) In the case of the area needed for port containing land title, the provision thereof shall be done by means of land procurement.
- (4) The procurement of land as referred to in paragraph (3) shall be done in accordance with the provisions of legislation.

Article 52

The provision of area in the waters as referred to in Article 42 paragraph (2) letter a shall be done in accordance with the operational need of port and to assure navigation safety.

Article 53

- (1) The provision and maintenance of breakwaters

by port authority and port administrator unit as referred to in Article 42 paragraph (2) letter b and Article 44 paragraph (3) letter a shall be done to prevent the current and height of wave from affecting activities at port.

- (2) The provision of breakwaters shall be done in accordance with the condition of waters.
- (3) Breakwaters shall be maintained periodically so as to remain working.

Article 54

- (1) The provision and maintenance of port basin by port authority and port administrator unit as referred to in Article 42 paragraph (2) letter b and Article 44 paragraph (3) letter a shall be done to ensure the smooth operation or movement of ships.
- (2) The provision of port basin shall be done through the development of port basin.
- (3) Port basin shall be maintained periodically so as to remain working.

Article 55

- (1) The provision and maintenance of shipping lane by port authority and port administrator unit as referred to in Article 42 paragraph (2) letter b and Article 44 paragraph (3) letter a shall be done to ensure the smooth flow of ships from and to ports.
- (2) The provision of shipping lane shall be done through the development of shipping lane.
- (3) Shipping lane shall be maintained periodically so as to remain working.

Article 56

- (1) Besides providing breakwaters, port basin and shipping lane, port authority shall be obliged to provide and maintain road network inside the port as referred to in Article 42 paragraph (2) letter b.
- (2) The provision and maintenance of the road network inside the port as referred to in paragraph (1) shall be done in accordance with the provisions of legislation.

Article 57

The provision and maintenance of shipping navigation auxiliary facility by port authority and port administrator unit as referred to in Article 42 paragraph (2) letter c and Article 44 paragraph (3) letter b shall be ruled specifically in a government regulation.

Article 58

- (1) Port authority and port administrator unit shall be responsible for ensuring security and order at the port as referred to in Article 42 paragraph (2) letter d and Article 44 paragraph (3) letter c.
- (2) Port authority and port administrator unit may establish security and order unit at port.

Article 59

In order to assure and maintain environmental conservation at the port as referred to in Article 42 paragraph (2) letter e and Article 44 paragraph (3) letter d, port authority and port administrator

unit shall prevent and mitigate environmental pollution in the implementation of activities at port.

Article 60

The master plan of port as well as work area and interest area of port as referred to in Article 42 paragraph (2) letter f and Article 44 paragraph (3) letter e shall be formulated by port authority and port administrator unit for every location of port belonging to their responsibility.

Article 61

- (1) The tariff as referred to in Article 42 paragraph (2) letter g shall be recommended by port authority to the Minister for every kind of port service which is provided.
- (2) The recommendation of the tariff as referred to in paragraph (1) shall be done in accordance with the provisions of legislation.

Article 62

In order to ensure the smooth flow of goods at the port as referred to in Article 42 paragraph (2) letter h and Article 44 paragraph (3) letter f, port authority and port administrator unit shall be obliged to:

- a. formulate system and procedures for the provision of port service on the basis of guidelines stipulated by the Minister;
- b. preserve the smooth and order of service for ships and goods as well as activities of other parties in accordance with the system and procedures for providing port service already stipulated;

- c. supervise the loading and unloading of goods;
- d. apply technology of integrated information and communications system to ensure the smooth flow of goods; and
- e. coordinate with related parties to ensure the smooth flow of goods.

Article 63

- (1) Port administrator unit shall provide the port facilities as referred to in Article 44 paragraph (3) letter g at ports not yet managed commercially.
- (2) The provision and maintenance of the port facilities shall be done in accordance with master plan of port.
- (3) In the provision and maintenance of port facilities, the application thereof shall be based on plan of construction design for the main and supporting facilities.
- (4) Port facilities shall be designed in accordance with the capability of berthing and anchorage service at port, including the use of equipment, which will be used at the port.

Article 64

- (1) Besides the task and responsibility as referred to in Article 42 paragraph (2), port authority shall provide and/or render port services needed by service users, which have not been provided by port business entity.
- (2) The activity as referred to in paragraph (1) shall cover service for ships serving smallholder shipping, pioneer shipping, public facility and social facility.

Article 65

- (1) The port authority and port administrator unit as referred to in Article 38 paragraph (2) shall play role as representative of the government to grant concession or other kinds to port business entity to undertake exploitation activities at port, which is written down in a agreement.
- (2) Concession proceeded earned by the port authority as referred to in paragraph (1) shall constitute state income in accordance with the provisions of legislation.
- (3) In executing activities, the port authority as referred to in paragraph (1) shall coordinate with regional governments.

Article 66

- (1) In order to execute the task and responsibility as referred to in Article 42 paragraph (2), port authority shall be authorized to:
 - a. rule and supervise the use of port land and waters;
 - b. supervise the use of work area and interest area of port;
 - c. regulate the traffic of ships from and to port through the piloting of ship; and
 - d. stipulate the operational performance standard of the provision of port services.
- (2) The stipulated operational performance standard of the provision of port service as referred to in paragraph (1) letter d shall be evaluated every year.

Article 67

Further provision on procedures for the provision, maintenance, standards and technical specifications of breakwaters, port basin, shipping lane, road network, and technical procedures for security and order at port shall be governed by a regulation of the Minister.

Part Two**Business Activities at Port****Paragraph 1****General****Article 68**

Business activities at port shall consist of:

- a. the provision and/or rendering of services for ships, passengers and goods and
- b. port-related services.

Paragraph 2

Provision of Service for Ships, Passengers and Goods

Article 69

(1) The provision and/or rendering of services for ships, passengers and goods as referred to in Article 68 letter a shall consist of:

- a. provision and/or rendering of quay service for anchorage;
- b. provision and/or rendering of service for the filling of fuel and drinking water service;
- c. provision and/or rendering of services for the embarkation and disembarkation facilities for passengers and/or vehicle;

- d. provision and/or rendering of quay service for the loading and unloading of goods and containers;
- e. provision and/or rendering of service for the warehouse and hoarding place of goods, loading and unloading equipment, as well as port equipment;
- f. provision and/or rendering of service for container, liquid bulk, dry bulk and ro-ro terminal;
- g. provision and/or rendering of service for the loading and unloading of goods;
- h. provision and/or rendering of service for the distribution and consolidation center of goods; and/or
- i. provision and/or rendering of tug service for ships.

(2) The activities as referred to in paragraph (1) shall be executed by port business entity.

Paragraph 3**Port-related Services****Article 70**

(1) The provision and/or rendering of port-related services as referred to in Article 68 letter b shall include:

- a. provision of waste collection facility;
- b. provision of container depot;
- c. provision of warehouse;
- d. cleaning and maintenance service for office building;
- e. drinking water and electricity installation;
- f. service for the filling of clean water and oil;

- g. provision of office building for the interest of port service users;
- h. provision of cold storage facility;
- i. maintenance and repairing of ships;
- j. packaging and labeling;
- k. fumigation and sanitation/repairing of containers;
- l. public transport from and to port;
- m. waiting place of vehicle;
- n. certain industrial activities;
- o. commercial activities;
- p. provision of playing ground and recreational area;
- q. advertisement service; and/or
- r. hotel, restaurant, tourism, post and telecommunications.

(2) The activities as referred to in paragraph (1) shall be done by individual Indonesian citizen and/or business entity.

Paragraph 4

Port Business Entity

Article 71

(1) The port business entity as referred to in Article 69 paragraph (2) may undertake business activities in one terminal or several terminals inside a port.

(2) In executing the business activities, the port business entity shall secure business license issued by:

- a. the Minister, in the case of port business entity operating at the main port and collecting port;

- b. governors, in the case of port business entity operating at regional feeder port; and
- c. regents/mayors, in the case of port business entity operating at local feeder port.

(3) The business license as referred to in paragraph (2) shall be granted if the port business entity complies with the following requirements:

- a. having taxpayer code number;
- b. being state-owned enterprise, regional administration-owned enterprise, or limited liability company established specifically in the port affairs field;
- c. having deed of establishment of company; and
- d. having certificate of domicile of company.

Article 72

Port business entity appointed to undertake business activities at port changing in status from a port not yet managed commercially to become a commercially managed port shall be stipulated through the granting of concession from port authority.

Article 73

In executing the business activities at the port as referred to in Article 71 paragraph (1), port business entity shall be obliged to:

- a. provide and maintain the feasibility of port facilities;
- b. provide service for users of port service in accordance with the standard of service stipulated by the government;

- c. preserve security, safety and order in terminal and port facilities which are operated;
- d. participate in preserving safety, security and order related to on-waters transport;
- e. preserve environmental conservation;
- f. abide by obligations in accordance with concession in agreement; and
- g. abide by the provisions of national and international legislation.
- e. standard of service performance as well as procedures for handling public complaints;
- f. sanctions in the case of parties not abiding by business agreement;
- g. settlement of dispute;
- h. discontinuation or termination of business agreement;
- i. law system effective for the business agreement is Indonesian law;
- j. force majeure; and
- k. amendments.

Paragraph 5

Concession or Other Form

Article 74

- (1) Concession shall be granted to port business entity for the need of provision and/or rendering of services for ships, passengers and goods as referred to in Article 69 paragraph (1), which is written down in the form of an agreement.
- (2) The concession shall be granted to the port business entity as referred to in paragraph (1) through tender mechanism in accordance with the provisions of legislation.
- (3) The period of the concession as referred to in paragraph (1) shall be adjusted to the return of investment funds and fair profit.
- (4) The agreement as referred to in paragraph (1) shall contain at least:
 - a. scope of business;
 - b. period of business concession;
 - c. initial tariff and formula of tariff adjustment;
 - d. rights and obligations of parties, including risks borne by parties, wherein the allocation of risks shall be based on efficient and balancing risk allocation principles;

Article 75

- (1) In the case of the concession period already expiring, port facilities resulting from the concession shall shift or be returned to port administrator.
- (2) The port facilities already shifting to the port administrator as referred to in paragraph (1) shall be managed by port business entity for the need of provision and/or rendering of services for ships, passengers and goods on the basis business cooperation through tender mechanism.
- (3) In executing business activity at port, the port business entity already stipulated through the mechanism of tender as referred to in paragraph (2) shall comply with the provisions of legislation.
- (4) The business cooperation as referred to in paragraph (2) shall apply for a maximum period of 30 (thirty) years as from the signing date of the agreement on business cooperation.

Article 76

- (1) In providing and/or rendering the port-related services as referred to in Article 70 paragraph (1), port administrator may promote joint cooperation with Indonesian citizen and/or business entity.**
- (2) The cooperation as referred to in paragraph (1) may be executed in the form of:**
 - a. rental of land;**
 - b. rental of warehouse; and/or**
 - c. rental of hoarding place.**
- (3) The rental as referred to in paragraph (2) shall be executed in accordance with the provisions of legislation.**

Article 77

Income from concession and compensation received by port administrator shall constitute state revenue, which is utilized in accordance with the provisions of legislation.

Article 78

Further provision on requirements and procedures for the granting and revocation of concession as well as cooperation shall be governed in a regulation of the Minister.

CHAPTER V**DEVELOPMENT AND OPERATION OF PORT****Part One****License to Build Port****Article 79**

Port may only be built on the basis of the National Port Master Plan and Port Master Plan.

Article 80

- (1) Port administrator shall build seaport after securing license.**
- (2) Port administrator shall submit application for the license as referred to in paragraph (1) to:**
 - a. the Minister, in case of the main port and collecting port;**
 - b. governors, in the case of regional feeder port; and**
 - c. regents/mayors, in the case of local feeder port.**
- (3) The application for the license as referred to in paragraph (2) shall comply with port technical and environmental conservation requirements.**

Article 81

- (1) Port administrator shall build river and lake port after securing license.**
- (2) Port administrator shall submit application for the license as referred to in paragraph (1) to regents/mayors.**
- (3) The application for the license as referred to in paragraph (2) shall comply with port technical and environmental conservation requirements.**

Article 82

- (1) The port technical requirements as referred to in Article 80 paragraph (3) and Article 81 paragraph (3) shall include:**
 - a. feasibility study; and**
 - b. technical design.**

(2) The feasibility study as referred to in paragraph

(1) letter a shall contain at least:

- a. technical feasibility; and
- b. economic and financial feasibility.

(3) The technical design as referred to in paragraph

(1) letter b shall contain at least:

- a. soil condition;
- b. construction;
- c. hydro oceanographic condition;
- d. topography; and
- e. placement and construction of shipping-navigation auxiliary facilities, shipping lane, and port basin as well as layout and capacity of equipment at the port.

Article 83

The environmental conservation requirement as referred to in Article 80 paragraph (3) and Article 81 paragraph (3) shall be in the form of environmental study which is executed in accordance with the provisions of environmental legislation.

Article 84

The submitted application as referred to in Article 80 paragraph (3) and Article 81 paragraph (3) shall be accompanied by documents consisting of:

- a. port master plan;
- b. feasibility document;
- c. document of technical design; and
- d. environmental document.

Article 85

(1) Based on the application as referred to in

Article 80 paragraph (2) and Article 81 paragraph (2), the Minister, governors or regents/mayors by virtue of their authority shall examine the requirements for application for the development of port in not later than 30 (thirty) working days as from the date of receipt of complete application.

(2) In the case of result of the examination showing that the requirements as referred to in Article 82 and Article 83 have not been fulfilled, the Minister, governors or regents/mayors shall return the application to port administrator so that the requirements are fulfilled.

(3) The returned application as referred to in paragraph (2) may be submitted again to the Minister, governors or regents/mayors by virtue of their authority

(4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister, governors or regents/mayors shall stipulate license to build port.

Article 86

Further provision on procedures for the issuance of license to build port shall be governed by a regulation of the Minister.

Part Two

Realization of Port Development

Article 87

(1) Port may be built by:

- a. port authority, in the case of the port being managed commercially; and

b. port.....

- b. port administrator unit, in the case of the port being not yet managed commercially.

(2) The development of the port as referred to in paragraph (1) letter a may be done by port business entity on the basis of concession or other form from port authority.

(3) In building the port, the port authority and port administrator unit as referred to in paragraph (1) as well as port business entity as referred to in paragraph (2), shall be obliged:

- a. implement work of port development in not later than 2 (two) years as from the date when the development license starts to apply;
- b. implement work of port development in accordance with the stipulated port master plan;
- c. report the realization of port development activities periodically to the Minister, governors or regents/mayors by virtue of their authority; and
- d. be responsible for impacts arising from the development of the said port.

Article 88

(1) The development of facilities on the mainland side of the port which is executed on the basis of port master plan may be realized after securing license to erect building in accordance with the provisions of legislation.

(2) The development of facilities on the waters side of the port which is executed on the basis of port master plan may be done after development license from the Minister.

Part Three

Port Expansion

Article 89

Port may only be expanded on the basis of the national port master plan and port master plan.

Article 90

(1) Port shall be expanded by port administrator after securing license.

(2) The application for the license as referred to in paragraph (1) shall be submitted by port administrator to:

- a. the Minister, in case of the main port and collecting port;
- b. governors, in the case of regional feeder port; and
- c. regents/mayors, in the case of local feeder port as well as river and lake port.

Article 91

(1) The license as referred to in Article 90 paragraph (2) shall be issued on the basis of application from port administrator.

(2) The application as referred to in paragraph (1) shall be accompanied by the complete documents as referred to in Article 84.

Article 92

(1) Based on the application as referred to in Article 91, the Minister, governors or regents/mayors by virtue of their authority shall examine the requirements for application for the expansion of port in not later than 30 (thirty) working

days as from the date of receipt of complete application.

(2) In the case of result of the examination showing that the requirements as referred to in Article 83 have not been fulfilled, the Minister, governors or regents/mayors shall return the application to port administrator so that the requirements are fulfilled.

(3) The returned application as referred to in paragraph (2) may be submitted again to the Minister, governors or regents/mayors by virtue of their authority

(4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister, governors or regents/mayors shall stipulate license to expand the port.

Article 93

Further provision on procedures for the issuance of license to expand port shall be governed by a regulation of the Minister.

Part Four

Port Operation

Article 94

(1) Port administrator shall operate port after securing license.

(2) Application for the license as referred to in paragraph (1) shall be submitted by port administrator to:

- a. the Minister, in the case of the main port and collecting port;
- b. governors, in the case of regional feeder port; and
- c. regents/mayors in the case of local feeder port and river and lake port.

(3) The submitted application for the license as referred to in paragraph (2) shall comply with the following requirements:

- a. development of port or terminal has been completed in accordance with the license to build the port as referred to in Article 85 paragraph (4);
- b. navigation safety and security;
- c. the availability of facilities to assure the smooth flow of passengers and goods;
- d. having environmental management system;
- e. the availability of operator of port activities;
- f. having service system and procedure; and
- g. the availability of human resources in the field of technical operation of the port that have qualification and competence proven by certificate.

Article 95

(1) The license as referred to in Article 94 shall be granted on the basis of application submitted by port administrator.

(2) The application as referred to in paragraph (1) shall be accompanied by the complete documents required to fulfill the requirements as referred to in Article 94 paragraph (3).

Article 96

- (1) Based on the application as referred to in Article 95 paragraph (2), the Minister, governors or regents/mayors by virtue of their authority shall examine the requirements for application for operating the port in not later than 30 (thirty) working days as from the date of receipt of complete application.
- (2) In the case of result of the examination showing that the requirements as referred to in Article 94 paragraph (3) have not been fulfilled, the Minister, governors or regents/mayors shall return the application to port administrator so that the requirements are fulfilled.
- (3) The returned application as referred to in paragraph (2) may be submitted again to the Minister, governors or regents/mayors by virtue of their authority
- (4) In the case of result of the examination showing that the requirements as referred to in paragraph (3) have been fulfilled, the Minister, governors or regents/mayors shall stipulate license to operate the port.

Article 97

- (1) The port shall be operated in accordance with the frequency of ship visit, loading and unloading of goods and embarkation and disembarkation of passengers.
- (2) The operation of the port as referred to in paragraph (1), may be enhanced continuously for 24 (twenty four) hours in one day or during specified period in accordance with the need.

- (3) The operation of the port as referred to in paragraph (2) shall be done with the provision that:
 - a. the frequency of ship visit, loading and unloading of goods and embarkation and disembarkation of passenger increase; and
 - b. navigation safety, port and sea traffic facilities are available.

Article 98

- (1) The port as referred to in Article 97 paragraph (2) shall be operated after securing license.
- (2) Application for the license as referred to in paragraph (1) shall be submitted by port administrator to:
 - a. the Minister, in the case of the main port and collecting port;
 - b. governors, in the case of regional feeder port; and
 - c. regents/mayors in the case of local feeder port and river and lake port.
- (3) The submitted application for the license as referred to in paragraph (2) shall comply with requirements:
 - a. readiness of lane condition;
 - b. readiness of piloting service for port waters already stipulated as compulsorily piloted waters;
 - c. readiness of port facilities;
 - d. readiness of warehouse and/or other facilities outside port;
 - e. readiness of security and order;
 - f. readiness of operational human resources in accordance with the need;

- g. readiness of personnel loading and loading goods and embarking and disembarking passengers or vehicle;
- h. readiness of land transport facility; and
- i. recommendation from port officer at the local port.

Article 99

The operational capability of port facilities at seaport may be enhanced from facility serving general cargo to become facility serving the transportation of container and/or liquid bulk or dry bulk.

Article 100

- (1) The enhancement of operational capability of port facility to serve container and/or bulk transport or dry bulk as referred to in Article 99 shall be stipulated by the Minister after fulfilling requirements.
- (2) Requirements for serving the transportation of containers as referred to in paragraph (1) shall be as follows:
 - a. having service system and procedure;
 - b. having human resources with adequate quantity and quality;
 - c. permanent anchorage facility is available for the first generation ship a;
 - d. installed and mobile equipment handling the loading and unloading of containers (container crane) is available;
 - e. container yard and container freight station are available in accordance with the need;

- f. reliability of operational system uses on-line information networks internally and externally; and
- g. cargo volume is adequate.

(3) requirements for serving the transportation of liquid bulk and/or dry bulk as referred to in paragraph (1) shall be as follows:

- a. having service system and procedure;
- b. having human resources with adequate quantity and quality;
- c. readiness of permanent anchorage facility in accordance with kind of ship;
- d. the availability of equipment loading and unloading bulk;
- e. having waters with adequate depth; and
- f. reliability of operating system uses on-line information network internally and externally.

Article 101

- (1) The stipulation as referred to in Article 100 paragraph (1) shall be granted on the basis of application submitted by port administrator.
- (2) The application as referred to in paragraph (1) shall be accompanied by documents required to fulfill the requirements as referred to in Article 100 paragraph (2) and paragraph (3).

Article 102

- (1) Based on the application as referred to in Article 100 paragraph (2) and paragraph (3), the Minister shall examine the requirements in not later than 30 (thirty) working days as from the date of receipt of complete application.

(2) In the case of result of the examination showing that the requirements as referred to in Article 100 paragraph (2) and paragraph (3) have not been fulfilled, the Minister shall return the application to port administrator so that the requirements are fulfilled.

(3) The returned application as referred to in paragraph (2) may be submitted again to the Minister.

(4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister shall stipulate license to the enhancement of operational capability of the port facilities.

Article 103

Port administrator already securing license to operate port shall be obliged to:

- a. hold responsibility fully for the operation of the said port or terminal;
- b. report operational activity every month to the Minister, governors or regents/mayors by virtue of their authority;
- c. abide by the provisions of legislation in the field of shipping and environmental conservation affairs; and
- d. abide by the provisions of legislation related to their main business, which is issued by other government institutions.

Article 104

Further provision on the requirements, procedures to issuing operational license, stipulating

the enhancement of port operation, and enhancement of operational capability of port facilities shall be governed by a regulation of the Minister.

Part Five

Stipulation of Location, Development and Operation of Certain Mainland Area Functioning As Port

Article 105

- (1) A specified mainland area may be stipulated as a location functioning as port on the basis of application.
- (2) Application for stipulating the specified mainland area as referred to in paragraph (1) shall be submitted by administrator of the main port which will become principal port thereof to the Minister.

Article 106

- (1) Based on the application as referred to in Article 105 paragraph (2), the Minister in not later than 30 (thirty) working days as from the date of receipt of the application shall examine:
 - a. the availability of lane linking to port which is opened for foreign trade;
 - b. production and trading potentials of the area already developed; and
 - c. conformance to provincial layout plan and regional/municipal layout plan.
- (2) In the case of result of the examination as referred to in paragraph (1) showing that the requirements are not fulfilled, the Minister issue a letter of rejection in writing to the applicant, accompanied by reason for the rejection.

- (3) In the case of result of the examination as referred to in paragraph (1) showing that the requirements are fulfilled, the Minister shall stipulate the specified mainland area as a location functioning as port.

Article 107

- (1) The specified mainland area already stipulated as a location functioning as the port as referred to in Article 106 paragraph (3) may be developed after securing license.
- (2) Application for the license as referred to in paragraph (1) shall be submitted by administrator of the main port becoming the principal port thereof to the Minister.
- (3) The submitted application for the license as referred to in paragraph (2) shall comply with the following requirements:
- securing license to stipulate specified mainland area as a location functioning as port from the Minister;
 - controlling land with certain size as work area; and
 - having infrastructure and facility so as to be able to function as port located in the mainland.
- (4) Based on the application as referred to in paragraph (2), the Minister shall examine the requirements for application for the development in not later than 30 (thirty) days as from the date of receipt of complete application.
- (5) In the case of result of the examination showing that the requirements as referred to in

paragraph (4) have not been fulfilled, the Minister shall return the application to port administrator so that the requirements are fulfilled.

- (6) The returned application as referred to in paragraph (5) may be submitted again to the Minister after the requirements are completed.
- (4) In the case of result of the examination showing that the requirements as referred to in paragraph (6) have been fulfilled, the Minister shall issue license to administrator of the main port becoming the principal port thereof to develop the specified mainland area functioning as a port.

Article 108

- (1) The port as referred to in Article 107 paragraph (7) shall be operated after securing license.
- (2) Application for the license as referred to in paragraph (1) shall be submitted administrator of the main port becoming the principal port thereof to the Minister.
- (3) The application for the license as referred to in paragraph (2) shall comply with the following requirements:
- the development of the port has been completed in accordance with the development license as referred to in Article 107 paragraph (7);
 - shipping security, order and safety;
 - personnel executing port activities are available;

d. having.....

- d. having service system and procedure; and
- e. the availability of human resources in the field of technical operation of port that have qualification and competence, proven by certificate.

- (4) Based on the application as referred to in paragraph (2), the Minister shall examine the requirements for application for the operation in not later than 30 (thirty) days as from the date of receipt of complete application.
- (5) In the case of result of the examination showing that the requirements as referred to in paragraph (4) have not been fulfilled, the Minister shall return the application to port administrator so that the requirements are fulfilled.
- (6) The returned application as referred to in paragraph (5) may be submitted again to the Minister after the requirements are completed.
- (7) In the case of result of the examination showing that the requirements as referred to in paragraph (4) and paragraph (6) have been fulfilled, the Minister shall stipulate the operation of the specified mainland area functioning as a port.

Article 109

Further provision on procedures for stipulating location, licensing of development and issuing license to operate the specified mainland area functioning a port shall be governed by a regulation of the Minister.

CHAPTER VI SPECIAL TERMINAL AND T ERMINAL FOR PRIVATE INTEREST

Part One

Special Terminal

Article 110

- (1) In order to support certain activities outside the work area and interest are of seaport as well as river and lake port, special terminal may be built for personal interest to support the main business activity thereof.
- (2) The special terminal as referred to in paragraph (1):
- a. shall be stipulated as part of the nearest port;
 - b. shall be obliged to have certain work area and interest area; and
 - c. shall have government institution performing the function of navigation safety and security as well as institutions performing administration function placed in accordance with the need.

Article 111

The special terminal may only be built and operated if:

- a. the nearest port is unable to accommodate the main activity of the government institutions or business entities; and
- b. the terminal is deemed more effective and efficient and better guaranteeing navigation safety and security on the basis of economic and technical operational considerations.

Article 112

The Minister shall stipulate the location of special terminal which will be built in accordance with provincial layout plan and regental/municipal layout plan.

Article 113

The special terminal may be managed by the government, provincial government, regental/municipal government or business entity as the management of special terminal.

Article 114

The management of special terminal shall be subject port service fee in accordance with the provisions of legislation.

Article 115

- (1) Special terminal shall be obliged to have certain work area and interest area.
- (2) The certain work area and interest area as referred to in paragraph (1) shall be used for:
 - a. hoarding place;
 - b. loading and unloading activities;
 - c. shipping land and ship track;
 - d. ship movement;
 - e. emergency purpose ; and
 - f. berthing place of ships.

Article 116

The management of special terminal shall be obliged to provide and maintain shipping navigation auxiliary facilities, port basin, shipping lane, anchoring

facility and other port facilities as well as facilities needed for public administration activities in the special terminal.

Article 117

- (1) Special terminal shall be built by management of special terminal on the basis of license from the Minister.
- (2) The license as referred to in paragraph (1) shall be issued on the basis of application which shall comply with:
 - a. administration requirement;
 - b. port technical requirement;
 - c. navigation safety and security requirement; and
 - d. environmental conservation requirement.
- (3) The administrative requirement as referred to in paragraph (1) letter a shall cover:
 - a. deed of establishment of company;
 - b. license of the main business from related institution;
 - c. taxpayer code number;
 - d. evidence of land control;
 - e. evidence of financial capability;
 - f. proposal of short, medium and long-term plans for the phases of development activities;
 - g. recommendation from port office at the nearest port.
- (4) The port technical requirement as referred to in paragraph (1) letter b shall include:
 - a. hydrographic, topographic pictures and summary of report on result of low tidal and current survey;

- b. layout of pier;
- c. calculation and construction picture of the main structure;
- d. result of topographic survey;
- e. result of study on shipping safety, including shipping land and port basin;
- f. boundaries of the planned mainland and waters areas furnished with geographic coordinate points as well as master plan of special terminal to be stipulated as certain work area and interest area; and
- g. environmental analysis.

(5) The requirement for shipping safety and security as referred to in paragraph (1) letter c, shall cover:

- a. shipping lane;
- b. port basin;
- c. plan for the placement of shipping navigation auxiliary facilities;
- d. plan for the flow of ship visit .

(6) The requirement for environmental conservation as referred to in paragraph (2) letter d shall be in the form of environmental study which is executed in accordance with the provisions of environmental legislation.

Article 118

(1) Based on the application as referred to in Article 117 paragraph (2), the Minister shall examine the requirements for application for the development of special terminal in not later than 30 (thirty) days as from the date of receipt of complete application.

(2) In the case of result of the examination showing that the requirements as referred to in paragraph (1) have not been fulfilled, the Minister shall return the application to special port administrator so that the requirements are fulfilled.

(3) The returned application as referred to in paragraph (2) may be submitted again to the Minister after the requirements are completed.

(4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister shall stipulate license to build special terminal.

Article 119

In the development of special terminal, the administrator of the special terminal shall be obliged to:

- a. implement development works of special terminal in accordance with the stipulated schedule;
- b. hold responsibility for impacts arising from the development of the special terminal;
- c. realize development work in not later than one year as from the issuance of development license;
- d. report result of development activity of special terminal periodically to administrator of the nearest port; and
- e. abide by the provisions of legislation.

Article 120

(1) Special terminal shall be operated after securing license from the Minister.

(2) The license as referred to in paragraph (1) shall be granted on the basis of application from special terminal administrator after fulfilling the following requirements:

- a. development of special terminal has been completed in accordance with the issued development license as referred to in Article 117 paragraph (1);
- b. navigation security, order and safety;
- c. report on the implementation of environmental study;
- d. having service system and procedure; and
- e. the availability of human resources in the field of port operation technical affairs that have qualification and competence, proven by certificate.

Article 121

(1) Based on the application for the license as referred to in Article 120 paragraph (2), the Minister shall examine the requirements for application for the operation of special terminal in not later than 30 (thirty) days as from the date of receipt of complete application.

(2) In the case of result of the examination showing that the requirements as referred to in paragraph (1) have not been fulfilled, the Minister shall return the application to special port administrator so that the requirements are fulfilled.

(3) The returned application as referred to in paragraph (2) may be submitted again to the Minister after the requirements are completed.

(4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister shall stipulate license to operate special terminal.

Article 122

(1) The license to operate special terminal as referred to in Article 120 paragraph (1) shall be granted for a period of 5 (five) years and may be extended in so far as the requirements as referred to in Article 110 and Article 111 are fulfilled.

(2) Application for the extension of license to operate special terminal shall be submitted by administrator of the special terminal to the Minister by enclosing evidence of the fulfillment of the requirements as referred to in paragraph (1).

(3) The Minister may approve or reject the application for the extension of license to operate as referred to in paragraph (2) in not later than 30 (thirty) days as from the date of receipt of complete application.

Article 123

Administrators of special terminals already securing operational license shall be obliged to:

- a. hold responsibility fully for the operation of the special terminals;
- b. report operational activity every month to the licensor;

- c. abide by the provisions of legislation in the navigation and environmental conservation fields; and
- d. abide by the provisions of legislation from other government institutions related to their main business.

Article 124

- (1) Special terminal may not be used for public interest, unless otherwise in emergency condition by license from the Minister.
- (2) The emergency condition as referred to in paragraph (1) may be in the form of:
 - a. natural disaster or other natural events thus making port not working; or
 - b. port and adequate transport mode have not been available in the said region or the nearest port is unable to serve port service because of the limited capability of the existing facilities thus affecting the smooth flow of goods.
- (3) The license to utilize special terminal as referred to in paragraph (1) may only be granted if the facilities available in the said terminal are able to guarantee navigation safety and provision of port service.
- (4) The use of special terminal for public interest shall be only temporary and in the case of port being already functioning again to serve public interest, the license to utilize special terminal for public interest shall be revoked.

- (5) The use of special terminal as referred to in paragraph (2) letter b shall be done on the basis of cooperation between port administrator and special terminal administrator.

Article 125

- (1) Special terminal shall operate in accordance with the frequency of ship visit, loading and unloading of goods and embarkation and disembarkation of passengers.
- (2) The operation of the special terminal as referred to in paragraph (1) may be enhanced continuously for 24 (twenty four) hours in one day or during specified period in accordance with the need.
- (3) The enhancement of operation of special terminal as referred to in paragraph (2) shall be done with the provision that:
 - a. frequency of ship visit, loading and unloading of goods and embarkation and disembarkation of passengers increase; and
 - b. navigation safety, port and sea traffic facilities are available.

Article 126.....

(To be continued)

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PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

[Continued from Business News No. 7927-7928 pages 10A-32A]

Article 126

(1) The Minister may stipulate the enhancement of operational service of the special terminal as referred to in Article 125 paragraph (2) on the basis of application from administrator of the special terminal.

(2) The stipulation as referred to in paragraph (1) shall be granted after fulfilling the following requirements:

- a. readiness of lane condition;**
- b. readiness of piloting service in waters of special terminal already stipulated as compulsorily piloted waters;**
- c. readiness of facilities of special terminal;**
- d. readiness of warehouses and/or other facilities outside the special terminal;**
- e. readiness of security and order;**
- f. readiness of operational human resources in accordance with the need;**

- g. readiness of personnel loading and unloading goods and embarking and disembarking passengers or vehicle;**
- h. readiness of land transport facility; and**
- i. recommendation from harbor master of the nearest port.**

Article 127

Special terminals which are not operated anymore in accordance with the issued license:

- a. may be transferred to the government, provincial governments or regental/municipal governments;**
- b. shall be returned to the original condition;**
- c. shall be recommended to change in status to become special terminal supporting the other main business; or**
- d. shall be converted into a port.**

Article 128

- (1) Operational license of special terminal may only be transferred in the case of the main business thereof being transferred to other party.**
- (2) The transfer of the operational license of special terminal as referred to in paragraph (1) shall be reported to the Minister.**
- (3) In the case of any change in data about the operational license as referred to in paragraph (1), administrator of the special terminal shall report the change to the Minister for adjustment in not later than 3 (three) months following the change.**

Article 129

- (1) The special terminals transferred to the government, provincial governments or regental/ municipal governments as referred to in Article 127 letter a may change in their status to become a port after complying requirements:**
 - a. in accordance with the national port master plan;**
 - b. economically, technically and operationally feasible;**
 - c. setting up or establishing port business entity;**
 - d. securing concession from port authority;**
 - e. navigation security, order and safety; and**
 - f. environmental conservation.**
- (2) In the case of a special terminal changing in status to become a commercially managed port, mainland and/or waters area, breakwaters, port basin, shipping lane and navigation safety**

auxiliary facilities controlled and owned by administrator of the special terminal as referred to in paragraph (1) shall be controlled by the state and governed by port authority.

- (3) The granting of concession and transfer as referred to in paragraph (1) and paragraph (2) shall be done on the basis of agreement between port authority and administrator of special terminal.**

Article 130

The special terminals transferred to the government, provincial governments or regental/ municipal governments as referred to in Article 127 letter a shall be administered by port administrator unit.

Article 131

- (1) The license to operate special terminal may be revoked in the case of the licensee:**
 - a. violating the provision as referred to in Article 123; or**
 - b. utilizing the special terminal to serve public interest without the license as referred to in Article 124 paragraph (1).**
- (2) The revocation of the operational license as referred to in paragraph (1) shall be done after issuing written warning 3 (three) times consecutively at a time interval of one month each.**
- (3) In the case of the warning as referred to in paragraph (2) being already issued and holder of special terminal license not making improvement in accordance with the issued warning, the license to operate the special terminal shall be revoked.**

Article 132

The operational license of special terminal shall be revoked without issuing the warning in the case of administrator of the special terminal:

- a. undertaking activities endangering state security; or
- b. securing license to operate special terminal illegitimately.

Article 133

- (1) The fostering, control and supervision over the operational activities of special terminal shall be done by harbormaster at the nearest port.
- (2) The safety function in special terminal shall be executed by harbormaster at the nearest port.

Article 134

Further provision on requirements, procedures for stipulating location, issuing development license and operational license, using special terminal for public interest, enhancing operational capability, changing status to become port, procedures for revoking license of special terminal and transfer of special terminal shall be governed by a regulation of the Minister.

Part Two**Terminal for Private Interest****Article 135**

- (1) In order to support certain activities inside work area and interest area of port, special terminal for private interest may be built.

- (2) The terminal for private interest shall be managed as a totality in the operation of port.

Article 136

- (1) The management of terminal for private interest may only be done after securing management approval from:
 - a. the Minister, in the case of the terminal for private interest being located inside work area and interest area of the main port and collecting port;
 - b. governors, in the case of the terminal for private interest being located inside work area and interest area of regional feeder ports; and
 - c. regents/mayors, in the case of in the case of the terminal for private interest being located inside work area and interest area of local feeder ports.
- (2) The management approval of terminal for private interest as referred to in paragraph (1) shall be stipulated after complying the following requirements:
 - a. corporate data, covering corporate deed, taxpayer code number and core business license;
 - b. evidence of cooperation with port administrator;
 - c. layout picture of location of terminal for private interest with adequate scale, picture of pier construction, and geographic coordinate of location of pier for private interest;
 - d. evidence of land control;
 - e. proposal.....

- e. proposal of terminal for private interest;
- f. recommendation from harbormaster at local port;
- g. account of result of site inspection by integrated technical team; and
- h. environmental study already legalized by the authorized official in accordance with the provisions of legislation.

Article 137

- (1) In order to secure the management approval of terminal for private interest, applicant shall submit application to the Minister, governors or regents/mayors by virtue of their authority.
- (2) The Minister, governors or regents/mayors shall grant the approval or rejection to application for the management of terminal for private interest as referred to in paragraph (1) in not later than 30 (thirty) working days as from the date of receipt of complete application.
- (3) The rejection of application for the license as referred to in paragraph (2) shall be accompanied by reason for rejection.

Article 138

Administrators of terminals for private interest shall be obliged to provide adequate work room and facilities for facilitating public administration activities.

Article 139

- (1) Terminals for private interest may only be operated for:
 - a. traffic of ships or embarkation/disembarkation of passengers or loading/unloading goods in the form of raw materials, production results, and equipment supporting production for private interest; and

- b. public administration, research, education and training and social activities.

- (2) The activities as referred to in paragraph (1) letter a shall be proven by documents of passengers and/or freights.

Article 140

- (1) Besides serving the activities as referred to in Article 139 paragraph (1), terminals for private interests may be utilized for other activities for the need of public interest after securing concession from port administrator.
- (2) The concession as referred to in paragraph (1) shall be granted after the following requirements are fulfilled:
 - a. the pier and other facilities are capable of fulfilling demand for port services;
 - b. the planned activities are examined from aspects of navigation security, order and safety with recommendation from harbor master at local port;
 - c. efforts are taken to enhance service for users of port services;
 - d. port service fee is collected by the said port administrator; and
 - e. provisions on system and procedures for providing port service are applied at the said port.

Article 141

(To be continued)

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PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

[Continued from Business News No 7929 pages 31A-34A]

Article 141

In the case of the occurrence of natural disasters or other incidents making terminal not working, administrator of the terminal for private interest shall be obliged to provide port service for public interest with the provision that:

- a. the terminal is operated by port administrator;
- b. rights and obligations of administrator of the terminal for private interest must be protected;
- c. provisions regarding the provision of port service is applied to port service; and
- d. port administrator collects port service fee.

Article 142

In managing pier, administrators of terminals for private interest shall be obliged to:

- a. hold full responsibility for impacts arising from the development and operation of the terminals;
- b. report operational activities of the terminals for private interest to port administrator periodically;
- c. abide by the provisions of legislation in the field of port affairs, on waters transportation, navigation safety, dredging and reclamation as well as environmental management; and
- d. abide by the provisions of legislation from other government institutions related to their core business.

Article 143

- (1) The approval of the management of terminal for private interest shall be revoked if the administrator:
 - a. violates the provision as referred to in Article 142;

- b. use terminal for private interest to serve public interest without the concession as referred to in Article 140 paragraph (2).

(2) The approval of the management of the terminal as referred to in paragraph (1) shall be revoked following the issuance of written warning 3 (three) times consecutively with time interval one month respectively.

(3) In the case of the warnings as referred to in paragraph (2) being already issued and administrator of terminal for private interest not making improvement in accordance with the issued warnings, the approval of management of terminal for private interest shall be revoked.

Article 144

Further provision on procedures for granting approval of management of terminal for private interest shall be governed by a regulation of the Minister.

CHAPTER VII

TARIFF

Article 145

Every port service shall be charged with tariff in accordance with the provided service.

Article 146

The amount of tariff on port service shall be stipulated on the basis of:

- a. interest of public service;
- b. enhancement of the quality of port service;
- c. interest of service users;
- d. enhancement of smooth provision of service;
- e. cost recovery; and
- f. business development.

Article 147

- (1) **Tariff on the use of waters and/or mainland as well as port service administered by port authority shall be stipulated by the port authority after consulting with the Minister.**
- (2) **Tariff on port service managed by port business entity shall be stipulated by the port business entity on the basis of kind, structure and group of tariff stipulated by the Minister and shall constitute income of the port business entity.**
- (3) **Tariff on port service for ports not managed commercially by the government shall be stipulated by a government regulation and shall constitute non-tax state receipt.**
- (4) **Tariff on port service for ports managed by provincial governments and regental/municipal governments shall be stipulated regional regulation and shall constitute regional revenue.**

Article 148

Further provision on kind, structure and group of tariff on port service, mechanism of stipulation of tariff related to the use of waters and/or waters and port service as well as tariff on port service managed by port business entity shall be governed by a regulation of the Minister.

CHAPTER VIII

**SPECIAL PORT AND TERMINAL OPENED
FOR INTERNATIONAL TRADE**

Article 149

- (1) **In order to support the smooth execution of international trade, certain main ports and special terminals may be stipulated as ports opened for international trade.**
- (2) **The stipulation as referred to in paragraph (1) shall be done on the basis of considerations about:**
 - a. **growth and developments of national economy;**

- b. **interest of international trade;**
- c. **interest of national sea transport capacity development;**
- d. **geographic position located on international shipping route;**
- e. **national port order written down into national port master plan;**
- f. **port facility;**
- g. **state security and sovereignty; and**
- h. **other national interest.**

Article 150

- (1) **The port as referred to in Article 149 paragraph (1) shall be stipulated by the Minister on the basis of application from administrator of the main port after complying with the requirements.**
- (2) **The requirements as referred to in paragraph (1) shall comply with:**
 - a. **economic aspect;**
 - b. **navigation safety and security aspect;**
 - c. **technical aspect of port facility;**
 - d. **office facility and supporting equipment for the need of institutions performing function of navigation safety and security, customs and excise, immigration and quarantine; and**
 - e. **kind of special commodity.**

Article 151

- (1) **The certain special terminal as referred to in Article 149 paragraph (1) shall be stipulated by the Minister on the basis of application from administrator of the special terminal after fulfilling the requirements.**
- (2) **The requirements as referred to in paragraph (1) shall comply with:**
 - a. **administrative aspect;**
 - b. **economic aspect;**
 - c. **navigation safety and security aspect;**
 - d. **technical aspect of port facility;**

- e. office facility and supporting equipment for the need of institutions performing function of navigation safety and security, customs and excise, immigration and quarantine; and
- f. kind of special commodity.

Article 152

- (1) Based on the application as referred to in Article 150 and Article 151, the Minister shall examine the requirements for application for the stipulation of certain port and special terminal opened for international trade in not later than 30 (thirty) days as from the date of receipt of complete application.
- (2) In the case of result of the examination showing that the requirements as referred to in paragraph (1) have not been fulfilled, the Minister shall return the application to administrator of the port and special terminal so that the requirements are fulfilled.
- (3) The returned application as referred to in paragraph (2) may be submitted again to the Minister, governors or regents/mayors by virtue of their authority after the requirements are completed.
- (4) In the case of result of the examination showing that the requirements as referred to in paragraph (1) and paragraph (3) have been fulfilled, the Minister shall stipulate the certain port and special terminal opened for international trade.

Article 153

Further provision on procedures for stipulating port and special terminal opened for international trade shall be governed by a regulation of the Minister.

CHAPTER IX

PORT INFORMATION SYSTEM

Article 154

- (1) A port information system shall cover the collection, management, analysis, storage as well

as dissemination of port data and information in order to:

- a. support operational activities of the port;
 - b. enhance service for communities or public; and
 - c. support the formulation of policies in the port field.
- (2) The port information system as referred to in paragraph (1) shall be managed by:
 - a. the Minister, in the case of port information system in the national level;
 - b. governors, in the case of port information system in the provincial level; and
 - c. regents/mayors, in the case of regency/city level.
 - (3) Regional governments shall manage the port information system by virtue of their authority on the basis of the guidelines and standards stipulated in the Minister.

Article 155

The port information system shall contain at least:

- a. depth of lane and port basin;
- b. capacity and condition of port facility;
- c. flow of container, goods and passengers at the port;
- d. traffic of ships at the port;
- e. port performance;
- f. port operator at the port;
- g. tariff on port service; and
- h. port master plan and/or port development plan.

Article 156

Port business entities shall submit monthly report on terminal activities to port authority every month, in not later than the 5th of the following month.

Article 157

The report as referred to in Article 156 shall cover:

- a. frequency of ship visit;
- b. frequency of loading and unloading of containers and goods;
- c. flow of passengers;
- d. operational performance; and
- e. performance of equipment and facility.

Article 158

Port authority shall evaluate the monthly report submitted by port business entity to be used as substances of the formulation of port information system and submitted to the Minister with a copy made available to governors.

Article 159

Port administrator units shall be obliged to submit information to the Minister, which contains at least:

- a. depth of port basin;
- b. frequency of ship visit;
- c. frequency of loading and unloading of containers and goods;
- d. flow of passengers;
- e. operational performance;
- f. performance of equipment and facility;
- g. depth of lane; and
- h. growth of port business entities operating terminal.

Article 160

Based on the report as referred to in Article 157, the Minister shall process data and information to be used as substances of port information for the public.

Article 161

Further provision on procedures for processing and reporting as well as formulating port information system shall be governed by a regulation of the Minister.

CHAPTER X**MISCELLANEOUS PROVISION****Article 162**

Management of industrial estates needing port facility shall be obliged to provide land allocated to port activity.

Article 163

(1) The operation of seaports as well as river and lake ports used for serving ferry transport, which are managed commercially shall comply with the following provisions:

- a. regulation and fostering, control and supervision over port activities shall be done by authorities of the port used for serving ferry transport;
- b. public administration activities in the field of navigation safety and security shall be executed by harbor master; and
- c. business activities shall be executed by port business entities managing seaports for serving ferry transport.

(2) The operation of seaports as well as river and lake ports used for serving ferry transport, which have not been managed commercially shall be done by technical executive unit of the government, technical executive unit of provincial governments or technical executive unit of regional/municipal governments.

Article 164

Further provision on the operation of seaports as well as river and lake ports used for serving ferry transport shall be governed by a regulation of the Minister.

**CHAPTER XI
TRANSITIONAL PROVISION**

Article 165

- (1) With the enforcement of this government regulation, the government, regional governments and state-owned enterprises managing ports shall continue to implement operational activities at the ports on the basis of this government regulation.
- (2) In not later than 3 (three) years as from the enforcement of Law Number 17 Year 2008 regarding Shipping, port business activities executed by the government, regional government and state-owned enterprises as referred to in paragraph (1) shall be adjusted to the provisions as governed in this government regulation.
- (3) Business activities at the ports already managed by state-owned enterprises shall continue to be executed by the state-owned enterprises.

**CHAPTER XII
CONCLUSION
Article 166**

With the enforcement of this government regulation, all legislation lower than this government regulation, which rules port affairs shall be declared to remain effective as long as they do not contravene or have not been replaced by the new ones on the basis of this government regulation.

Article 167

With the enforcement of this government regulation, Government Regulation Number 69 Year 2001 regarding Port Affairs (Statute Book of the Republic of Indonesia Year 2001 Number 127,

Supplement to Statute Book of the Republic of Indonesia Number 4145) shall be revoked and declared null and void.

Article 168

The government regulation shall come into force as from the date of promulgation.

For public cognizance, the government regulation shall be promulgated by placing it in Statute Book of the Republic of Indonesia.

Stipulated in Jakarta

On October 20, 2009

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

sgd

DR. H. SUSILO BAMBANG YUDHOYONO

Promulgated in Jakarta

On October 22, 2009

THE MINISTER OF LAW AND HUMAN RIGHTS OF THE
REPUBLIC OF INDONESIA,

sgd

PATRIALIS AKBAR

STATUTE BOOK OF THE REPUBLIC OF INDONESIA
YEAR 2009 NUMBER 151

ELUCIDATION.....

(To be continued)

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PORT AFFAIRS

(Government Regulation Number 61 Year 2009 dated October 20, 2009)

[Continued from Business News No 7930-7931 pages 18A-32A]

ELUCIDATION ON GOVERNMENT REGULATION OF THE REPUBLIC OF INDONESIA NUMBER 61 YEAR 2009 REGARDING PORT AFFAIRS

I. GENERAL

Port as a component in shipping operation plays a very important and strategic role so that the operation thereof is controlled by the state and the fostering thereof is executed by the government in the framework of supporting, mobilizing and driving the accomplishment of national goals and strengthening national resiliency.

The fostering of port by the government covers aspects regulating, controlling and supervising aspects. The regulatory aspect covers the formulation and determination of general and technical operational policies. The controlling aspect includes the provision of directives and counseling in the development and operation of ports, while the supervisory aspect is applied to the operation of port affairs.

The fostering of port affairs is done in a totality of the national port order intended to ensure smooth, orderly, secure and safe shipping in the provision of port services, assure legal certainty and business certainty, encouraging professionalism of economic players at ports, accommodate transport technology as well as

enhance the quality of service and competitiveness by prioritizing service for public interests.

Following the stipulation of Law Number 17 Year 2008 regarding Shipping, port affairs regulation contains a provision on the elimination of monopoly in the management of ports, separation of regulator and operator functions as well as the opening of opportunity for regional governments and private to participate proportionally in port affairs management.

For the purpose, the government regulation rules national port master plan, stipulation of location, port master plan as well as work area and interest area of port, implementation of activities at ports, licensing of the development and operation of ports or terminals, special terminals and special terminals opened for international trade and port information system.

II. ARTICLE BY ARTICLE

Article 1 up to Article 7

Sufficiently clear

Article 8

Paragraph (1)

Letter a

Sufficiently clear

Letter b

The national port master plan contains locations of the existing ports and planned ports which would be built.

Paragraph (2).....

Paragraph (2)

Sufficiently clear

Paragraph (3)

Ministers related to port affairs are, among others, ministers in charge of environmental, fishery, industrial, mining and trading affairs.

Paragraph (4)

Sufficiently clear

Paragraph (5)

The change in the condition of strategic environment attributed to natural disasters is the change in plan for the utilization of areas requiring port facilities because of the disaster.

Article 9 up to Article 16

Sufficiently clear

Article 17

Paragraph (1) and Paragraph (2)

Sufficiently clear

Paragraph (3)

Letter a and Letter b

Sufficiently clear

Letter c

The position of administrative region contains name of village/sub-district or other pronunciation, district, regency/city and province.

Article 18 up to Article 21

Sufficiently clear

Article 22

Paragraph (1) and Paragraph (2)

Sufficiently clear

Paragraph (3)

Letter a up to Letter i

Sufficiently clear

Letter j

Industrial estate is an area where activities of manufacturing industries are centralized, furnished with supporting facilities and infrastructure which are developed and managed by industrial estate companies already securing industrial business license.

Letter k

The other public facilities are, among others, worship place, recreation place, sports arena, green belt and medical facility.

Article 23 up to Article 30

Sufficiently clear

Article 31

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a

Sufficiently clear

Letter b

Emergency condition is, among others burnt ship.

Letter c up to Letter g

Sufficiently clear

Article 32 up to Article 36

Sufficiently clear

Article 37**Paragraph (1)****Sufficiently clear****Paragraph (2)****Letter a up to Letter c****Sufficiently clear****Letter d**

The other non-permanent public administration activities are, among others, forestry and mining activities executed by authorized institutions in the framework of preventing illegal logging and illegal mining, which come in and out through ports.

Article 38**Paragraph (1)**

Regulatory activity covers the stipulation of policy in the field of port affairs.

Policy in the field of port affairs constitutes general and technical port affairs policies covering the stipulation of norms, standards, guidance, criteria, planning and procedures as well as licensing in the field of port affairs.

Fostering activity is executed by observing the whole aspects of regulation, control and supervision over activities of port development, operation and expansion in a bid to realize a national port affairs order directed to:

- a. facilitate the massive transfer of people and/or goods safely, quickly, in an orderly manner, smoothly and regularly and conveniently;
- b. enhance the implementation of port activities;
- c. develop capability and role of ports as well as navigation safety and security by assuring the availability of adequate shipping lane, port basin, and shipping-navigation auxiliary facilities;

- d. prevent and mitigate pollution arising from port activities.

The controlling activity covers the granting of directives, counseling and guidance to users of port services, education and training as well as certification and licensing in the field of port affairs as well as directives in the execution of port development, operation and expansion.

The supervisory activity covers:

- a. monitoring and evaluation of activities of port development, operation and expansion; and
- b. correcting action against the development, operation and expansion of ports.

Paragraph (2) and Paragraph (3)**Sufficiently clear****Article 39 up to Article 41****Sufficiently clear****Article 42****Paragraph (1)****Sufficiently clear****Paragraph (2)****Letter a****Sufficiently clear****Letter b****Road network is access road to terminal.****Letter c****Sufficiently clear****Letter d**

Security and order in general at ports are guaranteed by port authorities, which are executed integrated and for the purpose, port authorities may

establish a security unit but in the case of the respective terminals, security and order become responsibility of port business entities.

Letter e up to Letter h
Sufficiently clear

Paragraph (3)
Sufficiently clear

Paragraph (4)
Certain condition is the occurrence of something potential affect the provision of port service, which must be restored promptly and cannot wait for the financing from the state budget of revenue and expenditure so that port business entity or operator of special terminal for private interest needs to take action with the consent of port authority.

Article 43
Sufficiently clear

Article 44
Paragraph (1) up to Paragraph (3)
Sufficiently clear

Paragraph (4)
Certain condition means the budget of the government in the current year is not available for the maintenance of breakwaters, port basin, shipping lane and road network.

Article 45 up to Article 56
Sufficiently clear

Article 57
The specific government regulation is a government regulation ruling navigation affairs.

Article 58 up to Article 67
Sufficiently clear

Article 68
Letter a
Sufficiently clear

Letter b
Port affairs-related service is activity supporting the smooth operation and granting added value to port, such as office building, tourism and hotel facility, drinking water, electricity and telecommunications network, waste water and rubbish network, bunker service and parking lot of vehicle.

Article 69 up to Article 72
Sufficiently clear

Article 73
Letter a up to Letter c
Sufficiently clear

Letter d
Participation of port business entities in preserving safety, security and order related to on-water transport is only limited at anchorage.

Letter e up to Letter g
Sufficiently clear

Article 74
Paragraph (1) up to Paragraph (3)
Sufficiently clear

Paragraph (4)
Letter a up to Letter e
Sufficiently clear

Letter f

Sanction is the termination of agreement in the case of port business entities not fulfilling their obligations, including the obligation to provide port services in accordance with the standard of service performance stipulated by port authorities.

Letter g up to Letter k

Sufficiently clear

Article 75**Paragraph (1)**

Sufficiently clear

Paragraph (2)

Cooperation in utilization is the operation of the main and supporting facilities of port by port business entities in a specified period in the framework of increasing non-tax state revenue and other financing sources.

Paragraph (3) and Paragraph (4)

Sufficiently clear

Article 76**Paragraph (1)**

Sufficiently clear

Paragraph (2)

Rental of land, rental of warehouse and/or rental of hoarding yard is the utilization of port land, warehouse facilities and hoarding facilities by port business entities, other business entities or individual Indonesian citizens in a specified period and compensation is received in the form of cash money.

Paragraph (3)

Sufficiently clear

Article 77 up to Article 87

Sufficiently clear

Article 88**Paragraph (1)**

Mainland side is, among others, warehouse, building and hoarding yard.

Paragraph (2)

Waters side is, among others, pier, anchorage facility, reclamation and talud.

Article 89 up to Article 96

Sufficiently clear

Article 97**Paragraph (1)**

Port is operated by considering readiness of operational facilities and human resources in accordance with the frequency of ship visit, loading and unloading of goods and embarkation and disembarkation of passengers.

Paragraph (2) and Paragraph (3)

Sufficiently clear

Article 98**Paragraph (1) and Paragraph (2)**

Sufficiently clear

Paragraph (3)**Letter a**

Lane condition is, among others, depth, tidal and shipping navigation auxiliary facilities.

Letter b

Sufficiently clear

Letter c

Port facilities are, among others, illumination lamps, pier, warehouse and hoarding yard.

Letter d and Letter e

Sufficiently clear

Letter f

Operational human resources in accordance with the need are officers of government institutions performing the function of shipping safety and security, quarantine, customs and immigration.

Letter g up to Letter i

Sufficiently clear

Article 99 up to Article 102

Sufficiently clear

Article 103

Letter a

Sufficiently clear

Letter b

Operational activities may be reported by utilizing information technology.

Letter c

Sufficiently clear

Letter d

The provisions of legislation from other government institutions are, among others, provisions in the taxation as well as customs and excise fields.

Article 104 up to Article 109

Sufficiently clear

Article 110

Paragraph (1)

Certain activities are activities supporting the main business activities, which are not served by the nearest port with the business activities thereof because the goods or activities need special treatment or the location is far from port.

Paragraph (2)

Letter a

Stipulated as part of the nearest port means the regulation and fostering, control and supervision over operational activities of special terminals are executed by administrator of the nearest port and supervision over the function of navigation safety and security is done by harbormaster in the nearest port.

Letter b and Letter c

Sufficiently clear

Article 111

Letter a

Business entities are Indonesian statutory bodies established on the basis of the legal provisions of the Republic of Indonesia, including subsidiaries in accordance with the similar main business and suppliers of materials and equipment supporting production for the need of the said business entities.

The main business activities are, among others, mining, energy, forestry, agriculture, fishery, industry, tourism, ship docking, research, education and training as well as social.

Letter b

Sufficiently clear

Article 112 up to Article 122

Sufficiently clear

Article 123

Letter a up to Letter c

Sufficiently clear

Letter d

The provisions of legislation from other government institutions are , among others, provisions in the field of mining, energy, forestry, agriculture, fishery, industry, tourism, ship docking, research, education and training, social, taxation as well as customs and excise.

Article 124 and Article 125

Sufficiently clear

Article 126

Paragraph (1)

Sufficiently clear

Paragraph (2)

Letter a

Lane condition is, among others, depth, tidal and shipping navigation auxiliary facilities.

Letter b

Sufficiently clear

Letter c

Facilities of special terminal are, among others, , illumination lamps, pier, warehouse and hoarding yard.

Letter d and Letter e

Sufficiently clear

Letter f

Operational human resources in accordance with the need are officers of government institutions performing the function of shipping safety and security, quarantine, customs and immigration.

Letter g up to Letter i

Sufficiently clear

Article 127 up to Article 132

Sufficiently clear

Article 133

Paragraph (1)

Fostering, control and supervision over the operation of special terminals are executed by harbormaster at the nearest port in connection with activities executed by management of special terminal, among others, the use of waters, piloting service, port service provided for the third party because the activities constitute authority of the government.

Paragraph (2)

Sufficiently clear

Article 134

Sufficiently clear

Article 135

Paragraph (1)

Certain activities include mining, energy, forestry, agriculture, fishery, industry, tourism, ship docking, research, education and training as well as social.

Paragraph (2)**Sufficiently clear****Article 136****Paragraph (1)****Sufficiently clear****Paragraph (2)****Letter a****Sufficiently clear****Letter b**

Evidence of cooperation may be in the form of cooperation in the management of terminals for private interest.

Letter c up to Letter e**Sufficiently clear****Letter f up to Letter h****Sufficiently clear****Article 137 up to Article 139****Sufficiently clear****Article 140****Paragraph (1)****Sufficiently clear****Paragraph (2)****Letter a**

Other facilities are, among others, loading and unloading facilities, warehouse, access road and human resources in charge.

Letter b up to Letter e**Sufficiently clear****Article 141**

Natural disasters are, among others, earthquake, tsunami, volcano eruption, flooding, typhoon and landslide.

Other incidents may be in the form of non-natural disasters, such as technology failure, modernization failure, epidemic and disease outbreak, as well as social disasters such as social conflicts between groups or communities and terrors.

Article 142**Letter a up to Letter c****Sufficiently clear****Letter d**

The provisions of legislation from other government institutions are, among others, provisions in the field of mining, energy, forestry, agriculture, fishery, industry, tourism, ship docking, research, education and training, social, taxation as well as customs and excise.

Article 143 up to Article 148**Sufficiently clear****Article 149****Paragraph (1)**

Certain special terminal is a special terminal built and operated to support business activities whose production is destined to the export.

Paragraph (2)**Sufficiently clear****Article 150 up to Article 155****Sufficiently clear**

Article 156

In submitting the report, port business entities may use the available information technology (e-portnet).

Article 157 up to Article 164

Sufficiently clear

Article 165**Paragraph (1)**

Sufficiently clear

Paragraph (2)

The deadline is stipulated 3 (three) years in this provision with a view of providing sufficient time for the government and state-owned enterprises to plan the development of ports. For the need of the development, based on order from the Minister:

- a. assets of state-owned enterprises undertaking port business are evaluated; and
- b. assets of state-owned enterprises undertaking port business are audited comprehensively.

Paragraph (3)

Still executed by state-owned enterprises means state-owned enterprises established on the basis of Government Regulation Number 56 Year

Business News 7932/3-19-2010

1991, Government Regulation Number 57 Year 1991, Government Regulation Number 58 Year 1991 and Government Regulation Number 59 Year 1991 still undertake business activities at the ports, covering:

- a. the activities regulated in Article 90 paragraph (1), paragraph (2), paragraph (3), and paragraph (4) of Law Number 17 Year 2008 regarding Shipping;
- b. the provision of port basin in accordance with the designation thereof on the basis of delegation from the government and the provisions of legislation;
- c. the provision of piloting service on the basis of delegation from the government and provisions of legislation; and
- d. the provision and management of land in accordance with the need on the basis of delegation from the government and provisions of legislation in the field of land affairs.

Article 166 up to Article 168

Sufficiently clear

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