

DECREE OF THE HEAD OF THE INVESTMENT COORDINATING BOARD
NUMBER 57/SK/2004
CONCERNING
GUIDELINES AND PROCEDURES FOR
APPLICATION FOR CAPITAL INVESTMENTS ESTABLISHED IN
THE FRAMEWORK OF DOMESTIC AND FOREIGN INVESTMENTS

THE HEAD OF THE INVESTMENT COORDINATING BOARD

- Considering :
- a. that in the framework of enhancing effectiveness in attracting investments to invest in Indonesia, Presidential Decree No. 29/2004 on realization of investments in the framework of Foreign Investments (PMA) and Domestic Investments (PMDN) through one stop-service system has been issued;
 - b. that in relation to point a above, it is deemed necessary to re-improve guidelines and procedures for application for capital investments in the framework of Domestic Investments (PMDN) and Foreign Investments (PMA).
- In view of :
1. Law No. 1/1967 concerning foreign investment (State Gazette of 1967 No. 1, Additional State Gazette No. 2818) as already amended by Law No. 11/1970 (State Gazette of 1970 No. 46, Additional State Gazette No. 2943);
 2. Law No. 6/1968 concerning domestic investment (State Gazette of 1968 No. 33, Additional State Gazette No. 2853) as already amended by Law No. 12/1970 (State Gazette of 1970 No. 47, S Additional State Gazette No. 2944);
 3. Law No. 7/1983 concerning income tax (State Gazette of 1983 No. 50, Additional State Gazette No. 3263) as already amended several times and the latest by Law No. 17/ 2000 (State Gazette of 2000 No. 127, Additional State Gazette No. 3984);
 4. Law No. 8/1983 concerning income tax (State Gazette of 1983 No. 50, Additional State Gazette No. 3263) as already amended several times and the latest by Law No. 17/ 2000 (State Gazette of 2000 No. 127, Additional State Gazette No. 3984);
 5. Law No. 1/1995 concerning limited liability companies (State Gazette of 1995 No. 13, Additional State Gazette No. 3587);
 6. Law No, 9/1995 concerning small-scale businesses (State Gazette of 1995 No. 74, Additional State Gazette No. 3611);

7. Law No. 10/1995 concerning customs affairs (State Gazette of 1995 No. 75, Additional State Gazette No. 3612);
8. Law No. 13/2003 concerning manpower (State Gazette of 2003 No. 39, Additional State Gazette No. 4279);
9. Government Regulation No. 24/1986 concerning validity period of foreign investment license (State Gazette of 1986 No. 32, Additional State Gazette No. 3335) as already amended by Government Regulation No. 9/1983 (State Gazette of 1993 No. 13, Additional State Gazette No. 3515);
10. Government Regulation No. 20/1994 concerning ownership of share in companies established in the framework of foreign investment (State Gazette of 1994 No. 28) as already amended by Government Regulation No. 83/2001 (State Gazette of 2001 No. 154, Additional State Gazette No. 4162);
11. Government Regulation No. 44/1997 concerning partnership (State Gazette of 1997 No. 91, Additional State Gazette No. 3718);
12. Presidential Decree No. 33/1981 concerning the Investment Coordinating Board, as already amended several times and the latest by Presidential Decree No. 28/2004;
13. Presidential Decree No. 75/1995 concerning recruitment of migrant expatriates;
14. Presidential Decree No. 90/2000 concerning representative offices of foreign companies (KPPA);
15. Presidential Decree No. 96/20000 concerning business fields closed and business fields opened with certain requirements for investments, as already amended by Presidential Decree No. 118/2000;
16. Presidential Decree No. 103/2001 concerning the status, tasks, functions, authority, organizational structures and working arrangements of non-ministerial government institutions, as already amended several times and the latest by Presidential Decree No. 30/2003;
17. Presidential Decree No. 110/2001 concerning first-echelon organizational units and tasks of non ministerial government institutions, as already amended the latest by Presidential Decree No. 11/2004;
18. Presidential Decree No. 127/2001 concerning business fields reserved for small-scale business and business fields opened

for medium- and large-scale companies under partnership condition;

19. Presidential Decree No. 197/M/2001;
20. Presidential Decree No. 87/2003 concerning the national team for driving up the export and investment;
21. Presidential Decree No. 29/2004 concerning realization of capital investments in the framework of foreign investments and domestic investments through one-stop service system;
22. Decree of the State Minister for Mobilizing Investments/Head of the Investment Coordinating Board No. 15/SK/1994 concerning technical provisions on ownership of shares in companies established in the framework of foreign investments;
23. Decree of the State Minister for Mobilizing Investments/Head of the Investment Coordinating Board No. 22/SK/1996 concerning monitoring and evaluation, fostering and supervision over realization of investments;
24. Decree of the Head of the Investment Coordinating Board No. 02/SK/2002 on the organization and working arrangement of the Investment Coordinating Board as already amended by Decree of the Head of the Investment Coordinating Board No. 42/SK/2003.

H A S D E C I D E D :

To stipulate : THE DECREE OF THE HEAD OF THE INVESTMENT COORDINATING BOARD CONCERNING GUIDELINES AND PROCEDURES FOR APPLICATION FOR CAPITAL INVESTMENTS ESTABLISHED IN THE FRAMEWORK OF DOMESTIC AND FOREIGN INVESTMENTS

CHAPTER I
GENERAL PROVISION

Article 1

Referred to in this Decree as:

1. The Investment Coordinating Board (BKPM) is a government institution handling investment activities in the framework of Domestic Investment (PMDN) and Foreign Investment (PMA).

2. Application for new investment is an application for securing approval of investment, be it investment in the framework of PMDN and PMA as well as its facilities submitted by prospective investor to establish and undertake a new business.
3. Application for expansion of investment is an application for securing approval of addition to capital as well its facilities in the framework of increasing installed capacity approved and/or supplementing kinds of goods/services to be produced.
4. Expansion of investment in the food crop and plantation sub-sector is addition to capital to finance one of the following activities or more:
 - diversification/ namely supplementing kinds of plants;
 - renew/rehabilitation using superior seeds;
 - intensification, namely raising production without supplementing land;
 - raising production capacity of processing unit;
 - supplementing planting area;
 - integration of business with upstream and downstream industrial businesses.
5. Restructuring is an activity to replace main machine (supplement equipment or machine component) to enhance the quality or efficiency of production without raising capacity.
6. Application for changing investment is an application for securing approval of change in investment provisions already stipulated in the previous investment approval.
7. PMDN Approval is investment approval issued in the framework of implementing Law No. 6/1968 *jo.* No. 12/1970 concerning domestic investments, also effective principal approval/provisional business license until securing business license/permanent business license and/or principal approval of fiscal facilities.
8. PMA Approval is investment approval issued in the framework of implementing Law No. 1/1967 *jo.* No. 11/1970 on foreign investments, also effective principal approval/provisional business license until securing business license/permanent business license and/or principal approval of fiscal facilities.
9. Approval of expansion is approval of addition to capital and its facilities to raise installed capacity already approved and/or supplement kinds of goods and service to be produced, also effective as principal approval/provisional business license until securing permanent business license of expansion.

10. Approval of change is approval of change in investment provisions already stipulated in the previous approval or investment license.
11. License of activity of foreign company representative office (KPPA) is approval of establishment of representative office in Indonesia, domiciled in Indonesia.
12. Operational Licenses are licenses needed for realizing investment approval.
13. Approval of investment facilities is approval of granting of investment facilities in the form of import duty and taxation facilities in accordance with the customs and taxation laws in force.
14. Limited Importer Identity Number (APIT) is identity number used as license to import capital goods and raw/auxiliary materials for self-consumption in the production process of investment project already approved.
15. Decision on Ratification of Plan to Employ Expatriates (RPTKA) is approval of ratification of the planned quantity, position and period of employment of expatriates needed as the basis for approval of import of Expatriates (TKA) and the issuance of License to Employ Expatriates (IMTA).
16. Decision on License to Employ Expatriates (IMTA) is license of a company to employ foreign workers in certain quantity, position and period.
17. Business License/Permanent Business License is license which must be owned by a company to undertake production activities, be it production of goods and service as the implementation of approval of investment already obtained by the company.
18. Permanent Business License of Expansion is a license which must be owned by a company to undertake production activities or raise production of goods and services as the implementation of approval of expansion of investment already obtained by the company previously.
19. Change status is change in status of company from PMDN or Non PMDN/PMA to PMA or from PMA to PMDN as a result of change in ownership of share.
20. Merger is the combining of two companies or more established in the framework of PMDN and/or PMA and/or Non-PMA/PMDN already producing and having business license/permanent business license into a company which will continue all activities of the merged companies, while the merging companies are liquidated.
21. Investment Activity Report (LPKM) is a periodical report on progresses of activities of foreign investment company in the form and procedures as stipulated.
22. Small-scale business is a business activity fulfilling the criteria as meant in Law No. 9/1995 concerning small-scale businesses, as follows:

- a. having a net asset of Rp 200,000,000 (two hundred million rupiahs) at the maximum, excluding land and building of business place or having annual turnover worth Rp 1,000,000,000 (one billion rupiahs) at the maximum;
- b. belonging to Indonesian citizen;
- c. independent, not subsidiary of a company owned, controlled or affiliated directly or indirectly to medium- or large-scale company;
- d. individual business, business not having statutory body or business entity having statutory body, including cooperative.

Article 2

- (1) Prospective investors planning to undertake investment activities in the framework of PMA and PMDN must submit applications to BKPM.
- (2) The Head of BKPM signs Approval (SP) of applications for investments in the framework of PMDN and PMA.
- (3) Investors already securing the approval as meant in Article 2 paragraph (2) must submit applications for securing operational licenses needed for realizing investments.
- (4) The operational licenses as meant in paragraph (3) consist of:
 - a. licenses issued by BKPM in the form of:
 - 1) Limited Importer Identity Number;
 - 2) Business License/Permanent Business License/ Expansion License;
 - 3) Plan to Employ Expatriate;
 - 4) Visa Recommendation for the employment of Expatriates;
 - 5) License to Employ Expatriates;
 - 6) Extension of License to Employ Expatriates working in more than one province;
 - 7) Facilities of imposition/relief of import duty on the import of capital goods or raw/auxiliary materials and other fiscal facilities;
 - b. licenses issued by provincial government in accordance with its authority, such as extension of license to employ expatriates working in regency/city in one province;
 - c. licenses issued by regental/municipal government, such as:

- 1) location permit;
- 2) land title certificate;
- 3) license to build building;
- 4) disturbance law permit/HO.

Article 3

- (1) Investment approval is null legally if in the period of 3 (three) years for new project and 2 (two) years for expansion project as from the date of issuance of the approval, the project is not realized in the form of concrete activities administratively or physically.
- (2) The administratively concrete activities are activities to obtain licenses, such as:
 - a. location permit or agreement on rent of building (particularly in the service sector) or regional mining license (SIPD) or mining concession particularly in the mining business sector outside petroleum and gas; and/or
 - b. Customs approval of capital goods; and/or
 - c. APIT; and/or
 - d. RPTKA for company employing TKA; and/or
 - e. IMB; and/or
 - f. Disturbance Law Permit/HO.
- (3) The physically concrete activities constitute activities already executed to:
 - a. in the industrial field, there have been the main activities in the form of:
 - 1) procurement of land; or
 - 2) building of office/factory; or
 - 3) import of machine and equipment.
 - b. in the service business sector, there have been the main activities in the form of:
 - 1) procurement of land; or
 - 2) procurement/building of office room;

- c. in the agricultural field, there have been main activities in the form of procurement of land;
 - d. in the fishery business, there have been main activities in the form of purchase of fishing ships.
- (4) Stipulation of the period of completion of project mentioned in investment approval is adjusted to scale of investment or business field.

Article 4

In the submission of application for PMDN and PMA, the determination/selection of business fields is based on:

- a. list of business fields closed and opened with certain requirements for investments;
- b. technical directives for realization of investments;
- c. business fields reserved for small-scale businesses and business fields opened for medium- and large-scale businesses under partnership condition;
- d. other provisions issued by the government.

CHAPTER II APPLICATION FOR NEW INVESTMENT

SECTION ONE DOMESTIC INVESTMENT

Article 5

- (1) Applications for new investments in the framework of PMDN can be submitted by Limited Liability Companies (PT), *Commanditaire Vennotschap* (CV), Firm (Fa), Cooperatives, state-owned enterprises, regional administration-owned enterprises or individuals.
- (2) The applications for new investments as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by using the form of Model I/PMDN as meant in Attachment 1.
- (3) Approval of the applications as meant in paragraph (2) is issued in the form of Domestic Investment Approval (SPPMDN) with a copy made available to:
 - a. The Minister of Home Affairs;
 - b. Minister in charge of business field of the relevant investment;

- c. The Minister of Finance;
 - d. The State Minister for Environment;
 - e. The State Minister for Cooperative, Small- and Medium-scale Businesses;
 - f. The Governor of Bank Indonesia;
 - g. Director General of the relevant technical affairs;
 - h. The Director General of Taxation;
 - i. The Director General of Customs and Excise;
 - j. The Director General of Law and Legislation;
 - k. Governor of the relevant province;
 - l. The relevant regent/mayor.
- (4) The approval as meant in paragraph (3) is issued not later than 10 (ten) working days as from the date of receipt of application completely and truthfully, except business fields needing consultation with ministries/institutions concerned.

SECTION TWO FOREIGN INVESTMENT

Article 6

- (1) Applications for new investments in the framework of PMA can be submitted by:
- a. foreign citizens and/or foreign statutory bodies and/or foreign investment companies; or
 - b. foreign citizens and/or foreign statutory bodies and/or foreign investment companies in cooperation with Indonesian citizens and/or Indonesian statutory bodies.
- (2) The applications for new investments as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by using the form of Model I/PMA as meant in Attachment 2.
- (3) Approval of the applications as meant in paragraph (2) is issued in the form of Foreign Investment Approval (SPPMA) with a copy made available to:
- a. The Minister of Home Affairs;

- b. Minister in charge of business field of the relevant investment;
 - c. The Minister of Finance;
 - d. The State Minister for Environment;
 - e. The State Minister for Cooperative, Small- and Medium-scale Businesses;
 - f. The Governor of Bank Indonesia;
 - g. Director General of the relevant technical affairs;
 - h. The Director General of Taxation;
 - i. The Director General of Customs and Excise;
 - j. The Director General of Law and Legislation;
 - k. Head of Representative of the Republic of Indonesia in the relevant country;
 - l. The relevant embassy;
 - m. Governor of the relevant province;
 - n. The relevant regent/mayor.
- (4) The approval as meant in paragraph (3) is issued not later than 10 (ten) working days as from the date of receipt of application completely and truthfully, except business fields needing consultation with ministries/institutions concerned.

SECTION THREE
SPECIAL PROVISIONS FOR CERTAIN BUSINESS
FIELDS AND BUSINESS ACTIVITIES

A. MINING OUTSIDE OIL AND GAS IN THE FRAMEWORK OF PMDN

Article 7

- (1) Applications for new investments in the framework of PMDN in the non-oil and gas mining business sector for categories of strategic and vital minerals are submitted by enclosing mining concessions issued by the Minister of Energy and Mineral Resources or the Director General of Geology and Mineral Resources on behalf of the Minister.
- (2) The applications for new investments in the framework of PMDN as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by using the form of Model I/PMDN as meant in Attachment 1, by enclosing Mining Concession/Regional Mining License (SIPD) issued by the Minister of Energy and

- Mineral Resource/governor/regent/mayor in accordance with their respective scopes of authority.
- (3) Approval of the applications as meant in paragraph (2) is issued in the form of SPPMDN with a copy made available to the officials as meant in Article 5 paragraph (3).
 - (4) The approval as meant in paragraph (3) is issued not later than 10 (ten) working days as from the date of receipt of applications completely and truthfully.
 - (5) In the case of the project being not realized in the form of the concrete activities as meant in Article 3 in 3 (three) years as from the date of issuance of SPPMDN, SPPMDN is null legally.

Article 8

- (1) Applications for new investments in the framework of special PMDN in the coal mining field are done by Working Contract of Coal Mining Exploitation (PKP2B).
- (2) Draft PKP2B is prepared by the minister/governor/ regent/mayor in accordance with their respective scope of authority and prospective investors.
- (3) Based on the Draft PKP2B as meant in paragraph (2), the Head of BKPM conveys opinions to the Minister of Energy and Mineral Resources.
- (4) JPKP2B already signed by the Minister of Energy and Mineral Resources/governor/regent/mayor and prospective investors is treated such as SPPMDN issued by the Head of BKPM.
- (5) Investment plan for realizing PKP2B and its facilities is submitted gradually to the Head of BKPM, by enclosing recommendation of the Director General of Geology and Mineral Resources.

B. NON-OIL AND GAS MINING IN THE FRAMEWORK OF PMA

Article 9

- (1) Applications for new investment in the framework of PMA in the non-oil and gas mining business field are done in the form of Working Contract or Working Agreement on Coal Mining Exploitation between prospective investors and the Minister of Energy and Mineral Resources/governor/regent/mayor in accordance with their respective scopes of authority.
- (2) The working contract or working agreement on coal mining exploitation is treated such as SPPMA.

- (3) Investment plan for realizing the working contract or working agreement on coal mining exploitation and its facilities is submitted gradually to the Head of BKPM by enclosing recommendation from the Director General of Geology and Mineral Resources.

C. FOREIGN COMPANY REPRESENTATIVE OFFICE

Article 10

- (1) Activities of Foreign Company Representative Office (KPPA) outside the finance sector must secure license from BKPM.
- (2) Applications for the license as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by using the form of Model KPPA as meant in Attachment 3.
- (3) The license of activities of KPPA is issued in the form of a permit signed by the Head of BKPM with a copy made available to:
 - a. The Minister of Finance;
 - b. The Minister of Industry and Trade;
 - c. The Minister of Manpower and Transmigration;
 - d. The Head of Representative of the Republic of Indonesia in country of origin of foreign company;
 - e. The Ambassador/Head of Representative in country of origin of foreign company in Jakarta;
 - f. Governor/regent/mayor.
- (4) The permit as meant in paragraph (3) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

CHAPTER III BUSINESS LICENSE/PERMANENT BUSINESS LICENSE

Article 11

- (1) Investment companies are obliged to have business license/permanent business license to enable them to begin the implementation of operational activities/production.
- (2) Applications for securing the business license/permanent business license as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by

- using the form of application for business license/permanent business license as meant in Attachment 4.
- (3) Companies located in industrial estate which need business license/permanent license submit applications to the Head of BKPM in duplicate by using the form of application for business license/permanent business license as meant in Attachment 5.
 - (4) Approval of the applications as meant in paragraph (2) is issued in the form of business license/permanent business license signed by the Head of BKPM on behalf of the minister concerned with a copy made available to the officials as meant in Article 5 paragraph (3) in the case of PMDN and Article 6 paragraph (3) in the case of PMA.
 - (5) The business license/permanent business license as meant in paragraph (2) is issued not later than 7 (seven) working days as from the date of receipt of applications completely and truthfully.
 - (6) The business license/permanent business license is effective for 30 (thirty) years as from the commencement of production in the case of PMA and as long as the companies produce/operate in the case of PMDN.

CHAPTER IV APPLICATION FOR EXPANSION OF INVESTMENT

Article 12

- (1) Applications for expansion of investments in the framework of PMA/PMDN are submitted by PMA/PMDN companies already producing, to the Head of BKPM in duplicate by using the form as meant in Attachments 6 and 7.
- (2) In the case of kinds of the expanded production being different from the previous project or location of the expanded business being located in regency/city different from the previous project, applications for expansion can be submitted without requirement for having business license/permanent business license of the previous project.
- (3) Based on the applications as meant in paragraph (1), Approval (SP) of Expansion signed by the Head of BKPM is issued with a copy made available to the officials as meant in Article 5 paragraph (3) in the case of PMDN and Article 6 paragraph (3) in the case of PMA.
- (4) The approval of expansion as meant in paragraph (3) is issued not later than 10 (ten) working days as from the date of receipt of applications completely and truthfully, except business fields needing consultation with ministries/institutions concerned.

CHAPTER V
CHANGE IN INVESTMENT

SECTION ONE
GENERAL REQUIREMENTS FOR
APPLICATION FOR CHANGE

Article 13

- (1) Any change in provisions on project in the framework of PMDN/PMA must secure approval of the Head of BKPM.
- (2) The change in provisions on the project which must secure approval as meant in paragraph (1) consists of:
 - a. change in location of project;
 - b. change in business field and kind of production (kind or capacity);
 - c. change in employment of expatriate;
 - d. change in investment and financing source;
 - e. change in ownership of share of PMA company;
 - f. change in status of PMA company into PMDN company;
 - g. change in status of PMDN or Non-PMDN/PMA company into PMA company;
 - h. extension of the period of completion of project;
 - i. merger.
- (3) Any change in the provisions on project outside paragraph (2) must be notified in writing to the Head of BKPM.
- (4) Every application must be signed by authorized corporate executive or director or proxy, accompanied by power of attorney.

SECTION TWO
CHANGE IN LOCATION OF PROJECT

Article 14

- (1) Applications for changing location of project of PMDN/PMA companies are submitted to the Head of BKPM in duplicate by using the form of Model III as meant in Attachment 8.

- (2) Approval of the applications for change as meant in paragraph (1) is issued in the form of Approval of Change in Location, with a copy made available to the officials as meant in Article 5 paragraph (3) in the case of PMDN and Article 6 paragraph (3) in the case of PMA.
- (3) The approval as meant in paragraph (2) is issued not later than 7 (seven) working days as from the date of receipt of applications completely and truthfully.

SECTION THREE
CHANGE IN BUSINESS FIELD, KIND AND CAPACITY OF PRODUCTION

Article 15

- (1) Applications for changing business field, kind and capacity of production of PMDN/PMA companies are submitted to the Head of BKPM by using the form of Model III as meant in Attachment 8.
- (2) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Change in Business Field, Kind and Capacity of Production with a copy made available to institutions concerned.
- (3) The approval as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

SECTION FOUR
CHANGE IN EMPLOYMENT OF EXPATRIATE

Article 16

- (1) Applications for changing employment of expatriates of PMDIM/PMA companies are submitted to the Head of BKPM by using the form of Model III as meant in Attachment 8.
- (2) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Change in Employment of Expatriates with a copy made available to institutions concerned.
- (3) The approval as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

SECTION FIVE
CHANGE IN INVESTMENT AND FINANCING SOURCE

Article 17

- (1) Applications for changing investment in machines/ equipment having facilities and financing source of PMDN/PMA companies are submitted to the Head of BKPM by using the form of Model III as meant in Attachment 8.
- (2) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Change in Investment and Financing Source with a copy made available to institutions concerned.
- (3) The approval as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

SECTION SIX
CHANGE IN OWNERSHIP OF SHARE OF PMA COMPANY

Article 18

- (1) Applications for changing ownership of share of PMA companies are submitted to the Head of BKPM by using the form of Model III as meant in Attachment 8.
- (2) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Change in Ownership of Share with a copy made available to institutions concerned,
- (3) The approval as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

SECTION SEVEN
CHANGE IN STATUS OF PMA COMPANY INTO
PMDN COMPANY

Article 19

- (1) PMA companies whose shares are owned wholly by Indonesian investors/shareholders are obliged to submit applications for changing status into PMDN to secure approval from the Head of BKPM in duplicate by using the form of Model III.A as meant in Attachment 9.
- (2) Approval of the change as meant in paragraph (1) is issued in the form of Approval of Change in Status of Company with a copy made available to the institutions concerned.

- (3) The approval as meant in paragraph (2) is issued not later than 7 (seven) working days as from the date of receipt of applications completely and truthfully.
- (4) After changing status into PMDN, companies already having business license/permanent business license in the framework of PMA are obliged to submit applications for changing business license/permanent business license in the framework of PMDN to the Head of BKPM.
- (5) The approval of the change as meant in paragraph (4) is issued not later than 7 (seven) working days as from the date of receipt of applications completely and truthfully.

SECTION EIGHT
CHANGE IN STATUS OF PMDN COMPANY OR
NON-PMDN/PMA COMPANY INTO PMA COMPANY

Article 20

- (1) PMDN companies or non-PMDN/PMA companies already legitimate to have statutory body whose shares are purchased by PMA companies and/or foreign statutory bodies and/or foreign citizens, are obliged to submit applications for changing status into PMA to the Head of BKPM in duplicate by using the form of Model III.B as meant in Attachment 10.
- (2) The purchase of shares of the companies as meant in paragraph (1) only can be realized if business line of the said companies is not declared closed for investments having foreign share ownership in capital participation of the companies.
- (3) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Change in Status, with a copy made available to institutions concerned.
- (4) The approval as meant in paragraph (3) is issued not later than 7 (seven) working days as from the date of receipt of applications completely and truthfully.
- (5) After changing status into PMA, companies already having business license/permanent business license in the framework of PMDN or Non-PMDN/PMA are obliged to submit applications for changing business license/permanent business license in the framework of PMA to the Head of BKPM.
- (6) The approval of change as meant in paragraph (5) is issued not later than 7 (seven) working days as from the date of receipt applications completely and truthfully.

SECTION NINE
PERIOD OF COMPLETION OF PROJECT

Article 21

- (1) PMDN/PMA companies having validity period of completion of project expiring soon and not yet producing commercially are obliged to submit applications for extension of the period of completion of the project to the Head of BKPM in duplicate by using the form of Model III.C as meant in Attachment 11.
- (2) Approval of the applications as meant in paragraph (1) is issued in the form of Approval of Extension of Period of Completion of Project with a copy made available to the institutions concerned.
- (3) The approval as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.

SECTION TEN
MERGER

Article 22

- (1) Companies, which continue business activities as a result of merger, are obliged to secure approval from the Head of BKPM.
- (2) Companies continuing business activities or planning to merger are obliged to have profit and loss balance for the last three accounting years.
- (3) The status of companies after the merger is determined by the status of companies continuing business activities:
 - a. if companies continuing business activities are PMDN companies and no foreign citizen and/or foreign statutory body and/or PMA company has share in the companies after the merger, the status of the companies is still PMDN.
 - b. if companies continuing business activities are PMDN or Non-PMDN/PMA companies and foreign citizen and/or foreign statutory body and/or PMA company have/has share in the companies after the merger, the status of the companies changes into PMA.
 - c. If companies continuing business activities are PMA companies, the status of the companies is still PMA.
- (4) Companies planning to continue business activities of companies whose shares are partly owned by foreign citizen and/or foreign statutory body and/or PMA company are not permitted to enter business activities declared closed for investments having foreign share ownership in the corporate capital.

- (5) In the case of companies planning to merge still having expansion project in the phase of building/construction wherein machine/equipment has been imported partly, companies planning to continue business activities must submit first applications for expansion of business field of the business activities still in the phase of building/construction.
- (6) Fiscal facilities owned by the respective merging companies and not yet utilized are declared null and cannot be utilized further by the companies continuing their business activities.
- (7) The applications for merger as meant paragraph (1) are submitted in duplicate by using the form of Model III.D as meant in Attachment 12.
- (8) Approval of the applications as meant in paragraph (7) is issued by BKPM in the form of Approval with a copy made available to the institutions concerned.
- (9) The approval as meant in paragraph (8) is issued not later than 10 (ten) working days as from the date of receipt of applications completely and truthfully.

CHAPTER VI FACILITIES AND OPERATIONAL LICENSES OF INVESTMENT

SECTION ONE IMPORT OF CAPITAL GOODS

Article 23

- (1) Applications for securing approval of facilities of import of capital goods for PMA/PMDN companies are submitted to the Head of BKPM in duplicate by using the form of Model IV.A (Main List of Capital Goods) as meant in Attachment 13.
- (2) Approval of granting of facilities to the applications as meant in paragraph (1) is signed by the Head of BKPM on behalf of the Finance Minister in the form of Approval of Granting of Facilities of Exemption/Relief of Import Duty on the Import of Capital Goods (Customs SP), accompanied by attachment to the Main List of Capital Goods, with a copy made available to the Director General of Customs and Excise, Director General of Taxation and Director General of the relevant technical affairs.
- (3) The approval as meant in paragraph (2) is issued not later than 14 (fourteen) working days as from the date of receipt of applications completely and truthfully.
- (4) The validity period of granting of customs facilities of capital goods is adjusted to the period of completion of project.
- (5) In the case of the period of granting of facilities mentioned in Approval of Facilities of Import of Capital Goods already expiring, in order to extend the

- approval, the companies submit first applications for extension of the period of completion of project as meant in Article 21.
- (6) Applications for changing and/or supplementing the approval of import of capital goods already owned are submitted to the Head of BKPM and the approval is issued not later than 14 (fourteen) working days as from the date of receipt of applications completely and truthfully.
 - (7) The approval as meant in paragraph (6) can be granted unless the total value of the capital goods exceeds the value of capital goods mentioned in Approval (SP PMDN/PMA).
 - (8) If the capital goods (machines/equipment) already imported as meant in paragraph (2) are to be re-exported, companies submit applications to the Head of BKPM for issuing recommendation to the Directorate General of Customs and Excise for the re-export.

SECTION TWO
IMPORT OF RAW MATERIALS/AUXILIARY MATERIALS

Article 24

- (1) Applications for securing approval of facilities of the import of raw materials/auxiliary materials for PMA/PMDN companies are submitted to the Head of BKPM in duplicate by using the form of Model IV.B (Main List of Raw Materials/Auxiliary Materials) as meant in Attachment 14.
- (2) Approval of granting of facilities to the applications as meant in paragraph (1) is signed by the Head of BKPM on behalf of the Finance Minister in the form of Approval of Granting of Facilities of Exemption/Relief of Import Duty on the Import of Raw Materials/Auxiliary Materials (Customs SP), accompanied by attachment to the Main List of Raw Materials/Auxiliary Materials, with a copy made available to the Director General of Customs and Excise, Director General of Taxation and Director General of the relevant technical affairs.
- (3) The approval as meant in paragraph (2) is issued not later than 14 (fourteen) working days as from the date of receipt of applications completely and truthfully.
- (4) Companies not yet having business license/permanent business license in the framework of both PMDN and PMA are granted facilities of the import of raw materials/auxiliary materials for the production need in one year with the import period of one year.
- (5) Companies already having business license/permanent business license in the framework of both PMDN and PMA are granted facilities of the import of raw materials/auxiliary materials for the production need in 2 (two) years with the import period granted for two years in lump sum.

- (6) If companies already securing facilities of the import of raw materials/auxiliary materials have not yet completed the import in two years, they are granted the extension of period of the import for one year, starting from the date of Approval of Extension of Customs Facilities.

SECTION THREE
LIMITED IMPORTER IDENTITY NUMBER

Article 25

- (1) PMDN/PMA companies planning import directly capital goods and/or raw materials/auxiliary materials are obliged to have Limited Importer Identity Number (APIT).
- (2) Applications for securing APIT as meant in paragraph (1) are submitted to the Head of BKPM in duplicate by using the form of APIT as meant in Attachment 15.
- (3) APIT as meant in paragraph (2) is signed by the Head of BKPM on behalf of the Minister of Industry and Trade in the form of APIT Decision and Card, which are conveyed to applicants with a copy made available to the Minister of Industry and Trade, Director General of Foreign Trade attn. The Director of Import, the Export and Import Division of Bank Indonesia, Director General of Customs and Excise and the Director General of Taxation.
- (4) Approval of APIT as meant in paragraph (2) is issued not later than 5 (five) working days as from the date of receipt of applications completely and truthfully.
- (5) APIT is effective as from the date of stipulation and throughout the Indonesian territory as long as the companies still operate/produce.
- (6) In the case of companies having activities subsumed into the trade sector and planning to import goods which will be traded, APIT is also effective as General Importer Identity Number (APIU) and valid for 5 (five) years.
- (7) Any change in APIT, covering name of company, address, NPWP, corporate director or signing of import document must secure approval from BKPM.

SECTION FOUR
LICENSE TO EMPLOY EXPATRIATES

Article 26

- (1) PMDN/PMA companies planning to employ Expatriates (TKA) must have Ratification of the Plan for Employing Expatriates (RPTKA).

- (2) Applications for securing RPTKA as meant in paragraph (1) are submitted to the Head of BKPM by using the form of RPTKA as meant in Attachment 16.
- (3) Ratification of RPTKA is issued in the form of a decision on Ratification of RPTKA with a copy made available to institutions concerned.
- (4) The decision as meant in paragraph (3) is issued not later than 4 (four) working days as from the date of receipt of applications completely and truthfully.

Article 27

- (1) TKA working with PMA/PMDN companies and foreign company representative office (KPPA) who have prepared for coming to Indonesia must have Limited Stay Permit (VITAS) issued by representative offices of the Republic of Indonesia.
- (2) In order to obtain VITAS as meant in paragraph (1), companies must have recommendation to obtain visa for working purpose (recommendation TA.0.1) from BKPM by referring to the provisions stipulated by the authorized institution in the manpower and immigration fields.
- (3) Recommendation TA.01 about the applications as meant in paragraph (2) is issued by BKPM in this case the Director of Licensing Service to the Director General of Immigration.
- (4) The recommendation as meant in paragraph (3) is issued not later than 4 (four) working days as from the date of receipt of applications completely and truthfully.
- (5) The Directorate General of Immigration based on the recommendation TA.01 as meant in paragraph (3) notifies representative offices of the Republic of Indonesia to issue VITAS to the relevant TKA.
- (6) After the relevant TKA obtain VITAS, the employing companies submit applications for the issuance of KITAS to local immigration office by using the form of KITAS and enclosing evidence of embarkation card in accordance with the provisions in force after the said TKA arrive at Indonesia.

Article 28

- (1) Companies employing TKA already obtaining VITAS and planning to work in Indonesia must secure License to Employ Expatriates (IMTA).
- (2) Applications for new IMPTA of PMDN/PMA companies and KPPA are submitted by employing companies and KPPA to the Head of BKPM by using the form of IMTA as meant in Attachment 17.

- (3) Approval of the applications as meant in paragraph (2) is issued by BKPM on behalf of the Minister of Manpower and Transmigration in the form of Decision on IMTA with a copy made available to the institutions concerned.
- (4) The approval as meant in paragraph (3) is issued not later than 4 (four) working days as from the date of receipt of applications completely and truthfully.

Article 29

- (1) In the case of TKA having the validity period of their IMTA expiring soon, employing companies are obliged to submit applications for extension of IMTA by using the form of IMTA as meant in Attachment 17 to:
 - a. the Director of Licensing Service of BKPM, in the case of TKA having working location on more than one province;
 - b. governor, in the case of TKA having working location in regencies/cities in one province.
- (2) The applications as meant in paragraph (1) are submitted not later than 30 (thirty) working days before SK-IMTA of the said TKA expires.
- (3) The decision on extension of IMTA as meant in paragraph (1) is issued not later than 4 (four) working days as from the date of receipt of applications completely and truthfully.
- (4) Employing companies are obliged to submit applications to the Head of BKPM for change in employment of TKA changing in position, holding double position, employing companies (sponsor) or location.

Article 30

- (1) TKA other than Executive Directors and Directors already working for 5 (five) years consecutively in the territory of the Republic of Indonesia must come out of the territory of the Republic of Indonesia with the status Exit Permit Only (EPO).
- (2) In the case of the TKA as meant in paragraph (1) being still needed by employing companies, the employing companies are obliged to follow the procedures as meant in Article 28 and on the basis of RPTKA in force, which is accompanied by record of evidence of EPO.

Article 31

- (1) PMDN/PMA companies can import TKA to be employed as from the preparation/planning of project (not erector) by submitting application to the Head of BKPM in accordance with the provisions in force.

- (2) In the case of TKA being employed by employing companies and contractors only in the period of physical construction/building of factories (erector), including installation of machines, ratification of RPTKA and applications for IMTA are submitted to the Ministry of Manpower and Transmigration in this case the Director General of Domestic Manpower Placement Development.

CHAPTER VII SANCTION

Article 32

- (1) Applications failing to meet the provisions as stipulated in this decision result in rejection of issuance of approval/license as requested.
- (2) In the case of applicants intentionally falsifying data and/or the enclosed documents, the applications become illegitimate and approval issued by the government can be nullified and the relevant is liable to sanction in accordance with the provisions in force.

CHAPTER VIII TRANSITIONAL PROVISION

Article 33

- (1) All approval and operational licenses of investments already issued before the enforcement of this Decree are declared to remain effective until the validity period of the approval/operational licenses expire.
- (2) All applications for new investments, expansion and change as well as operational licenses in the framework of PMDN/PMA which have not yet secured approval from governors or regents/mayor upon the enforcement of this Decree are still processed and settled not later than 30 (thirty) working days as from the date of this Decree.

CHAPTER IX CONCLUSION

Article 34

With the enforcement of this Decree, Decree of the State Minister for Investments/the Head of the Investment Coordinating Board No. 38/SK/1999 on guidelines and procedures for applications for investments established in the framework of domestic and foreign investments is declared null and void.

Article 35

- (1) Matters not yet regulated in this Decree are to be regulated further by a Decree of the Head of the Investment Coordinating Board (BKPM).
- (2) The Decree comes into force as from the date of stipulation.

Stipulated in Jakarta

On July 20, 2004

THE HEAD OF THE INVESTMENT COORDINATING BOARD

Signed

THEO F. TOEMION