



## ARMA Update: 9 December 2021

*(English Version)*

### The Development of Prohibition of Export and Import Goods and Export Online Based License

#### General Overview

On 1 April 2021, the Ministry of Trade of the Republic of Indonesia (“**MoT**”) issued the Minister of Trade Regulation No. 18 concerning Goods Prohibited from Exporting and Importing (“**MoT Reg 18/2021**”) which regulates the development of goods prohibited for export and import, and Minister of Trade Regulation No. 19 of 2021 concerning Export Policy (“**MoT Reg 19/2021**”) which introduces significant changes to export licensing for exporters in Indonesia which will then be integrated with an online-based licensing system. Both regulations have taken effect on 19 November 2021.

This ARMA Update will cover the development of goods that are prohibited from being exported and imported as well as regarding the integration of exporters business permits through an integrated trade service system which is carried out online through the <https://inatrade.kemendag.go.id/> portal for obtaining the intended permit so that exporters can run their businesses (“**INATRADE**”).

#### Who can be referred to as Exporters and Importers?

An exporter is an individual or institution or business entity, whether in the form of a legal entity or not a legal entity, which exports. Export means the activity of transmitting goods outside the customs area.<sup>1</sup> On the other hand, an importer is an individual or institution, or business entity, whether in the form of a legal entity or not a legal entity, that conducts imports, which in this case means the activity of transmitting goods from outside of the customs area.<sup>2</sup> Based on Law No. 10 of 1995 concerning Customs (“**Law No.10/1995**”), customs area is the territory of the Republic of Indonesia which includes land, water, and air space above it, as well as certain places in the exclusive economic zone and the continental shelf.<sup>3</sup>

#### Export & Import Prohibited Goods

The prohibition on goods to be exported and imported was previously regulated through the Minister of Trade Regulation No. 45 of 2019 concerning goods prohibited from being exported

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<sup>1</sup> Article 1 (4) of MoT Reg 18/2021

<sup>2</sup> Article 1 (3) & (5) of MoT Reg 18/2021

<sup>3</sup> Article 1 (2) of Law No.10/1995



(“MoT Reg 45/2019”)<sup>4</sup>, and the prohibition of goods that were prohibited from being imported was regulated in the Minister of Trade Regulation No. 12 of 2020 regarding Prohibited Imports (“MoT Reg 12/2020”). In its current development, the regulation on goods prohibited for export and import is unified in MoT Reg 18/2021.

There are additional fields that are prohibited from exporting in MoT Reg 18/2021, namely subsidized fertilizers and certain types of metal scrap. More simply it can be understood in the comparison table as follows<sup>5</sup>:

Sector	MoT Reg 45/2019	MoT Reg 18/2021
Forestry	<ol style="list-style-type: none"> <li>1. Coarse wood, whether or not hulled or degummed, or roughly squared, except for the type of agarwood (<i>Aquilaria filaria</i>, <i>Aquilaria malaccensis</i>, <i>Gyrinops versteegii</i>);</li> <li>2. Wooden hoop; split pole; piles, posts of wood, pointed but not sawn lengthwise; wooden sticks, roughly cut but not turned, bent or otherwise worked, suitable for the manufacture of walking sticks, umbrellas, tool handles or the like;</li> <li>3. Bearing (cross-tie) railroad or tram of wood. - Not infused;</li> <li>4. Coniferous trees, trees other than conifers;</li> <li>5. Wood is sawn or split lengthwise, sliced or hulled, whether or not planed, sanded or end jointed, with a thickness exceeding 6 mm;</li> <li>6. Wood in the form of logs or logs that have been further treated on the outside simply, finely or thinly carved or threaded, painted or painted, have no</li> </ol>	<ol style="list-style-type: none"> <li>1. Rattan, rough wood, whether or not hulled or degummed, or roughly squared, except for gaharu (<i>Aquilaria filaria</i>, <i>Aquilaria malaccensis</i>, <i>Gyrinops versteegii</i>), aloe vera (<i>Aetoxylon sympetatum</i>) and laka root (<i>Dalbergia parviflora</i>);</li> <li>2. Coniferous trees;</li> <li>3. Wood is sawn or split lengthwise, sliced or hulled, whether or not planed, sanded or end-jointed, with a thickness exceeding 6 mm;</li> <li>4. Wood in the form of logs or logs which have been further treated on the outside simply, finely or thinly carved or threaded, painted or painted, have no significant added value and no significant change in shape.</li> </ol>

<sup>4</sup> Revoked under Article 9 of Mot Reg 18/2021

<sup>5</sup> Appendix of MoT Reg 18/2021



Sector	MoT Reg 45/2019	MoT Reg 18/2021
	significant added value and no significant changes in shape.	
Agriculture	<ol style="list-style-type: none"> <li>1. Natural rubber, balata, gum percha, guayule, chicle and similar natural rubbers, in primary form or in plates, sheets or strips. Natural rubber in other forms;</li> <li>2. Air-dried sheet, Latex crepe, Sole crepe;</li> <li>3. Remilled crepe, including flat bark crepe Other Crepes - Superior processing rubber - Skim rubber 8 Scrap (from tree, soil or smoke) and cup lump.</li> </ol>	No Changes
Mining	<ol style="list-style-type: none"> <li>1. Natural sands of all kinds, whether or not coloured, other than metallic sands of Chapter 26;</li> <li>2. Silica sands and quartz sands other clays (excluding clays of heading 68.06), andalusite, kyanite and sillimanite, whether or not calcined; mullites;</li> <li>3. Chamotte land or official land. Bentonite Refractory clay, other clays;</li> <li>4. <i>Fuller's earth</i>;</li> <li>5. Andalusite, kyanite and sillimanite Mullite;</li> <li>6. Chamotte land or official land;</li> <li>7. Diatomaceous earths (for example, kieselguhr, tripolite and diatomite) and similar soils containing silica, whether or not calcined, with a density of 1 or less;</li> <li>8. Minerals not elsewhere specified or included. 11 ex. Top soil (including topsoil or humus).</li> </ol>	<ol style="list-style-type: none"> <li>1. Unroasted iron pyrite;</li> <li>2. Silica sand and quartz sand that have not been processed (raw);</li> <li>3. Other natural sands;</li> <li>4. Silica and quartz in the form of gravel pack sand with content &lt; 98.5% SiO<sub>2</sub>, roundness &lt; 60%, sphericity &lt; 70%, solubility in hydrochloric acid &gt; 1.3% and capable of breaking under pressure of 5,000 psi, size fraction -30 +50 mesh &gt; 12.8%, or size fraction -30+70 mesh &gt; 5.2%, or size fraction -40+70 mesh &gt; 8.7%;</li> <li>5. Silica and quartz in the form of molding sand with a content of 90% SiO<sub>2</sub>, passed a 30-mesh filter &lt; 90%, clay content &gt; 0.20%, moisture content &gt; 1%, and roundness &lt; 50%</li> <li>6. Processed kaolin in the form of flour with brightness &lt; 79%, &gt; 47% SiO<sub>2</sub>, &lt; 36% Al<sub>2</sub>O<sub>3</sub>, and grain size passing 325 mesh sieves &lt; 99%</li> </ol>



Sector	MoT Reg 45/2019	MoT Reg 18/2021
		7. Refractory clay; 8. Uranium ores and concentrates thereof; 9. Silver ore and concentrates thereof.
Cultural Heritage	1. Collections and collectors' items of zoology, botany, mineralogy, anatomy, history, archeology, paleontology, ethnography or numismatic interests; 2. For historical, archeological, paleontological and ethnographic purposes; 3. Antiques that generally exceed 100 years.	No Changes
Scrap and Metal Scrap	Not Governed	1. Waste and scrap cast iron; 2. Waste and alloy steels other than stainless steels; 3. Waste of tin-coated iron or steel scrap; 4. Waste and scrap other than cast iron, other than waste and scrap of iron or steel coated with tin in the form of grams, shavings, chips, mill waste, sawdust, files, scraps and crumbs, whether or not in bundles, waste and 5. <i>Scrap tin.</i>
Subsidized Fertilizer	Not Governed	1. Urea, whether or not in aqueous solution (Urea Fertilizer in tablets or similar forms or in packages with a gross weight exceeding 10 kg.

The regulation regarding goods prohibited from importing has not been specifically stated in certain sectors in MoT Reg 12/2020, but in the form of an affirmation that the Minister of Trade ("MoT") stipulates those goods are prohibited from being imported on the grounds of protecting national security or public interest, including social, culture, and morals of society.<sup>6</sup>

<sup>6</sup> Article 2 (1) of MoT Reg 12/2020



Meanwhile, MoT Reg 18/2021 stipulates goods that are prohibited from being imported, such as certain types of sugar, certain types of rice and substances that poses a threat to the ozone layer.<sup>7</sup>

### **Business Licensing Mechanism in the Export Sector**

According to Government Regulation No. 5 of 2021 concerning the Implementation of Risk-Based Business Licensing (“**GR 5/2021**”), business licensing is a legality granted to business practitioners to start and run a business and/or business activity<sup>8</sup>, with the enactment of MoT Reg 19/2021, now introducing a new business licensing system for exporters to carry out their business activities by implementing and increasing the ease of licensing through the INATRADE system directly.

Before applying for an export permit, exporters are required to have a Business Identification Number (“**NIB**”) obtained through registration on the Online Single Submission.<sup>9</sup> MoT Reg 19/2021 also requires exporters to confirm their taxpayer status due to the requirement of business licensing documents are only issued to exporters whose tax status is already valid.<sup>10</sup>

### **How to Apply for a Business License in the Export Sector Through the INATRADE System?**

MoT Reg 19/2021 stipulates that exporters must submit applications electronically through the Indonesia National Single Window System (“**SINSW**”), which is an electronic system that integrates systems and/or information related to the process of handling customs documents, quarantine documents, licensing documents, port/airport documents, and other documents related to export and/or import, which ensure security and integrate the flow and process of information between internal systems automatically.<sup>11</sup>

To apply through SINSW, exporters are required to have access rights which are obtained by registering through SINSW and uploading scanned original documents in the form of at least the following<sup>12</sup> (“**Access Rights**”):

1. Taxpayer Identification Number (“**NPWP**”) or Population Identification Number (“**NIK**”), for individual exporters;
2. NPWP, for exporters of State-Owned Enterprises and Foundations; or
3. NIB and NPWP, for exporters in the form of cooperatives and business entities.

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<sup>7</sup> Article 2 (3) of MoT Reg 18/2021

<sup>8</sup> Article 1 (4) of GR 5/2021

<sup>9</sup> Article 1 (12) of GR 24/2018

<sup>10</sup> Article 4 of MoT Reg 19/2021

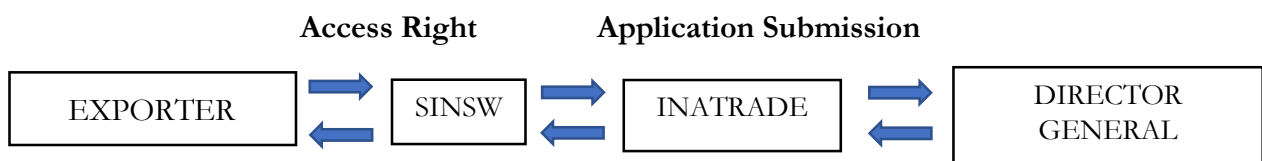
<sup>11</sup> Article 1 (11) of MoT Reg 19/2021

<sup>12</sup> Article 5 of MoT Reg 19/2021



After obtaining the Access Rights, the exporter is required to submit an application by uploading a scan of the required documents in accordance with the type of goods to be exported, as stated in Appendix I of MoT Reg 19/2021, the exporter is also required to submit a statement of responsibility.<sup>13</sup>

Furthermore, if the application for a business license in the export sector is declared complete in accordance with the requirements, the Director General of Foreign Trade ("**Director General**") on behalf of the MoT issues a business permit in the export sector through the INATRADE system which is forwarded to SINSW by attaching an electronic signature and QR Code.<sup>14</sup>



In addition, to export certain of goods as listed in Appendix III of MoT Reg 19/2021, the Director General requires fulfillment of additional documents for the exporter.<sup>15</sup> Furthermore, the additional document is a complementary customs document that is required in the delivery of customs notification of export of goods to the customs office.<sup>16</sup>

### Sanctions Due to Failure of Reporting Export Realization

Exporters of certain goods that have been designated as registered exporters with a validity period are obligated to export<sup>17</sup>, if the registered exporter does not export within one year as of the stipulation of registered exporters, they will be subject to administrative sanctions in the form of electronic warnings through SINSW.<sup>18</sup>

Also, exporters who do not carry out their export realization reporting obligations are subject to administrative sanctions in the form of electronic warnings through SINSW.<sup>19</sup>

Furthermore, in the event that an exporter who has been imposed with an administrative sanction in the form of an electronic warning still does not submit an export report within a maximum

<sup>13</sup> Article 6 (1) of MoT Reg 19/2021

<sup>14</sup> Article 7 (1) of MoT Reg 19/2021

<sup>15</sup> Article 17 (1) of MoT Reg 19/2021

<sup>16</sup> Article 17 (2) of MoT Reg 19/2021

<sup>17</sup> Article 26 (1) of MoT Reg 19/2021

<sup>18</sup> Article 31 of MoT Reg 19/2021

<sup>19</sup> Article 32 (1) of MoT Reg 19/2021



period of 30 (thirty) days from the date the electronic warning is imposed, the exporter is subject to an administrative sanction in the form of<sup>20</sup>:

1. Suspension of issuance of certificate for the next Export exemption for 6 (six) months, for certificate which is valid for 1 (one) delivery; or
2. Freezing of certificates, for certificates that are valid for more than 1 (one) delivery.

### **List of Exportable Goods After Obtaining a Business License**

MoT Reg 19/2021 provides a complete list of various goods that can be exported after obtaining a business license, as follows<sup>21</sup>:

1. Edible swallow's nest;
2. Rice;
3. Animals and animal products;
4. Natural plants, wildlife and fish;
5. Industrial Forest Products;
6. Rough diamonds;
7. Masks and mask raw materials;
8. Tin;
9. Metal scraps;
10. Examples of mining industry products for the purpose of research and development of processing purification technology;
11. Non-pharmaceutical precursors;
12. Non-Subsidized Urea Fertilizer;
13. Oil and natural gas;
14. Other types of fuel;
15. Processed and/or purified mining products;
16. Mining goods for research and development purposes, re-export purposes, and industrial export purposes;
17. Coal products.

### **Obligation of Verification or Technical Tracing for Certain Exported Goods**

Verification or technical investigation can be carried out by surveyors, in the Minister of Trade Regulation No. 16 of 2021 concerning Verification and Technical Investigation in the Foreign Trade Sector (“**MoT Reg 16/2021**”). A surveyor is a survey company that is authorized to perform

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<sup>20</sup> Article 34 of MoT Reg 19/2021

<sup>21</sup> Appendix I of MoT 19/2021



verification or technical inquiry on exports and imports issued by the MoT for certain goods that meet the following criteria<sup>22</sup>:

1. Goods that have the potential to interfere with security, health, safety, and the environment;
2. Goods with certain criteria or specifications that need to be confirmed for conformity; and/or;
3. Goods which are non-renewable products.

The results of the verification or technical investigation by the surveyor are stated in the form of a surveyor's report which is used as a complement to the customs documents required in the delivery of customs notification of the export of goods to the customs office.<sup>23</sup>

Furthermore, exporters who have obtained an exporter's business license and surveyor's report are required to submit an electronic export realization report to the MoT.<sup>24</sup> The realization report includes information on types of goods, volume, value of goods, port of loading, and country of destination.

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<sup>22</sup> This list is subject to change based on the decision of the coordination meeting chaired by the Coordinating Minister for Economic Affairs (Article 18 (3) of MoT Reg 19/2021)

<sup>23</sup> Article 19 (1), (3), (4) of MoT Reg 19/2021

<sup>24</sup> Article 27 of MoT Reg 19/2021