

**MINISTERIAL DECREE OF COMMUNICATIONS
OF THE REPUBLIC OF INDONESIA
Number: PM51 Year 2011**

CONCERNING

SPECIAL TERMINAL AND TERMINAL FOR INDIVIDUAL (OWN) PURPOSE

BY THE GRACE OF GOD ALMIGHTY

MINISTER OF COMMUNICATIONS OF THE REPUBLIC OF INDONESIA,

- Considering: that in order to implement the provisions of Article 134, Article 144, and Article 153 of Government Regulation Number 61 Year 2009 on Harbors it is necessary to enact Ministerial Decree of Communications (Transportation) concerning Special Terminal for Own Use/ Individual Purpose;
- Referring to in
1. Law Number 26 Year 2007 on Spatial Plan (State Gazette of the Republic of Indonesia Year 2007 Number 68, Supplement to State Gazette of the Republic of Indonesia Number 4725);
 2. Law Number 17 Year 2008 on Shipping (State Gazette of the Republic of Indonesia Year 2008 Number 64, Supplement to State Gazette of the Republic of Indonesia Number 4849);
 3. Government Regulation Number 61 Year 2009 on Harbor/Seaport (State Gazette of the Republic of Indonesia Year 2009 Number 151, Supplement to State Gazette of the Republic of Indonesia Number 5070);
 4. Government Regulation (PP) Number 5 Year 2010 on Navigation (State Gazette of the Republic of Indonesia Year 2010 Number 8, Supplement to State Gazette of the Republic of Indonesia Number 5093);
 5. Government Regulation (PP) Number 20 Year 2010 on Transportation of Waters (State Gazette of the Republic of Indonesia Year 2010 Number 26, Supplement to State Gazette of the Republic of Indonesia Number 5108) as having been amended by government regulation (PP) Number 22 Year 2011 (State Gazette of the Republic of Indonesia Year 2011 Number 43, Supplement to State Gazette of the Republic of Indonesia Number 5208);
 6. Government Regulation (PP) Number 21 Year 2010 on Protection of Maritime Environment (State Gazette of the Republic of Indonesia Year 2010 Number 27, Supplement to State Gazette of the Republic of Indonesia Number 5109);
 7. Presidential Decree Number 47 Year 2009 on Establishment and Organization of State Ministry;
 8. Presidential Decree Number 24 Year 2010 on Position, Task, and Function of State Ministry and Organizational Structure, Task, and Function of Echelons I of State Ministry, as having been amended by Presidential Decree Number 67 Year 2010;
 9. Ministerial Decree of Communications Number KM 60 Year 2010 on Organization and Work Procedure of Ministry of Communications;
 10. Ministerial Decree of Communications Number KM 62 Year 2010 on Organization and Work Procedure of Office of Operational Unit of Harbor;
 11. Ministerial Decree of Communications Number KM 63 Year 2010 on Organization and Work Procedure of Office of Harbor Authority;

12. Ministerial Decree of Communications Number KM 64 Year 2010 on Organization and Work Procedure of Office of Port Master;

DECIDES:

To Enact

MINISTERIAL DECREE OF COMMUNICATIONS (TRANSPORTATION) ON SPECIAL TERMINAL AND TERMINAL FOR INDIVIDUAL (OWN) PURPOSE.

**Chapter I
General Provision**

Article 1

In this Ministerial Decree what is meant by:

1. Harbor shall be a place consisting of area of land and/or area of waters with certain boundaries, of which is used for a place of activities of government and activities of undertakings that are used as a space for ships to berth, getting in and out of passengers, and/ or loading and unloading of goods, in form of terminal and a place of berthing for ships that are equipped with facilities of safety and security of shipping and supporting activities of harbor and a place for intra-movement and inter-mode transportation.
2. Seaport shall be a harbor that can be used for the services and activities of sea transportation and/ or crossing transportation at sea or at river.
3. Special Terminal shall be a terminal located outside the work area and area of interest of harbor as part of the nearest harbor for serving the individual (own) services based on the core business.
4. Terminal for individual (own) purpose shall be a terminal located within the workplace and area of interest that are parts of the harbor of services for individual (own) purpose based on the core business.
5. Workplace shall be area of waters and area of land at harbor or special terminal that is directly used for the activity of harbor.
6. Area of interest shall be area of waters around the workplace of harbor that is used for guaranteeing the safety of shipping.
7. Certain activity shall be the activity to support the activity of core business, of which the activity of undertakings cannot be served by the nearest harbor because the nature of goods or the activities that need special services or because the location is far from harbor.
8. Individual (own) purpose shall be restricted to the activity of traffic of ships for the activity of getting in and out of passengers or the loading and unloading of goods in form of raw material and the output of production based on the type of core business.
9. Raw Material shall be the material directly used as the basic material of production based on the type of core business.
10. Output of Production shall be the goods as the direct result from the process of production based on the type of core business.
11. Port Master shall be a Government Official at Harbor assigned by Minister and have the highest authority to conduct the monitoring in regard of the fulfillment of stipulations of laws and regulations in order to assure the safety and security of shipping.
12. Port Authority shall be a governmental agency at the harbor with authority to implement the function of regulating, controlling and monitoring of activities of harbor on a commercial basis.

13. Operational Unit of Harbor shall be a governmental agency at harbor with the authority to implement the function of regulating, controlling and monitoring of harbor activities, and to provide harbor services to any harbor that has yet to be commercially operated.
14. Operator of Special Terminal shall be a certain entity based on its core business.
15. Entity of Undertakings of Harbor shall be an entity of undertakings of activities specifically carried out in the business sector of terminal and harbor with the facilities.
16. Regional government shall be Provincial Governor, Regent/ Mayor, and regional apparatuses who conduct the implementation of regional governance.
17. Director General shall be the Director General of Sea Transportation.
18. Minister shall be a Minister in charge of shipping affairs.

CHAPTER II SPECIAL TERMINAL

Part One General

Article 2

- (1) In order to support certain activities outside the area of workplace and area of interest at seaport and river docks and harbor of lake it is considered possible to develop and operate a special terminal for individual (own) purpose in order to support the activity of certain core business.
- (2) Special Terminal as cited in paragraph (1):
 - a. shall be determined as part of the nearest harbor;
 - b. shall be obliged to have area of workplace and area of certain interest; and
 - c. shall be subject to the placement of governmental agency that will implement the function of safety and security of shipping, and another governmental agency that will implement the function of governance as per need.
- (3) Area of Workplace and Area of Certain Interest as cited in paragraph (2) letter b, shall be used:
 - a. as a site of stockpiling;
 - b. as a site of activity of loading and unloading;
 - c. as a route of shipping and shipping lines;
 - d. for the movement of ships;
 - e. in need of emergency; and
 - f. as a site for ships to berth.

Article 3

- (1) Special Terminal as cited in Article 2 can be developed and operated in considering that:
 - a. the nearest harbor cannot accommodate the main activities of governmental agency/ institution or business entities; and

- b. based on economic, technical and operational considerations it will be more effective and efficient in regard of the assurance of safety and security of shipping.
- (2) Special Terminal as cited in paragraph (1) can also be used for supporting the activity of business affiliate based on a similar type of core business and for the supply of raw material and supporting equipment of production as per need by the business entity.
- (3) Activity of core business as cited in paragraph (1) letter a includes:
- a. mining;
 - b. energy;
 - c. forestry;
 - d. agriculture;
 - e. fishery;
 - f. industry;
 - g. tourism; and
 - h. docking and ship docking.
- (4) In addition to core business as cited in paragraph (2), a special terminal can also be developed and operated in support to governmental activity, research, education, training and social activity.

Article 4

The management of special terminal can be conducted by the Central Government, provincial government, government of regency/ municipality (town), or entity of undertakings that will serve as an operator of the special terminal.

Part Two Determination on Location of Special Terminal

Article 5

- (1) Location of development of the special terminal as cited in Article 2 shall be determined by Minister with recommendation from provincial governor and regent/ mayor concerning the appropriateness of the site plan of the special terminal to the spatial plan of province and regency/ municipality (town).
- (2) Determination on location of the special terminal as cited in paragraph (1) shall consider the aspects as follows:
- a. the appropriateness to the spatial plan of province and regency/ municipality (town);
 - b. based on the economic, technical, operational considerations it is more efficient and effective in regard of the assurance of safety for shipping if such development and operation of the special terminal can be realized;
 - c. the safety and security of shipping;
 - d. the existing harbor cannot provide harbor services for certain activities because of the limited capacity of the available facilities; and
 - e. the defense and security of the State.

Article 6

- (1) in order to be determined as a location for the special terminal as cited in Article 5 paragraph (1) the applicant shall submit a request to Minister through Director General by using a format of Sample 1 of Appendix of this Ministerial Decree by attaching documents of requirements as follows:
- a. copy of the permit of undertakings of core business from related governmental institution;
 - b. the location proposed should be equipped with geographic coordinates as pictured in a sea map;
 - c. feasibility study that at least consists of:
 1. plan on volume of loading and unloading of raw material, supporting equipment and output of production;
 2. plan on frequency of visits of ships;
 3. economic aspect that contains efficiency of the development of the special terminal and the environmental aspect; and
 4. result of survey that includes hydro-oceanography (low and high tides, waves, depth and streams), topography, zero point (benchmark) of the location of harbor as depicted in geographic coordinates;
 - d. recommendation from port master of the nearest harbor in coordination with the district office of navigation in region in regard of the aspects of security and safety of shipping including the condition of waters based on the result of survey as cited in letter c point 4 with recommendation from the Head of District Office of Navigation in region;
 - e. recommendation from Provincial Governor and Regent/ Mayor in region concerning the suitability of the plan on the location for the special terminal as in accordance with the spatial plan of province and regency/ municipality (town);
- (2) Director General shall evaluate and submit the result of evaluation concerning the fulfillment of requirements as cited in paragraph (1) to Minister in a period of no later than 14 (fourteen) work days as of receiving the complete document of request.
- (3) Determination on the approval of location or the rejection against the request shall be made by Minister in a period of no later than 7 (seven) work days as of receiving the complete document of request by using a format of Sample 2 of Appendix of this Ministerial Decree.
- (4) The rejection against the request as cited in paragraph (3) shall be decided by Minister with written notification mentioning the reason of rejection by using a format of Sample 3 of Appendix of this Ministerial Decree

Article 7

Those, who are in the position of decision making in regard of the location as cited in Article 6 paragraph (3), in a period of no longer than 2 (two) years as of the date of determination of the location as decided by Minister, shall be obliged to start the work of preparation for the development of the special terminal and submit a request for a permit of the development of the special terminal.

Part Three Development of Special Terminal

Article 8

(1) The development of the special terminal shall be conducted by the operator of the special terminal based on a permit from Director General.

(2) In obtaining the permit for the development as cited in paragraph (1), the applicant shall submit a request to Director General by using a format of Sample 4 of Appendix of this Ministerial Decree by attaching the documents of requirements as follows:

a. administrative requirement that includes:

1. Deed of Establishment of Company;
2. Permit of the core business from the institution/ agency concerned;
3. Index Number of Taxpayer (NPWP);
4. Evidence on the occupation of land area;
5. Evidence on financial capacity;
6. proposal for a plan concerning the stages of activities of development in short-term, medium-term and long-term period; and
7. recommendation from Port Master at the Office of Operational Unit of Harbor at the nearest harbor after having been recommended by the District Head of Navigation in region concerning a plan on a shipping route with supporting facilities of Navigation and Shipping.

b. technical requirement that includes:

1. hydrographic and topographic drawings, and summary of report on the result of survey concerning low and high tides and streams;
2. site plan of pier;
3. calculation and drawing of the development of main construction;
4. result of survey of the condition of land;
5. result of review of safety of shipping including the route of shipping and the pond of harbor;
6. boundaries of planned area of land and area of waters equipped with geographic coordinates and a master plan of the special terminal that will be determined as an area of workplace and an area of certain interest; and
7. environmental review in form of environmental study that has been verified by the government official in authority as in compliance with the prevailing laws and regulations in the sector of environment;

(3) Evidence of the occupation of land area as cited in paragraph (2) letter a point 4 in form of document of evidence for the occupation of land area as issued by the National Land and Agrarian Agency (BPN).

(4) Evidence of financial capacity as cited in paragraph (2) letter a point 5 in form of the availability of budget for the development of facilities of the special terminal.

(5) Recommendation from Port Master at the Office of Operational Unit at the nearest harbor as cited in paragraph (2) letter a point 7 that includes:

- a. plan on shipping route;
- b. pond of harbor;
- c. plan on placement of supporting facility of navigation and shipping; and
- d. plan on visits of ships (types and sizes).

Article 9

- (1) Based on a request as cited in Article 8 paragraph (2), Director General shall inspect the requirements of the request for permit of development and operation of special terminal in a period of no later than 30 (thirty) work days as of receiving the complete document of request.
- (2) In case that based on the result of inspection the requirements as cited in paragraph (1) have yet to be completely fulfilled, Director General shall return the document of request with written notification given to the applicant in order that the requirements can be completely fulfilled by using a format of Sample 5 of Appendix of this Ministerial Decree.
- (3) The document of request that is returned as cited in paragraph (2) can again be submitted to Director General after completing the fulfillment of requirements.
- (4) In case that based on the result of inspection of requirements as cited in paragraph (1) the requirements have already been completely fulfilled, Director General shall determine to provide a permit of development of the special terminal by using a format of Sample 6 of Appendix of this Ministerial Decree.

Article 10

- (1) The permit for development as cited in Article 9 paragraph (4) shall include:
 - a. data of company;
 - b. technical specification of pier/ berthing;
 - c. boundaries of planned areas of land and waters equipped with geographic coordinates of the area of workplace and area of interest;
 - d. master plan of special terminal; and
 - e. deadline for completion of development;
- (2) area of workplace and area of interest as cited in paragraph (1) letter c shall be used:
 - a. as a site of stockpiles;
 - b. as an area of activities of loading and unloading;
 - c. as a shipping route and traffic line of shipping;
 - d. for the movement of ships;
 - e. as per need in emergency; and
 - f. as a site for ships to berth.
- (3) The master plan of special terminal as cited in paragraph (1) letter d shall at least include a site plan of facilities on the edge of waters and on the edge of land.

Article 11

In implementing the plan to develop the special terminal, the operator of special terminal shall be obliged:

- a. to carry out the activity of development of the special terminal based on a schedule that has been determined;
- b. to be responsible for the impacts generated from the implementation of development of the special terminal;
- c. to carry out the activity of development of the special terminal in a period of no later than 1 (one) year as of the issuance of the permit of development;
- d. to report the activity of development of the special terminal on a regular basis to the operator of the nearest harbor; and
- e. to comply with the prevailing laws and regulations.

Article 12

(1) The permit of development of the special terminal shall be revoked in case that the permit holder:

- a. fails to carry out the activity of development in a period of 1 (one) year after the grant or the issuance of permit for the development of the special terminal;
- b. is unable to finish the development of special terminal in a period of time as determined under the permit of development as cited in Article 11 letter a;
- c. violates or fails to fulfill the obligation as cited in Article 11.

(2) The revoke of permit of development as cited in paragraph (1) shall be processed under a mechanism of giving consecutive written warnings for 3 (three) times in a period of 1 (one) month of each of the warning.

(3) If having been warned as cited in paragraph (2) the holder of permit of development of the special terminal fails to make corrections or improvement as demanded in the warnings, the permit of operation of the special terminal shall be revoked.

Article 13

The permit of development of the special terminal shall be revoked without a process of warnings in case the operator of special terminal to commit wrongdoings as follows:

- a. to carry out an activity that endangers the security of State; or
- b. to obtain a permit of development and operation of the special terminal illegitimately.

Part Four

Operation of Special Terminal

Article 14

(1) The operation of special terminal shall be conducted by the operator of special terminal after obtaining a permit from Minister.

(2) The request for permit of the operation of the special terminal as cited in paragraph (1) shall be submitted to Minister through Director General by using a format of Sample 7 of Appendix of this Ministerial Decree by attaching documents of requirements as follows:

- a. recommendation from Head of Office of Operational Unit of the nearest harbor, of which shall include at least:
 - 1. statement that the development of special terminal has been completely implemented based on the permit of development as issued by Director General and it is ready for operation;
 - 2. the result of development of special terminal has fulfilled the aspects of safety, orderliness and security of shipping; and
 - 3. Recommendation from District Navigation in region concerning the preparedness of shipping route and supporting facilities for Navigation and Shipping.
- b. report on the management and monitoring of the environment during the period of development;
- c. having a system and procedure of services; and
- d. the availability of human resources in regard of technical and operational capacities at harbor with qualifications and competencies proved by certificates of skills.

Article 15

- (1) Based on a request for the permit as cited in Article 14 paragraph (2), Director General shall inspect the requirements of request for the permit of operation of the special terminal in a period of no later than 23 (twenty three) work days as of receiving the complete document of request.
- (2) In case that based on the result of inspection the requirements as cited in paragraph (1) have yet to be completely fulfilled, Director General shall return the document of request with written notification given to the applicant in order that the requirements can be completely fulfilled by using a format of Sample 8 of Appendix of this Ministerial Decree.
- (3) The document of request that is returned as cited in paragraph (2) can again be submitted to Director General after completing the fulfillment of requirements.
- (4) In case that based on the result of inspection as cited in paragraph (2) the requirements have been completely fulfilled, Director General shall submit the result of inspection to Minister.
- (5) Based on the result of inspection by Director General, Minister in a period of no later than 7 (seven) work days shall issue a permit of operation of the special terminal by using a format of Sample 9 of Appendix of this Ministerial Decree.

Article 16

- (1) The permit of operation of the special terminal shall be granted for a period of 5 (five) years and it is extendable after having fulfilled the requirements as cited in Article 3 paragraph (1).
- (2) Request for the extension of the permit of operation of the special terminal shall be submitted by the operator of special terminal to Minister through Director General by using a format of Sample 10 of Appendix of this Ministerial Decree by attaching documents of requirements as follows:
 - a. the recommendation from the Head of Office of Operational Unit of the nearest harbor, of which explains about the special terminal from the aspects of safety and security of shipping and the technicality of harbor, and the services shall remain feasible for the core business; and

- b. the official report on the result of site visit by an integrated technical team of the Directorate General of Sea Transportation and the Secretariat General.
- (3) Minister shall approve or reject the request for extension of the permit of operation as cited in paragraph (2) in a period of no later than 7 (seven) work days after receiving the complete document of request.
- (4) The rejection as cited in paragraph (3) shall be submitted with a written notification by stating the reason of rejection.

Article 17

Operator of the special terminal that has obtained a permit of operation shall be obliged:

- a. to be fully responsible for the operation of the special terminal;
- b. to report the operational activity every month to the operator at the nearest harbor;
- c. to comply with the prevailing laws and regulations in the sector of shipping and to preserve the environment;
- d. to comply with the laws and regulations of other governmental institutions that are related to its core business;
- e. to maintain the supporting facilities of Navigation and Shipping, the route of shipping, the pond of harbor, and the facilities needed for regular traffic of ships and delivery of goods as well as a good implementation of governmental tasks at the special terminal;
- f. to complete the facilities of the special terminal such as facilities of wastes and garbage.

Article 18

- (1) The permit of operation of the special terminal shall be allowed to be handed-over only if the core business is also handed over to another party.
- (2) The handover of permit of operation of the special terminal as cited in paragraph (1) shall be obligatorily reported to Director General.
- (3) In case there is a change of data of the permit of operation of the special terminal as cited in paragraph (1), operator of the special terminal shall obligatorily report the change of data to Minister through Director General so that adjustment can be made in a period of no later than 3 (three) months.

Article 19

- (1) The special terminal shall be operating for:
- a. the activity of traffic of ships or the activity of getting in and out of passengers or the loading and unloading of raw material, output of production and supporting equipment of production at the terminal for individual (own) purpose;
 - b. the activities of government, research, education, training and social activity.
- (2) The activity as cited in paragraph (1) letter a shall be proved by document of passengers and/ or document of loading of goods.

Article 20

The activity of loading and unloading as cited in Article 19 paragraph (1)

letter a shall be conducted only by a company of loading and unloading that is created or established by the operator of the special terminal as in compliance with the prevailing laws and regulations or by another company of loading and unloading as assigned by the operator of the special terminal.

Article 21

- (1) The use of special terminal for public services except the activity of loading and unloading of raw material, output of production and supporting equipment of production at the terminal for individual (own) purpose, shall not be allowed apart from an emergency with an approval from Minister.
- (2) Emergency as cited in paragraph (1) shall be:
 - a. natural disaster or another occasion that makes the harbor fail to function; or
 - b. in a region with the unavailability of harbor and there is no adequate mode of transportation, or the nearest harbor is unable to meet the need of harbor services because of the lack of facilities and this all has hindered a regular flow of goods.
- (3) The permit for the use of special terminal as cited in paragraph (1) shall be allowed only if the facilities of the special terminal can guarantee the security of shipping and a normal implementation of harbor services.
- (4) The use of the special terminal for public services shall be temporary, and if the nearest harbor has already been able to meet the need of harbor services, the permit for the use of special terminal shall be revoked.
- (5) The use of the special terminal as cited in paragraph (2) letter b shall be conducted based on cooperation between the operator of harbor and the management of the special terminal.

Article 22

- (1) The request of permit for the use of the special terminal for public services as cited in Article 21 paragraph (1) shall be submitted by Provincial Governor or Head of Office of Operational Unit of Harbor by using a format of Sample 11 of Appendix of this Ministerial Decree.
- (2) The request as cited in paragraph (1) shall be submitted to Minister through Director General by attaching:
 - a. document on the reason of the use of the special terminal for public services;
 - b. recommendation from the Head of Office of Operational Unit of Harbor concerning the available facilities that can guarantee the safety of shipping, workability, security and orderliness of operation of the special terminal for public services;
 - c. the fixed procedure on the operation of the special terminal that will be used for public services based on a common practice of harbor services at seaport; and
 - d. the agreement on the cooperation between the Head of Operational Unit of Harbor and the management of the special terminal.
- (3) Director General shall evaluate or assess the request as cited in paragraph (1) and submit the result of evaluation to Minister in a period of 21 (twenty one) work days as of receiving the complete document of request.
- (4) The permit as cited in paragraph (2) shall be issued and granted by

Minister by using a format of Sample 12 of Appendix of this Ministerial Decree within a period of no more than 7 (seven) work days as of receiving the complete document of request.

- (5) Rejection against the request as cited in paragraph (2) shall be notified in writing by mentioning the reason of rejection with the use of a format of Sample 13 of Appendix of this Ministerial Decree.

Article 23

The operation of the special terminal in addition to what is cited in Article 21 paragraph (1) shall be conducted under a mechanism as follows:

- a. the operation is conducted by the operator of the special terminal in collaboration with the management of the nearest public harbor;
- b. the collection of tariff of harbor services in serving the public as cited in Article 21 paragraph (1) shall be conducted by the operational unit of public harbor in collaboration with the operator of the special terminal.

Article 24

In regard of the special terminal that has been granted a permit for temporary public services as cited in Article 21 the harbor services for public goods shall be subject to a tariff that is similarly applicable to the tariff at harbor that has yet to be commercially operated by referring to the agreement as cited in Article 21 paragraph (5).

Article 25

- (1) The operation of the special terminal shall be conducted based on the frequency of visits of ships, loading and unloading of goods, and the transport of passengers who get in and out.
- (2) The operation of the special terminal as cited in paragraph (1) can be improved in term of operational capabilities on a continuous basis for 24 (twenty four) hours in one day or in a certain period of time as per need.
- (3) The improvement of the operation of the special terminal as cited in paragraph (2) shall be conducted based on the considerations as follows:
 - a. there is an increase of frequency of visits of ships, loading and unloading of goods, and the transport of passengers who get in and out; and
 - b. the availability of facilities for the safety of shipping, harbor operation, and the traffic of sea transportation.

Article 26

- (1) The improvement of operation of the special terminal as cited in Article 25 paragraph (2) shall be determined by Director General based on a request from the operator of the special terminal.
- (2) The determination as cited in paragraph (1) shall be made after the fulfillment of requirements as follows:
 - a. the readiness of the harbor based on the conditions such as the depth, low and high tides, supporting facilities of Navigation and Shipping;
 - b. the readiness of services on guidance and delays at the waters of the special terminal, of which has been determined as an area of waters with guiding obligations;
 - c. the readiness of facilities at the special terminal;

- d. the readiness of warehouses and/ or other facilities outside the special terminal;
- e. the readiness or preparedness of security and orderliness;
- f. the readiness of human resources for the operation as per need, such as:
 - 1. port master;
 - 2. quarantine official;
 - 3. customs and excise official;
 - 4. immigration official,
 of which should be proved by recommendations from related institutions in region;
- g. the readiness of workers of loading and unloading and passengers as well as vehicles that will be getting in and out;
- h. the readiness of facilities of the land transportation; and
- i. recommendation from the port master at the office of operational unit at the nearest harbor.

Article 27

Special terminal that has no longer been operating based on the permit can be:

- a. handed over to the (Central) Government, provincial government, or the local government of regency/ municipality (town);
- b. converted into its original nature;
- c. recommended for a change of status to become a special terminal in order to support another core business; or
- e. determined to become a harbor.

Article 28

- (1) The special terminal that is handed over to the Government, provincial government, or the local government of regency/ municipality (town) as cited in Article 27 letter a will be operated by the operational unit of harbor.
- (2) The status of special terminal that is handed over to the Government, provincial government, or the local government of regency/ municipality (town) as cited in Article 27 letter a can be changed into a harbor that will later on be commercially operated.
- (3) The change of status as cited in paragraph (2) shall be conducted after fulfilling the requirements as follows:
 - a. it is in accordance with the National Master Plan of Harbor;
 - b. it is economically, technically and operationally feasible;
 - c. there is a creation or establishment of an entity of undertakings of harbor;
 - d. there is concession from the Authority of Harbor;
 - e. there are security, orderliness, and safety of shipping; and

- f. there is environmental preservation.
- (4) In case that the status of the special terminal is changed to become a harbor that will later on be commercially operated, the area of land and/or area of waters, facilities of wave breaker, pond of harbor, route of shipping, and supporting facilities of Navigation-Shipping that are occupied and owned by the operator of special terminal as cited in paragraph (1) shall be controlled by the State and regulated by the Authority of Harbor.
- (5) The grant of concession and the handover as cited in paragraphs (1) and (2) shall be conducted based on a deal between the Authority of Harbor and the operator of special terminal as stated under an agreement.

Article 29

- (1) Special terminal that is converted into a harbor as cited in Article 27 letter d shall be subject to obtaining a permit from Minister after having fulfilled the requirements.
- (2) The requirements as cited in paragraph (1) shall be as follows:
 - a. it is in accordance with the National Master Plan of Harbors;
 - b. it is economically, technically and operationally feasible;
 - c. there is the creation or the establishment of an entity of undertakings of harbor;
 - d. it has security, orderliness and safety of shipping; and
 - e. there is environmental preservation.
- (3) The special terminal that is converted into a harbor as cited in paragraph (1) shall be subject to obtaining a concession from the Authority of Harbor.

Article 30

- (1) In order to obtain a permit concerning the determination to convert a special terminal into a harbor as cited in Article 29 paragraph (1), the applicant shall submit a request to Minister through Director General by attaching documents of requirements as cited in Article 29 paragraph (2).
- (2) Based on the request as cited in paragraph (1), Director General shall inspect the requirements of request for the permit concerning the determination to convert the special terminal into a harbor in a period of no later than 14 (fourteen) work days as of receiving the complete documents of request.
- (3) In case that based on the result of inspection as cited in paragraph (2) the requirements have yet to be completely fulfilled, Director General shall return the document of request with written notification to the applicant in order that the requirements can be completely fulfilled.
- (4) The document of request that is returned as cited in paragraph (3) can again be submitted to Director General after completing the fulfillment of requirements.
- (5) In case that based on the result of inspection of requirements as cited in paragraph (2) the requirements have been completely fulfilled, Director General shall submit the result of inspection to Minister.
- (6) Based on the result of inspection by Director General, Minister in a period of no later than 7 (seven) work days shall issue a permit in regard of the determination of the special terminal to become a harbor.

Article 31

- (1) The permit of operation of the special terminal shall be revoked in case that the permit holder:
 - a. violates or fails to fulfill the obligation as cited in Article 17; or
 - b. uses the special terminal for public services without obtaining a permit as cited in Article 21 paragraph (1).
- (2) The revoke of permit of operation as cited in paragraph (1) shall be processed under a mechanism of giving consecutive written warnings for 3 (three) times in a period of 1 (one) month of each warning.
- (3) If having been warned as cited in paragraph (2) the holder of permit of the special terminal fails to make corrections or improvement as demanded in the warnings, the permit of operation of the special terminal shall be revoked.

Article 32

The permit of operation of the special terminal shall be revoked without a process of warnings in case the operator of the special terminal commits wrongdoings as follows:

- a. to carry out an activity that endangers the security of State; or
- b. to obtain a permit of development and operation of the special terminal illegitimately.

Part Five Special Terminal that is open for Overseas Trades

Article 33

- (1) In order to appropriately support the overseas trades, the special terminal that is developed and operated to support the activity of undertakings with production for export can be determined as a special terminal that is open for overseas trades.
- (2) The determination on the special terminal that will be open for overseas trades as cited in paragraph (1) shall be based on considerations as follows:
 - a. the growth and development of the national economy;
 - b. for the sake of international trades;
 - c. for the improvement of capability of the national navy;
 - d. the geographic position that is located along an international shipping route;
 - e. National Harbor Plan as realized under the National Master Plan of Harbors;
 - f. facilities of the special terminal;
 - g. the security and dignity of the State; and
 - h. other national interests.

Article 34

- (1) The determination on the special terminal that will be open for overseas trades as cited in Article 33 paragraph (1) shall be decided by Minister after the fulfillment of requirements.

- (2) The requirements as cited in paragraph (1) shall be subject to the fulfillment of:
- a. administrative aspect:
 - 1. recommendation from provincial governor, regent/ mayor; and
 - 2. recommendation from governmental official who is in authority of function of shipping safety at harbor.
 - b. economic aspect:
 - 1. in support to certain industry;
 - 2. flow of goods of minimal 10,000 tons a year; and
 - 3. flow of export of minimal 50,000 tons a year.
 - c. aspects of safety and security of shipping:
 - 1. depth of waters of minimal -6 meters LWS;
 - 2. size of pond that is enough for movement of minimal 3 (three) ships;
 - 3. supporting facilities of Navigation-Shipping;
 - 4. radio station for coastal operation;
 - 5. infrastructures, facilities and human resources of guidance for the special terminal whose waters has been determined as an area of waters with obligatory guidance; and
 - 6. patrol vessel if needed.
 - d. technical aspect of harbor facilities:
 - 1. permanent concrete pier minimal for 1 (one) berth;
 - 2. enclosed warehouse;
 - 3. equipment of loading and unloading;
 - 4. 1 (one) unit of PMK
 - 5. bunker facility; and
 - 6. facilities of preventing pollution.
 - e. facilities of office and supporting equipment for institution in authority of function of the safety and security of shipping, customs house, immigration, and quarantine; and
 - f. special type of commodity

Article 35

- (1) In order to be determined as cited in Article 34 paragraph (1) the operator of the special terminal shall submit a request to Minister through Director General by attaching documents of requirements as cited in Article 34 paragraph (2).
- (2) Director General shall evaluate the request as cited in paragraph (1) and submit the result of evaluation to Minister in a period of no later than 21 (twenty one) work days as of receiving the complete document of request.
- (3) Approval or rejection against the request as cited in paragraph (2) shall be decided by Minister in a period of no later than 7 (seven) work days after receiving the complete documents of request.
- (4) Rejection of request as cited in paragraph (3) shall be submitted with written notification by mentioning the reason of rejection.

CHAPTER III TERMINAL FOR INDIVIDUAL (OWN) PURPOSE

Article 36

- (1) In order to support certain activity in an area of workplace and an area of interest at the harbor it is allowed to develop a terminal for individual (own) purpose.

(2) Certain activity as cited in paragraph (1) shall include the activity in the sector of:

- a. Mining;
- b. Industry;
- c. Agriculture;
- d. Fishery;
- e. Forestry;
- f. Tourism; or
- g. Another activity for the implementation of core business at the facilities of pier as per need.

(3) The management of the terminal for individual (own) purpose shall be conducted as an integral part of the operation of harbor.

Article 37

(1) The operation of the terminal for individual (own) purpose shall be conducted based on a deal or agreement with the operator of harbor and after obtaining a permit of operation from:

- a. Minister in regard of the terminal for individual (own) purpose that is located in an area of workplace and an area of interest at the main harbor and at the assemble harbor;
- b. Governor in regard of the terminal for individual (own) purpose that is located in an area of workplace and an area of interest at the harbor as feeder and at the assemble harbor in region;
- c. Regent/ Mayor in regard of the terminal for individual (own) purpose that is located in an area of workplace and an area of interest at the local harbor as feeder;

(2) The approval of operation of the terminal for individual (own) purpose as cited in paragraph (1) shall be determined after having fulfilled requirements as follows:

- a. document as evidence of cooperation with the Operator of Harbor;
- b. data of company consisting of Deed of Establishment of the Company, Index Number of Taxpayer (NPWP), and the permit of core business;
- c. drawing of site plan of location of the terminal for individual (own) purpose in adequate scale, drawing of construction of pier, and geographic coordinates of location of the terminal for individual (own) purpose;
- d. document of evidence for the occupation of land area;
- e. proposal on the terminal for individual (own) purpose;
- f. recommendation from port master at harbor in region;
- g. official report on the result of site visit by an integrated technical team; and
- h. environmental study that has been verified by the official in authority as in compliance with the prevailing laws and regulations.

Article 38

(1) Evidence of cooperation as cited in Article 37 paragraph (2) letter a in form of agreement of cooperation shall at least include:

- a. the responsibility and right of the operator of harbor such as:

1. providing and maintaining wave breakers, pond of harbor, shipping route and network of roads;
 2. providing and maintaining the Supporting Facilities of Navigation-Shipping;
 3. assuring the safety and orderliness of the terminal for individual (own) purpose;
 4. assuring and maintaining environmental preservation at the terminal for individual (own) purpose;
 5. assuring an appropriate flow of goods;
 6. regulating and monitoring the use of the area of waters;
 7. monitoring the use of the area of workplace and the area of interest at the harbor;
 8. arranging the traffic of ships that go in and out of the terminal for individual (own) purpose by a means of ship guidance; and
 9. imposing a tariff as in compliance with the prevailing laws and regulations.
- b. the responsibility and right of the operator of the terminal for individual (own) purpose such as:
1. developing a pier for berthing;
 2. providing facilities for passengers and/ or vehicles to get in and out;
 3. providing equipment of loading and unloading of goods;
 4. assuring or guaranteeing an appropriate flow of goods; and
 5. assuring the safety and security of shipping.
- (2) There is evidence of occupation of the area of land as cited in Article 37 paragraph (2) letter d in form of document of evidence of the occupation of land area as issued by the National Agency of Agrarian/ Land Affairs (BPN).
- (3) Proposal on the terminal for individual (own) purpose as cited in Article 37 paragraph (2) letter e shall at least include as follows:
- a. intention and aim of the operation of the terminal for individual (own) purpose;
 - b. prediction of the type and amount of the use of raw material;
 - c. prediction of the type and amount of supporting equipment for the output of production;
 - d. prediction of the type and amount of the output of production;
 - e. prediction of the type, size, and number of ships/ barges that will be used; and
 - f. prediction of the period of time for the use of the terminal for individual (own) purpose.
- (4) Recommendation from the port master at the harbor in region as cited in Article 37 paragraph (2) letter f shall include:
- a. dimension of ships/ barges to be used in accordance with the condition of waters and the facilities of pier that will be developed;

- b. the depth of waters as measured in LWS;
- c. geographic coordinates of location of the terminal for individual (own) use at least in 3 (three) points; and
- d. the activity of operation of the terminal for individual (own) purpose should not disturb the traffic of ships and the operation of harbor.

Article 39

- (1) In order to obtain an approval of operation of the terminal for individual (own) purpose, the applicant shall submit a request to Minister through Director General, provincial governor, or regent/ mayor based on the respective authority by using a format of Sample 14 of Appendix of this Ministerial Decree.
- (2) Based on the request for operation of the terminal for individual (own) purpose as cited in paragraph (1), Director General shall inspect the requirements of request for the permit of operation of the terminal for individual (own) purpose in a period of no later than 23 (twenty three) work days as of receiving the complete documents of request.
- (3) In case that based on the result of inspection as cited in paragraph (2) the requirements have yet to be completely fulfilled, Director General shall return the document of request to the applicant in order that the requirements can be completely fulfilled.
- (4) The document of request that is returned as cited in paragraph (3) can again be submitted to Director General after completing the fulfillment of requirements.
- (5) In case that based on the result of inspection of requirements as cited in paragraph (4) the requirements have been completely fulfilled, Director General shall submit the result of inspection to Minister.
- (6) Based on the result of inspection by Director General, Minister in a period of no later than 7 (seven) work days shall provide approval or rejection against the request for operation of the terminal for individual (own) purpose by using a format of Sample 15 of Appendix of this Ministerial Decree.
- (7) The rejection as cited in paragraph (6) shall be submitted with written notification by mentioning the reason of rejection.

Article 40

- (1) Those who carry out the activities at the terminal for individual (own) purpose shall be the operator of pier and Port Master.
- (2) The operator of the terminal for individual (own) purpose shall be obliged to provide a space and appropriate facilities of work for a good implementation of the task of Port Master.

Article 41

- (1) The terminal for individual (own) purpose shall be operating for the activities as follows:
 - a. the traffic of ships or the activity of getting in and out of passengers or the loading and unloading of raw material, output of production and supporting equipment of production for individual (own) purpose;
 - b. activities of government, research, education, training and social activity.
- (2) The activities as cited in paragraph (1) letter a shall be proved by a document of passengers and/ or a document of the load of goods.

Article 42

- (1) The use of terminal for individual (own) purpose in addition to serving the activities as cited in Article 41 paragraph (1) can be for the activities of public services after obtaining a concession from the operator of harbor.
- (2) The concession as cited in paragraph (1) shall be granted after having fulfilled the requirements as follows:
 - a. the capability of the pier and other facilities to meet the need of services at the harbor;
 - b. the plan of activities as considered from the security, orderliness and safety of shipping with recommendation from Port Master at the harbor in region;
 - c. efforts to improve the services for the users of harbor;
 - d. the collection of charges (tariff) of services of the harbor shall be conducted by the operator of harbor; and
 - e. the implementation of system and procedure of services at the harbor.
- (3) In order to fulfill the requirements as cited in paragraph (2) letters c, d and e, the operator of the terminal for individual (own) purpose shall cooperate with the Entity of Undertakings of Harbor at the harbor.
- (4) The concession as cited in paragraph (1) shall be granted to the Entity of Undertakings of Harbor as cited in paragraph (3).

Article 43

In case of natural disaster or another occasion that makes the harbor fail to function, the operator of terminal for individual (own) purpose shall be obliged to provide services at the harbor for the sake of the public by considering as follows:

- a. the operation shall be conducted by the operator of harbor;
- b. the right and obligation of the operator at the terminal for individual (own) purpose shall be protected;
- c. In regard of the harbor services there have to be conditions citing that the harbor services shall be provided to the harbor; and
- d. the collection of charges (tariff) of services at the harbor shall be conducted by the operator of harbor.

Article 44

The operator of the terminal for individual (own) purpose in conducting the operation of pier shall be obliged to do as follows:

- a. to be fully responsible for the impacts generated from the development and operation of the terminal for individual (own) purpose;
- b. to report the activity of operation of the terminal for individual (own) purpose to the operator of seaport on a regular basis;
- c. to comply with the prevailing laws and regulations on harbors, traffic of waters transportation, shipping safety, dredging and reclamation, and environmental management; and
- d. to comply with the prevailing laws and regulations of other

governmental institutions that are related to its core business;

Article 45

- (1) The permit of operation of the terminal for individual (own) purpose shall be revoked in case that the operator:
 - a. violates or fails to fulfill the obligations as cited in Article 44;
 - b. uses the terminal for individual (own) purpose for public services without obtaining a concession as cited in Article 42;
- (2) The revoke of permit of operation as cited in paragraph (1) shall be processed under a mechanism of giving consecutive written warnings for 3 (three) times in a period of 1 (one) month of each warning.
- (3) If having been warned as cited in paragraph (2) the operator of the terminal for individual (own) purpose fails to make corrections or improvement as demanded in the warnings, the permit of operation of the terminal for individual (own) purpose shall be revoked.

CHAPTER IV GUIDING, CONTROLLING AND MONITORING

Article 46

- (1) Guiding, controlling, and monitoring of the operation of the special terminal shall be conducted by Port Master at the Office of Operational Unit of the nearest harbor.
- (2) The function of safety of the special terminal shall be implemented by Port Master at the Office of Operational Unit of the nearest harbor.

Article 47

- (1) Guiding, controlling, and monitoring of operation of the terminal for individual (own) purpose shall be conducted by the Harbor Authority of the Operational Unit at the harbor.
- (2) The function of safety of the special terminal shall be implemented by Port Master of the Harbor Authority or the Operational Unit of Harbor.

CHAPTER V OTHER PROVISIONS

Article 48

Director General shall conduct technical guiding and monitoring in regard of the implementation of this Ministerial Decree.

CHAPTER VI CLOSING PROVISION

Article 49

With the effectiveness of this Ministerial Decree, Ministerial Decree of Communications Number KM 55 Year 2002 on the Operation of Special Harbor as having been amended by Ministerial Decree of Communications Number KM 55 Year 2007 shall be revoked and declared no longer effective.

Article 50

This Ministerial Decree of Communications shall be effective as of the date of enactment.

That everybody shall be made aware of, and the enactment of this Law shall be published in the State Gazette of the Republic of Indonesia.

Enacted in Jakarta
Dated May 18, 2011
MINISTER OF COMMUNICATIONS
THE REPUBLIC OF INDONESIA,

Signed

FREDDY NUMBERI

Copy of this Ministerial Decree is submitted to:

1. Coordinating Minister for Economy
2. Minister of State Secretary
3. Minister of Defense;
4. Minister of Home Affairs;
5. Minister of Laws and Human Rights;
6. Minister of Finance;
7. Minister of Energy and Mineral Resources;
8. Minister of Industry;
9. Minister of Trades;
10. Minister of Forestry;
11. Minister of Marines and Fishery;
12. Minister of Environment;
13. Minister of State-owned Enterprises (SOEs);
14. Commander-in-Chief of Indonesia's National Armed Forces;
15. Police Chief of the Republic of Indonesia;
16. Chief of Staff of Navy
17. Secretary General, Inspector General, Director General and Head of Agency of the Ministry of Communications
18. Provincial Governors, Regents/ Mayors

Copy as of the original version
Bureau Head of Laws and KSLN

Signed.

UMAR ARIS, SH, MM, MH
Junior Executive Chief (IV/c)
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